

**INFLUENCE OF EXTERNAL OVERSIGHT BY THE INDEPENDENT  
POLICING OVERSIGHT AUTHORITY ON POLICE ACCOUNTABILITY IN  
THE PERFORMANCE OF THEIR DUTIES WITHIN MATHARE SUB-  
COUNTY, NAIROBI COUNTY, KENYA**

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Degree of Master of Science in Governance, Peace and Security in the  
Department of Governance, Peace and Security Studies, School of Humanities  
and Social Sciences of Africa Nazarene University**

**May 2022**

**DECLARATION**

I declare that this document and the research it describes are my original work and that they have not been presented in any other university for academic work.

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This research was conducted under our supervision and is submitted with our approval as the university supervisors.

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## **DEDICATION**

To Willy Kimani, who lost his life because of an extra judicial execution by rogue police officers. You dedicated your life in protecting people from police excesses and even in your death you continue to influence the discourse of human rights. I dedicate this thesis to my family, special mention to Jabali, Maria and Matthew, I dedicate this work to you, your love and comfort have inspired me to work to create a better tomorrow for you and your children. To Martin, thank you for your love, encouragement, and support. A special dedication to my Lord and Saviour Jesus Christ, who has sustained me during the difficult moments faced during this journey.

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## TABLE OF CONTENTS

<b>DECLARATION.....</b>	<b>ii</b>
<b>DEDICATION .....</b>	<b>iii</b>
<b>ACKNOWLEDGMENTS.....</b>	<b>iv</b>
<b>TABLE OF CONTENTS .....</b>	<b>v</b>
<b>LIST OF TABLES .....</b>	<b>x</b>
<b>LIST OF FIGURES .....</b>	<b>xi</b>
<b>ABSTRACT.....</b>	<b>xii</b>
<b>OPERATIONAL DEFINITION OF TERMS.....</b>	<b>xiii</b>
<b>ABBREVIATIONS AND ACRONYMS .....</b>	<b>xv</b>
<b>CHAPTER ONE .....</b>	<b>1</b>
<b>INTRODUCTION.....</b>	<b>1</b>
1.1 Introduction.....	1
1.2 Background of the Study .....	2
1.3 Statement of the Problem.....	5
1.4 Purpose of the Study.....	7
1.5 Objectives of the Study.....	8
1.5.1 General Objective .....	8
1.5.2 Specific Objectives .....	8
1.6 Research Questions .....	8
1.7 Significance of the Study.....	9
1.8 Scope of the Study.....	10
1.9 Delimitation of the Study.....	11
1.10 Limitations of the Study .....	11
1.11 Assumptions of the Study .....	12
1.12 Theoretical Framework.....	12
1.12.1 Systems Theory .....	12
1.13.2 Accountability Theory .....	15

1.13 Conceptual Framework.....	16
<b>CHAPTER TWO .....</b>	<b>19</b>
<b>LITERATURE REVIEW .....</b>	<b>19</b>
2.1 Introduction.....	19
2.2 Review of the Literature .....	19
2.2.1 The Influence of External Oversight by IPOA in Accountability on Compliance to Human Rights in Performance of Policing Duties in Mathare Sub- County. ....	19
2.2.2 Impact of External Oversight by IPOA on Police Accountability in Performance of their Duties in a Transparent and Accountable Manner while Performing their Duties within Mathare Sub-County .....	26
2.2.3 Legal Framework of IPOA Capable of Enforcing Police Accountability in Performance of their Duties Within Mathare Sub-County .....	31
2.2.4 Challenges Faced by IPOA in External Oversight of Police Accountability and Recommended Strategies to Address the Same .....	35
2.3 Summary of Review of Literature and Research Gap(s).....	40
<b>CHAPTER THREE .....</b>	<b>43</b>
<b>RESEARCH METHODOLOGY .....</b>	<b>43</b>
3.1 Introduction.....	43
3.2 Research Design.....	43
3.3 Research Site.....	44
3.4 Target Population.....	45
3.5 Study Sample .....	45
3.5.1 Study Sample Size.....	46
3.5.2 Sampling Procedure.....	47
3.6 Data Collection.....	47
3.6.1 Data Collection Instruments.....	48

3.6.2 Pilot Testing of Research Instruments .....	48
3.6.3 Instrument Reliability .....	49
3.6.4 Instrument Validity .....	49
3.6.5 Data Collection Procedure .....	49
3.7 Data Processing and Analysis .....	50
3.8 Legal and Ethical Considerations.....	51
<b>CHAPTER FOUR.....</b>	<b>52</b>
<b>DATA ANALYSIS AND FINDINGS .....</b>	<b>52</b>
4.1 Introduction.....	52
4.2 Characteristics of the Respondents.....	52
4.2.1 Response Rate .....	53
4.3.2 Gender of Mathare Sub-County Victims of Police Crime and the Police ..	53
4.2.3 Ward of Residence in Mathare Sub- County .....	54
4.3.4 Age of Police Officers .....	55
4.3.5 Education Background of Police Officers .....	56
4.3.6 Marital Status of Police Officers .....	56
4.3 Presentation of Research Analysis, Findings, and Interpretation .....	57
4.3.1 Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers.....	57
4.3.2 The impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner .....	65
4.3.3 Ability of the IPOA structures in improving professionalism among members of the NPS in Kenya.....	70
4.3.4 Identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.....	74

<b>CHAPTER FIVE.....</b>	<b>76</b>
<b>DISCUSSION, CONCLUSION AND RECOMMENDATIONS.....</b>	<b>76</b>
5.1 Introduction.....	76
5.2 Discussion.....	76
5.2.1 The influence of external oversight by IPOA in accountability on compliance to human rights in performance of policing duties in Mathare Sub- County. ....	76
5.2.2 The impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-Count, .....	79
5.2.3 The legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County. ....	81
5.2.4 Identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.....	83
5.3 Summary of Findings .....	84
5.4 Conclusions.....	87
5.5 Recommendations .....	88
5.5.1 Identify Influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County .....	88
5.5.2 Impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-County .....	90
5.5.6 Overall Recommendations.....	93
5.6 Suggestion for Further Research .....	95
<b>REFERENCES.....</b>	<b>96</b>
<b>APPENDICES.....</b>	<b>105</b>



Appendix I: Questionnaire for Mathare Sub-County Victims of Police Crime ....	105
Appendix II: Police Officers Questionnaire .....	110
Appendix III: Interview Guide for Academicians, IPOA senior officers and NGO representatives.....	114
Appendix IV: ANU Introduction Letter .....	117
Appendix V: NACOSTI Letter .....	118
Appendix VI: Map of Study Area (Mathare Sub-County).....	119

## LIST OF TABLES

Table 3.1: Target population .....	45
Table 3.2: Sample and Sampling Procedure.....	46
Table 4.1: Response Rate .....	53
Table 4.2: Respondents' Gender.....	54
Table 4.3: Ward of Residence of Victims of Police Crime.....	54
Table 4.4: Most Common Reported Cases of Police Brutality .....	58
Table 4.5: Frequency Police Officers Use Force on People of Mathare Sub-County ..	58
Table 4.6: Most common reported cases on unlawful treatment of arrested persons..	59
Table 4.7: Victims of Police Crime Views on Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers .....	61
Table 4.8: Police Officers' Views on Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers.....	63
Table 4.9: Victims of Police Crime Views on Efficiency of the IPOA in Addressing Corruption within the NPS .....	67
Table 4.10: Police Officers' Views on Efficiency of the IPOA in Addressing Corruption within the NPS.....	69
Table 4.11: Victims of Police Crime Views on Ability of the IPOA structures in improving professionalism among members of the NPS.....	72
Table 4.12: Police Officers' Views on Ability of the IPOA structures in improving professionalism among members of the NPS.....	73
Table 4.13: Police Officers' Views on the Capability of the IPOA in improving police welfare among members of the NPS in Kenya.....	75

**LIST OF FIGURES**

Figure 1.1: Conceptual Framework .....	17
Figure 4.1: Age Bracket of Police Officers .....	55
Figure 4.2: Highest Education Level of Police Officers .....	56
Figure 4.3: Respondent Marital Status.....	57

## ABSTRACT

Independent oversight of the police through IPOA seeks to enhance police accountability in the performance of their functions. Despite the presence of IPOA, police continue to perform their duties without due regard to transparency and integrity with continued reports of human rights violations by police officers. Despite the restructuring of the National Police Service and the establishment of the National Police Service Commission, poor police welfare continues to be experienced by police officers potentially contributing to the violation of principles of police articulated in Article 244 of the Constitution. The purpose of this study was to evaluate the effect of external oversight undertaken by IPOA in influencing accountability in police performance of their duties within Mathare Sub- County, within Nairobi County, Kenya. Specifically, the study examined the influence of IPOA on police adherence to rights-based policing, the effect of external oversight by IPOA has improved compliance of the police to the laid down Chapter 6 of the Constitution standards on ethics and integrity in performance of their functions. The study reviewed the international, regional, and national legal framework of police oversight to establish if IPOA is properly constituted under the law and further if it was undertaking external oversight of the police in line with the laid down requirements of Article 10 of the Kenyan Constitution regarding good governance, integrity, transparency, and accountability. Finally, the study identified challenges IPOA faced in enhancing accountability in the police and identified strategies such as enhancing police accountability through motivation by improving police welfare. Based on the systems theory and the accountability theory, the study adopted both qualitative and quantitative approaches to data collection. The study targeted a total of 1,074 police officers, IPOA staff, victims of police misconduct, academicians, and NGO representatives. Based on the Fisher formula, a total of 384 respondents were sampled, using purposive and simple random sampling method. Primary data was collected using both questionnaires and one on one structured interviews which utilised a guide that contained the same set of core questions which were asked in the same order. The questionnaires were pretested to evaluate internal consistency, reliability, and validity. The study found that the commonly identified violation by Mathare respondents was police harassment at 36.5%. 43.1% of the Mathare respondents agreed that police often use force. 63.2 % of police respondents agreed that IPOA was properly established under the law but also felt that IPOA had not been effective in improving police performance through motivation by contribution of police welfare. The study established that though a comprehensive legal framework supported oversight of the police, IPOA had not adequately influenced police accountability in performance of their duties, particularly, upholding human rights during policing, ethics, and integrity in the conduct of their duties. Additionally, IPOA has not influenced accountability in the police in the performance of their duties through rewards and motivation by improving police welfare. The study recommends, among others, provision of adequate medical cover, including psychosocial and mental health support to officers and families of the police officers, expedition of cases on police killings and enforced disappearances in court. The study was significant to the national government, police, IPOA, civil society organizations and scholars.

## OPERATIONAL DEFINITION OF TERMS

<b>Accountability</b>	For purposes of this study accountability was used to refer to a subject having the obligation to account and justify their actions while taking responsibility for their behaviour. Additionally, the failure to adhere to laid down norms and regulations will result in consequences while compliance will result in recognition and compliance.
<b>Corruption</b>	A situation where a person entrusted with power, misuses their position to unlawfully enrich themselves. It also involves abuse of office for private gain.
<b>Effectiveness</b>	In this study, it implies being able to achieve the intended purpose that it is designed to achieve.
<b>Influence</b>	In this study, it implies how external factors affects or changes behaviour of a subject.
<b>Performance</b>	The quality of execution and discharge of functions assigned.
<b>Police welfare</b>	in this study, it implies factors that affect the well-being of police officers individually and collectively and it involves factors such as remuneration, mental health issues, impact of their profession on personal relationships and relationship to the public and the conditions of living and work environment.

- Professionalism** In this study it implies having the necessary qualifications, skills, training, and discipline to effectively and competently discharge duties assigned
- Oversight** The role of supervising and monitoring a subject, giving guidelines on desired behaviour. The process also involves the punishment of undesired behaviour and recognition and reward for compliance to guidelines.
- Violation of human rights** in this study, it involves denial of rights and freedoms as laid down in Chapter 4 of the Kenyan Constitution without following the due process of the law.

## ABBREVIATIONS AND ACRONYMS

<b>ACHPR</b>	African Commission on Human and People’s Rights
<b>ANU</b>	Africa Nazarene University
<b>CAJ</b>	Commission on Administrative Justice
<b>CAT</b>	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>COVID-19</b>	Coronavirus disease
<b>CSOs</b>	Civil Society Organizations
<b>DFID</b>	Department for International Development
<b>ECPE</b>	European Code of Police Ethics
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IMLU</b>	Independent Medico-Legal Unit
<b>IPCC</b>	Independent Police Complaints Commission
<b>IPID</b>	Independent Police Investigative Directorate
<b>IPOA</b>	Independent Policing Oversight Authority
<b>KII</b>	Key Informant Interview
<b>KNCHR</b>	Kenya National Commission on Human Rights
<b>NACOSTI</b>	National Commission for Science, Technology, and Innovation
<b>NGO</b>	Non-Governmental Organisation
<b>NPS</b>	National Police Service
<b>NPSC</b>	National Police Service Commission
<b>OCS</b>	Officer Commanding Station
<b>SPSS</b>	Statistical Package for the Social Sciences
<b>UK</b>	United Kingdom
<b>UNCAC</b>	United Nations Convention against Corruption
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USA</b>	United States of America

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Introduction**

Police oversight is an essential ingredient in observing the general population's fundamental human rights (Holliday & Wagstaff, 2021). The Independent Policing Oversight Authority (IPOA) ensures professionalism and respect for human rights through civilian oversight over the operations of the police in Kenya. IPOA is part of the accountability and legal framework that enforces accountability through the investigations of allegations of human rights violations by the National Police Service (NPS) members. Other accountability mechanisms include the Internal Affairs Unit established under Section 87 of the National Police Service Act to act as an internal accountability mechanism within the NPS. The National Police Service Commission (NPSC) was established under Article 246(3) of the Constitution of Kenya to address all matters relating to human resource policies of members of the service, address issues of capacity within the Police Service such as manpower and training and address such issues as poor pay and deplorable living and working conditions and restructuring the NPS to improve professionalism and adherence to human rights.

This study examined the influence of external oversight by IPOA on police accountability in performance of their functions in Kenya. The chapter covered a background to the study, the problem statement, the purpose of the study, objectives of the study, research questions, and the significance of the study, others include the scope of the study, delimitations, and limitations of the study, the assumptions made in this study, the theoretical framework and finally the conceptual framework.



## **1.2 Background of the Study**

Institutions that are accountable and adhere to the rule of law are indicators of a well-functioning government. Government agents are expected to be accountable and follow society's rules (Elbasani & Sabic, 2017). Accountability entails checks and oversight, institutional controls, and scrutiny on the exercise of authority (Sigsworth, 2019). It further obliges public officials to disclose their activities and includes a mechanism for accounting agencies to impose sanctions on public office holders who have abused their offices (Stinson, 2020). Accountability encompasses issues concerning enforcement where power is subjected to sanction threats, monitoring where mechanisms are put in place to ensure power is exercised in a transparent manner, and justification where officeholders explain their use of power (Fagbadebo, 2019).

Police have the mandate to protect the well-being of citizens and in the performance of their duties often must undertake intrusive activities to accomplish their role. The powers accompanying this mandate have the potential to promote democracy or morph into a tool of oppression, undermining democracy (Sigsworth, 2019). (Stinson, 2020) concurred that while conducting their duties, police officers may violate the rights of individuals. Members of the public therefore would require an avenue to lodge their complaints to ensure police are responsible for their human rights violations (Sigsworth 2019).

Accountability within the police involves vetting of police practices within the public arena, adherence to the rule of law and police conduct in line with the law and in a manner that does not prejudice members of the public (Archibugi, 2016). Lack of accountability results into the culture of impunity among the police and mistrust from

civilians (Kessing,2018). Checks and oversight are essential to prevent this abuse of power. Police oversight is often exercised by the executive, legislative or judicial arms of the government (Murphy & De Vrieze ,2020). Checks and oversights includes internal controls, state control and social controls. Social control involves civilian complaints review boards and human rights monitors (Sigsworth, 2019). Human rights commissions and independent ombudsman are other avenues of police accountability. (Caygill,2019).

The right of victims to seek redress when violated under international law is provided for under the International Covenant on Civil and Political Rights (ICCPR), which places an obligation on states to place a mechanism to provide and enforce such remedies when violations occur (Gonzalez, 2021). An independent complaint mechanism ensures that allegations of police misconduct are initiated and addressed, and improvements are made within the police service to prevent future incidents (Riley & Prenzler, 2020). External oversight mechanisms are perceived to be impartial in their investigations of serious allegations that encourage officers to give evidence against officers, especially their supervisors (Caygill, 2019).

In the larger European continent, the European Code of Police Ethics (ECPE) sets the standards for police accountability. The principles of the code state that police are accountable to the state, the citizens, and their representatives and subject to efficient external control (Sigsworth,2019). Within the United Kingdom, police oversight is the mandate of the Independent Police Complaints Commission (IPCC). IPCC's role is to investigate the criminal culpability of police officers involved in police acts or omissions that results in deaths and serious injuries. The IPCC further investigates conduct, which constitute a criminal offence such as behaviour, which is

liable to lead to misconduct proceedings, serious assault, serious sexual offences, and serious corruption (Home Office, 2016).

In Africa, due to the intrusive nature of policing, and the extensive, discretionary powers that police are vested with, there is a need for restraint and accountability when exercising this power (Miranda ,2018). In South Africa, the Independent Police Investigative Directorate (IPID) is responsible for oversight over the police. It was established under Section 206(6) of the South African Constitution as an independent police complaints body. IPID investigates complaints of deaths, serious injuries, complaints, allegations of misconduct against the police, and systematic corruption. IPID sets out policies on how police and oversight authorities execute their mandate and further acts as an appeal function for those dissatisfied with the handling of their complaint by the police (IPID, 2020). The most significant achievement of IPID has been its contribution to reducing corruption (Budhram & Geldenhuys ,2018).

In Uganda, reforming the police service has been challenging due to the authoritarian nature of the police practice and structure. The authoritarian nature of policing has resulted in police officers resorting to coercive authority to uphold public order (Human Rights Initiative, 2014).

In Kenya, the need for police reform is due to the hostile relationship between the police and members of the public arising from their role during the colonial period in assisting the British retain control of land and stem any uprising (Njoki & Gachihi, 2020). After independence, the Kenyan police continued to be used as a political tool to consolidate the government's power and protect the ruling elites' interests and influential individuals (Njiri, *et. al.*,2020). The Waki report identified an urgent need for police reform following the contested 2007 Kenyan elections and the ensuing 2007-2008 post-election violence. This violence was characterized by excessive use of force

by police officers. A national task force on police reforms was subsequently appointed in 2009 to provide a framework for police reforms (KNCHR & University of Nairobi,2015).

IPOA was established in November 2011 as a civilian accountability mechanism to promote public trust and confidence in the NPS (IPOA, 2018). IPOA has received over 20,000 complaints since its inception as of March 2022. The Authority has identified corruption, abuse of office, and neglect of duty as the most prevalent form of police misconduct, constituting the highest complaints reported to it. IPOA has received much negative criticism for its perceived inability to professionalise the performance of the police. There have been scathing reviews of IPOA's Performance. IPOA has been an ineffective external oversight mechanism and has not had a positive influence on police accountability in their performance of their duties. This is despite being resourced to the tune of three (3) billion Kenya shillings from the National Treasury to run the secretariat and thirty (34) million Kenya Shillings in remuneration to the eight commissioners (Hope, 2017). This study sought to interrogate the influence of external oversight by IPOA on police accountability in performance of their duties.

### **1.3 Statement of the Problem**

The Article 244 of the Kenyan Constitution (Constitution of Kenya, 2010) clearly articulates how police shall be accountable in the performance of their functions. The Constitutional standards on police performance include striving for the highest standards of professionalism and discipline among its members, prevention of corruption and promotion and practice transparency and accountability. Police officers are obligated to comply with constitutional standards of human rights and fundamental freedoms. Further police officers should be trained to the highest possible standards of competence and integrity and to respect human rights and fundamental freedoms and

dignity. Finally, the Kenyan Constitution places the responsibility to the police to foster and promote relationships with the broader society.

Section 5 of the Independent Police Oversight Act, Act No. 35 of 2011 identifies the objectives of IPOA. The objectives of IPOA include holding police accountable in performance of their functions, to give effect to Article 244 of the Constitution and ensure independent handling of complaints by members of the service (police). Notwithstanding the IPOA's mandate of professionalising the police, it was alleged that police accountability in performance of their duties has not been influenced by IPOA's external oversight. Police have continued to carry out human rights violations and continue to exhibit a lack of ethics and integrity in performance of their duties. The low number of convictions by IPOA and insignificant change in police officers' welfare indicate that IPOA has not influenced accountability in police performance of duties.

Various studies have been undertaken related to this study, with various shortcomings that this study aims to fulfil. For instance, (Akinyi, 2017) studied the influence of IPOA on the performance of police officers in Kenya and determined that police service is one of the government structures responsible for proper management of law, order, and justice. Hope (2018) argued that giving a secure environment to the police will warrant enjoyment and respect of basic civil liberties. (Akinyi, 2017) and (Hope, 2018) observed that it is only possible to maintain such an environment when the government, its organizations, and the public respect the rule of law and the basic principles of democracy. (Gatundu, 2018), researched on the perceptions of businesspersons on police law enforcement practices within the Nairobi Central Business District. The study looked at the impact of public cooperation on the success of law enforcement practices but did not address the impact of external oversight on performance of policing duties. (Nchagwa, 2019) studied the fundamental reasons for

establishing external civilian oversight but did not interrogate the nexus between motivation and police performance, specifically the role of IPOA's role in addressing welfare issues as an accountability strategy. (Akinyi ,2017) and (Hope,2018) cited above did not address the extent the legislative framework of civilian oversight was functional and responsive mechanism in improving accountability in police performance in low-income areas such as Mathare where police impunity is reported to be high, which is covered in the current study. This study explored the obligations and responsibilities of the police specifically in compliance to human rights during performance of their duties, ethics, and integrity in performance of their duties, the legal framework that operationalises external oversight of police by IPOA and the role of IPOA in enhancing accountability of police during the performance of their duties by contributing to the improvement of police welfare.

#### **1.4 Purpose of the Study**

The study sought to assess the influence of external oversight by IPOA on police accountability in performance of their duties within Mathare sub-county. The study examined IPOA's influence on police compliance to human rights, adherence to ethics and integrity, the adequacy of the legal framework governing police oversight in Kenya while identifying gaps that have contributed to lack of police accountability in performance of their duties within Mathare Sub- County. The study suggested possible strategies for enhancing the effectiveness of IPOA in influencing police accountability in performance of their duties.

## **1.5 Objectives of the Study**

### **1.5.1 General Objective**

The general objective of the study was to examine the influence of external oversight by IPOA in enhancing police accountability in performance of their functions within Mathare sub-county, Kenya.

### **1.5.2 Specific Objectives**

The specific objectives of the study were to:

- i. Examine the influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County.
- ii. Assess the impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-County.
- iii. Evaluate the legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County.
- iv. Identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.

## **1.6 Research Questions**

The research questions guiding the study included:

- i. Has IPOA influenced police accountability in compliance of human rights in performance of policing duties in Mathare Sub- County?

- ii. Has IPOA impacted police accountability resulting in police performing their duties with ethics and integrity in performance of their duties within Mathare Sub-County?
- iii. Is the legal framework of IPOA capable of enforcing police accountability in performance of their duties within Mathare Sub-County?
- iv. What are the challenges faced by IPOA in external oversight of police accountability and identify strategies to mitigate the same?

### **1.7 Significance of the Study**

The idea of external civilian oversight of the police is a relatively new concept in Africa. This study contributes to expanding the existing knowledge on police oversight's impact in regulating police performance. Police excess have dominated national and international headlines, and the violations are splintering communities along ethnic and racial lines. Such divisions undermine democracy and good governance. The researcher sought to understand how external oversight by agencies such as IPOA can promote democratic policing that applies a human rights-based approach and whether transparency and integrity while conducting policing functions can improve relations between the police and the public.

The researcher sought to establish how the mode of establishment, financial autonomy and dismissal procedure as provided in the legal framework can make the oversight institution complaints and redress mechanism efficient in its oversight mandate. Consequently, the research findings have provided a better understanding of the factors influencing the success and failures of the established police oversight mechanism in Kenya on police accountability in performance of their duties and the best practices that can be adopted to improve it.



Civil Society Organizations (CSOs) and other jurisdictions that may want to implement a similar civilian oversight model will significantly benefit from the best practices in establishing an independent oversight mechanism as showcased and recommended by this study. The study is significant in the generation of information to enhance the current advocacy and lobby activities undertaken by various stakeholders to improve police professionalism.

### **1.8 Scope of the Study**

The study's primary focus was to assess the influence of external oversight to police accountability in performance of their duties. The researcher sought to assess the impact of the establishment of IPOA on improving professionalism within the NPS in Kenya from the public's perspective. The researcher studied various parameters including whether IPOA's external oversight has influence police compliance to human rights, whether IPOA has contributed to improved adherence to transparency and accountability and whether the legal framework establishing IPOA creates a conducive environment for oversight. The study sought to identify challenges and recommend strategies on how external oversight can influence police accountability in performance of their functions. The study was confined to Mathare Sub County of Nairobi County and IPOA Headquarters in Nairobi County since accessing the offices in Nairobi County was easier and since the decision-makers are based in Nairobi. The target population was members of the public from Mathare Sub- County, which is an informal settlement that, among others, reports high incidents of police misconduct in the daily interaction of residents with the police and especially during public order management. The other categories of respondents included IPOA officers based at the Headquarters in Nairobi, police officers, NGO representatives and academics.

### **1.9 Delimitation of the Study**

The study was limited to the role of IPOA and its impact on police professionalism and accountability. The study did not look at the impact of IPOA on professionalism of other security agencies such as prisons and the military. Such agencies may fall within the mandate of IPOA when involved in multi-agency operations, the researcher chose to focus on the role of IPOA in oversight on ordinary policing operations rather than special policing operations.

### **1.10 Limitations of the Study**

Among the limitations experienced was the bureaucratic nature of the NPS, as well as IPOA. The covert nature of police operations made it challenging to obtain all the information regarding police misconduct. The fear and suspicion of the police officers affected the possibility of obtaining truthful information from the respondents. Due to this, the research included civil society organizations working in the target area to corroborate the information, academics who have conducted research on police violations and further interrogated secondary data from reliable sources.

Researching on the impact that the oversight agency has made in inculcating professionalism was challenging due to the short life span of IPOA. The Independent Policing Oversight Act was enacted into law in 2011 and commenced in 2012. Therefore, it has been in existence for only ten years. To counter this effect, the researcher did in-depth research in various written reports, books, and journals about IPOA to acquire adequate information.

### **1.11 Assumptions of the Study**

The study assumed that IPOA had documented evidence on its operations, which would aid the study. The study assumed that the institution would give access to the researcher to conduct the study. Further, it was assumed that the respondents would be accessible and would provide truthful information when interviewed.

### **1.12 Theoretical Framework**

Theories are framed to describe, forecast, and understand phenomena and to challenge and extend existing knowledge within the limits of critical bounding assumptions (Kivunja,2018). The two theories that underpinned this study are the systems theory and accountability theory.

#### **1.12.1 Systems Theory**

Systems theory by Ludwig von Bertalanffy in the 1940s is an interdisciplinary study of systems as they relate to one another within a larger, more complex system. System theory proposes that the whole is greater than the sum of its parts. Systems theory offers a different view of understanding organizations as organisms and how these organizations operate and adapt to the conditions of its environment. Proponents of systems theory explore dynamic relationships particularly organization – environmental relationships (Mele *et al.*, 2010).

Systems theory explains interactions such as familial relationships, complex government systems, organizations, and their employees. It focuses on interactions and notably the behaviour of an individual independent entity. It further looks at how this behaviour differs when it interacts with different entities. Proponents of this theory argue that the whole is much more worth than a summation of the parts that constitute the whole (Patton & McMahan,2014).

Systems theory focuses on three levels of observations: the environment, the social organization as a system, and human participants within the organization. According to systems theory, components of each system are structured in a hierarchical ordering, and components are interdependent with one another in the system to the extent that one component cannot function without the support of other components (Abend, 2008).

Systems theory proposes that a system responds to environmental demands depending on whether it is an open or closed system. (Badcock *et.al.*,2017) in their research propose that the closed system reacts to external happenings only, if and only if the input is strong enough to infiltrate the boundary and does not easily share information easily while an open system freely relates to its environment exchanging inputs and outputs through easily permeable boundaries while sharing information within the environment. Oversight consists of three structural elements: the operational context of the overseer and the overseen, the culture of the overseer and the overseen and the communication between them (Pelizzo *et.al.*,2015). The systems theory provides that organizations normally restructure their organization and streamline their processes in fear of scrutiny from the outside that would tarnish their public image and status (Kanfer *et al.*, 2017).

In the context of this study, this theory recognizes the importance of having a proper and working structure in the police service. In other words, everyone in an organization or any work environment can air grievances when they are unhappy with some issues. In the police service, the officers do not have freedom to challenge and question instructions issued to them due to fear of being reprimanded or loss of their privileges within the service and even loss of jobs. Police for a very long have been accused by the human rights groups and most non-governmental organizations of

abusing the human rights. Despite knowing that some of their actions are immoral and inhuman, police do continue to perform these acts in the name of executing orders issued to them by their supervisors, and this leaves a question on whether the welfare of the police is taken care of. There is a culture in police where an individual is expected to execute orders then question why later.

The existence of IPOA changes the operational context and environment under which the police operate and affects the operational context under which the police in Kenya operate. The oversight role of IPOA obliges the NPS to account for its actions and changes the environment that the NPS operate under resulting with the police adapting to external oversight, which in turn should result in a positive culture change of accountability within the NPS.

The study sought to research whether the presence of IPOA had affected the environment that police operate under and whether it influenced its culture resulting in enhanced transparency and accountability in performance of their functions and adherence to human rights. This study sought to interrogate the extent to which systems theory is applicable to IPOA's presence has influenced the environment IPOA operates under and the effect it has on improving accountability, addressing the violation of human rights, improving professionalism, and improving police motivation in performance of their duties within the NPS. However, the theory did not specifically address the aspect of how IPOA impacts individual behaviour of the officer, which necessitated the second theory, accountability theory.

### 1.13.2 Accountability Theory

This theory by Tetlock argues that accountability is the process through which an individual is potentially obliged to explain their behaviour or actions to another person/party who has the power to exercise judgment on the behaviour or actions and respond by administering negative or positive consequences. However, as a virtue, accountability is the desirable trait of willingness to accept responsibility, especially among public officials, government agencies/entities, and private firms (Marais *et.al*, 2017).

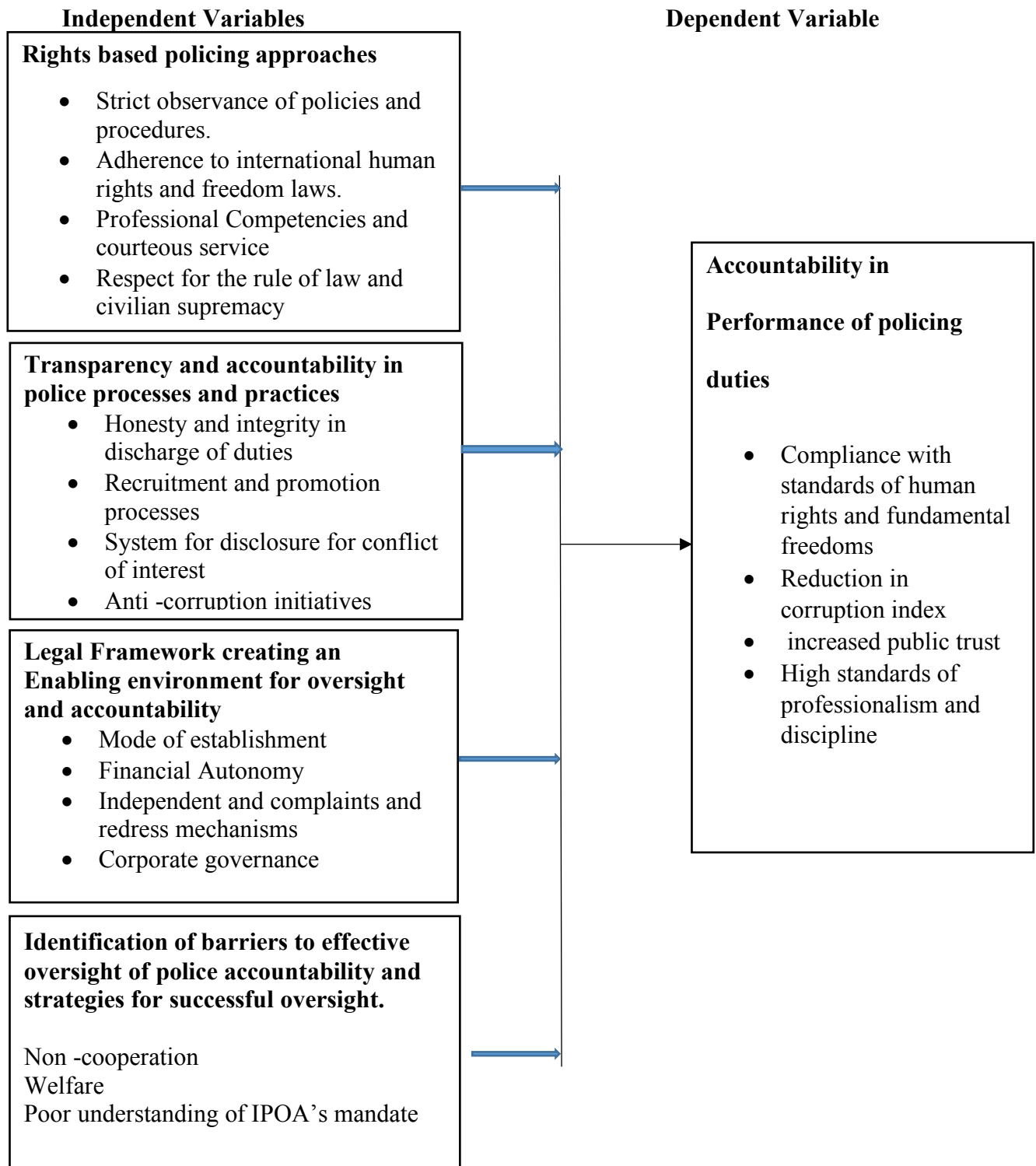
Accountability theory proposes that the perceived need to justify a person's behaviour to another entity causes that person to consider the process by which decisions and judgements are reached. This prompts an individual to think deeply about their behaviour (Vance *et al.*, 2015) also argues that the theory of accountability suggests that an individual will think about his or her behaviour when there is need to account for a decision as opposed to using automatic or heuristic processing to consider his or her actions. A person is more likely to be accountable when there is a perception that his or her actions are linked to him. Additionally, when a person is being monitored and evaluated, the belief that the outcome of the assessment shall have consequences, increases socially desirable behaviours, and deter socially undesirable ones.

Accountability theory was relevant to this study as this study interrogated police behaviour prior to the establishment of civilian independent police oversight and sought to see whether the presence of IPOA has improved professionalism within the police and consequently improved police accountability and reduced human rights violations. The study sought to understand whether evaluating and monitoring of individual police actions and ensuring consequences to their actions has made the police be more accountable for their actions and has dissuaded unprofessional conduct. The study

looked at whether the presence of police oversight has made police officers comply to the law and treat citizens in a lawful, unbiased, and respectful manner. Additionally, the research sought to review whether IPOA as it was currently constituted had the capacity to undertake police oversight and whether this affected its ability to improve adherence to the rule of law by police officers.

### **1.13 Conceptual Framework**

A conceptual framework is an interrelated set of concepts about how a particular phenomenon functions or is related to its parts (Tamene, 2016). This framework sought to show the correlational pattern of interconnections between the independent variables and the dependent variable. The purpose of the study is to further our understanding of accountability and performance in relation to external oversight, exploring the effect of external oversight by IPOA on police performance of duties. From the conceptual framework, the researcher provided police performance in Kenya as the dependent variable that depended on the independent variables provided. The independent variables provided are rights-based approaches in policing, transparency, and accountability in police process, the legal framework creating an enabling environment for oversight and challenges and strategies to improve police accountability.



**Figure 1.1: Conceptual Framework**

**Source: Researcher 2022**



From this framework, among other factors, police officers' strict compliance to police, procedures, international, regional, and national laws would result in reduced levels of force, especially during public order management, would result in increased compliance of protections of human rights for citizens by the members of police service in Kenya. Improved police services denotes and reduction in corruption denotes a high level of transparency and accountability within the police service in Kenya. Finally, a high level of professionalism among police officers in their routine work as a result of IPOA external oversight and improved cooperation and welfare is a significant factor in motivating improvement of the police service in accountability in police performance in their duties.

## CHAPTER TWO

### LITERATURE REVIEW

#### **2.1 Introduction**

The chapter examined, among other things, pertinent literature from other works done on the topic of oversight of police force and police transparency and accountability. The chapter also covered applicable literature concerning police oversight, police accountability, and answer questions of the usage of force by the police officer. It also interrogated how police treat arrested persons and corruption in the police service in the empirical literature review. Finally, it looked at how IPOA was effective in improving police welfare and whether IPOA's was properly constituted and independent, its resources and how it affected IPOA's ability to undertake its mandate.

#### **2.2 Review of the Literature**

This section interrogated the literature related to the specific research objectives. It elaborated the view of others and how well they answered the research questions on the subject matter of police accountability and the researcher's analysis.

##### **2.2.1 The Influence of External Oversight by IPOA in Accountability on Compliance to Human Rights in Performance of Policing Duties in Mathare Sub-County.**

This section specifically interrogated the efficiency of civilian oversight mechanisms in curbing human rights violations by the police and promoting rights-based policing. The study looked at the International and regional best practices and in addition the effectiveness of Independent Policing Oversight Authority in curbing violations of human rights by police officers in Kenya in relation to the levels of use of force, the treatment of persons in detention and the public order management.

Article 21 of the Kenyan Constitution (Constitution of Kenya, 2010) places a duty on the State, State organ and public officers to observe, protect, promote, and fulfil the rights and fundamental freedoms. Article 24 of the Constitution provides that limitations to rights and freedoms can only be done by the law and such limitation must be reasonable and justifiable. Article 244 (c) provides that National Police Service must comply with Constitutional standards of human rights and freedoms. Compliance to human rights is a core obligation of the National Police Service. Oversight of the police is essential to ensure that any police action does not violate any human right and fundamental freedom.

A police oversight mechanism serves an accountability measure to prevent criminal actions by police officers. International Standards on Accountability in policing can be found in the international covenant on civil and political rights and the international covenant on economic, social, and cultural rights set out principles on the fundamental rights of individuals to be observed by states. Several treaties and principles also contain provisions that are applicable to policing, both in terms of prohibited police behaviours (such as torture) and desirable priorities for police to set in their activities (Sigsworth, 2019).

External police oversight as a form of police accountability is one such mechanism and is preferred over internal police oversight due to its perceived independence and is not constrained by chain of command and loyalty (Kessing, 2018). The African Commission on Human and People's Rights (ACHPR) adopted a resolution in 2006 on police reform, accountability, and civilian police oversight in Africa. Article 3 of the African Commission on Human Rights Charter requires state parties to the African Charter to establish independent civilian policing oversight

mechanisms where they do not exist which shall include civilian participation (Stinson, 2020).

The principle of accountability requires that the use of force by law enforcement officials must be set out in law and policy (Centre for Human Rights ,2019). The use of force by police officers is guided by principles that ensure that it adheres to non-discrimination, necessity, legality, proportionality, and precaution. Additionally, the police may use only the minimum amount of force required to achieve the purpose, and further, the use of force must cease immediately after the objective is met (Newton, 2018).

Different nations worldwide have been keen to institute laws that govern the use of force by the police service. For example, England and Wales have legislated the use of force under Section 3 of the Criminal Law Act 1967, where police officers are allowed to utilize reasonable force in the circumstances for self-defence, defence of another; defence of property; prevention of crime; and lawful arrest. Additionally, other factors considered include the nature and degree of force used; the seriousness of the offense, and the nature and degree of any force used against an officer by a person resisting arrest (IPCC,2015).

The African (Banjul) Charter on Human People Rights in its 259 Resolution on Police and Human Rights in Africa - ACHPR/Res.259(LIV)2013 (ACHPR, 2013), recognizes that in Africa, violations of human rights concerning improper use of force, especially disproportionate and excessive use of force is a result of poverty, insufficient training, poor working conditions, and corruption. The resolution calls upon State Parties to ensure that the police in the execution of their duties, comply with the respect for human rights and the rule of law, and ensure that police services respect the dignity inherent in citizens in the discharge of their duties.

African countries have also embraced important legislations that stipulate the circumstances under which police can use force. In South Africa, for example, the use of force in effecting arrest is governed by section 49 of their Criminal Procedure Act. The act allows the arrestor to use the force necessary and proportional to overcome resistance or prevent the suspect from fleeing. The law further allows the use of deadly force if the individual poses a serious threat of violence to the arrestor or any other person. Additionally, force is allowed when the suspect is suspected on reasonable grounds of having inflicted or threatened infliction of serious bodily harm. This provision does not comply with international law governing the use of firearms for law enforcement, which may only occur where there is an imminent threat of death or serious injury or a proximate and grave threat to life (Mkhwanazi *et al.*, 2020).

The Constitution of Kenya in Article 26 and Section.61 of NPS Act as read with the Sixth Schedule of the NPS Act, provides the circumstances under which police officers have the mandate to use force. Force is used where non-violent means are ineffective or unable to achieve the desired means additionally, the force used must be proportional to the objective to be achieved and the person's level of resistance against whom it is used. It further places an obligation on the superior officers to prevent unlawful use of firearms and report misuse to the IPOA (Obadha, 2018).

IPOA has been in existence since 2011 and has been exercising police oversight. The number of complaints arising from police operations, remain many with documented evidence of the abuse. Independent Medico-Legal Unit (IMLU), in a survey on the prevalence of torture (IMLU, 2016), noted that 61.4% of the respondents identified to police as perpetrators of torture. Out of 2400 people surveyed, 727 reported that they had been victims of torture, and 25.6 % of the victims of torture had physical injuries that led to scarring or maiming. Violence by members of the NPS continues to

be reported during the election period, resulting in sexual violence, torture, and physical violence (Human Rights Watch, 2017). Police officers have been accused of using deadly force on protestors who were protesting election irregularities (Amnesty International, 2017).

Extra-judicial killings resulting from unlawful use of force continue to be highlighted despite the existence of IPOA. Several media reports have highlighted an unfortunate trend in informal settlements and low-income areas. In October 2018 alone, a case in point where police killed 17 people within seven days. A further hundred and eight people were killed in Nairobi and one hundred and eighty people across Kenya during nine months in 2018 (Human Rights Watch, 2019). Other reports indicate that 36 people were alleged to have been killed by the police during the post-election violence and many others seriously injured by the police in Nairobi alone (Human Rights Watch, 2017). It is further alleged that police officers raped women during their response to election-related violence and that in addition to torture and physical violence. Minors have also fallen victim to police excessive use of force; one such documented case is the death of a six-month-old infant who succumbed because of police excessive force (Cherono, 2017). The impunity of police officers in violation of human rights indicates that the police have not adjusted to the presence of an external oversight agency such as IPOA and appear not fear consequences for violation nor the obligation to justify their actions.

The Government of Kenya imposed a dusk to dawn curfew as one of the measures to contain the Coronavirus disease (COVID-19) pandemic. Police shot, assaulted, and extorted many members of the public during the implementation of the COVID 19 restrictions. It has further been reported that at least six people died during this period under brutal police officers (Human Rights Watch, 2020), and additional

cases continue to be reported. A thirteen-year-old boy, Yassin Moyo, was also killed as the police were enforcing the dusk to dawn curfew on 30th March 2020 by a stray bullet while standing on the balcony of his parent's home in Nairobi (Zhu ,2020).

Unlawful use of force during public order management continues to be an issue of concern. Despite adequate legislation to guide public order management in Kenya, there are still reported cases of violations of human rights during protests due to the unlawful use of force. Police officers have been recorded using tear gas, rubber bullets, batons, and pepper spray on protesters holding peaceful demonstrations and bystanders resulting in serious injuries and deaths (Hope, 2019). Other reported cases of excessive use of force during public order management include an incident which occurred on 28th September 2017 where 27 students and staff at the University of Nairobi were allegedly wounded when police used tear gas, beat them with batons, robbing them and threatened them with sexual violence (Onyango & Otuya, 2019).

Police operations that involve the arrest and detention of individuals contribute to massive human rights violations. Human Rights Watch documented that during an operation, "Usalama Watch," which targeted refugees living in urban areas, detainees were held in facilities not designated as holding facilities. In Eastleigh's Pangani station in Nairobi, hundreds of detainees were detained in cells intended for 20 people. The holding facilities were not hygienic, and the detainees were held beyond the 24-hour limit (Human Rights Watch,2015). It is alleged that police officers in patrol at night often arrest residents in slum areas, then detain them the whole night, and then subsequently release them without being booked in any police station (Alal, 2019).

In an informal settlement of Kayole, an article in the Standard documents similar allegations where the youth alleged that they got arrested for a myriad of reasons including suspicion of being members of criminal gangs or being seen in groups of two

or three; further, they have faced arrest on suspicion of robbery and causing a disturbance. There are various reports regarding the mistreatment of vulnerable groups while in custody. An incident was reported where a police officer defiled a 15-year-old student who was in police custody for her protection. It is alleged that the police officer removed her from the cells, took her to his house, sexually abused her, and subsequently returned to the cell (Otieno,2018). This illustrates that frequent violation of human rights by police continues to happen without fear of consequences brought about by the existence of external oversight by IPOA.

The High Court of Kenya has weighed in the matter of arbitrary arrests and illegal detention. In Constitutional petition 14 of 2017, petitioners alleged that their rights were violated when police officers in Ongata Rongai arrested them on allegations that they were idle and disorderly. In its judgment, the court pronounced, ***“The court must come out strongly against arbitrary and inequitable use of police power on innocent citizens. Sometimes loss of self-esteem and reputation associated with the aftermath of such conduct cannot be compensated by way of damages”***. The High Court subsequently ordered six police officers to pay Sh4 million to a lawyer they had arrested and detained illegally. Further, the police officers were also ordered to pay Sh3.8 million to 19 other people they had arrested and locked in a cell at the Ongata Rongai police station (Mohamed Feisal & 19 others v Henry Kandie, Chief Inspector of Police, Officer Commanding Station (OCS), Ongata Rongai Police Station & 7 others), (Kenya Law 2020). Constitutional provisions that protect freedom of movement and fair administration of justice shows that redress can be sought from court. Individuals have sought this remedy in court, however IPOA as an external oversight authority seems incapable of following this avenue as a means of improving transparency and accountability within the NPS.



(Kempe, 2019) concurs that IPOA has a dismal rate of convicting police officers. Additionally, violations of human rights have cost the Kenyan Taxpayer 888 million Kenya shillings as compensation to victims who suffered inhumane treatment by the police (Kiplagat, 2020). The failure of the police to embrace a rights-based approach to policing is an indication that the presence of IPOA has not influenced professionalism within the police service. The continuous violation of human rights is an indication that the police have failed to observe of policies and procedures. It is a further indictment to IPOA on their failure to influence police accountability in performance of their duties as the police have failed to adhere to international human rights and freedom laws. The relationship of the police to the public especially in the informal areas remain strained which is an indicator that police have not embraced professional competencies and courteous service and still continue to show contempt to the rule of law and civilian supremacy.

### **2.2.2 Impact of External Oversight by IPOA on Police Accountability in Performance of their Duties in a Transparent and Accountable Manner while Performing their Duties within Mathare Sub-County**

Article 244(b) of the Constitution of Kenya articulates prevention of corruption, transparency, and accountability in policing. Article 73 of the Constitution defines the conduct of a public officer. The Constitution views public officers and by extension police officers as stewards of public trust. Article 73(1) (b) assigns the responsibility of service to the people rather than the power to rule them. Article 73(2) gives an indication of how recruitment, promotion, and opportunities within the NPS should be carried out. Police officers recruited must have personal integrity and meet the qualification threshold set.

Article 73(2) of the Constitution demands that decisions of public officers must be objective and impartial free from nepotism, favouritism, other improper motives, or corrupt practices. The Constitution obligates public officers to be honest in execution of public duties, avoid conflict of interest and be accountable to the public for their decisions and actions. Finally, public officers are expected to be disciplined and commit to the service of the people.

Police officers must comply to the above provisions on leadership and integrity. This review of literature sought to interrogate police officers' compliance to the above provisions. Police are often abused of being corrupt. The most common definition of corruption is the abuse of office for private gain (Van-Der-Spuy ,2021). The most common form of corruption is private payments to public and/or private officials to influence decision-making (Transparency International, 2017). Police corruption prevents the employment of the rule of law. Factors that contribute to police corruption includes inadequate salaries, frustration with the broken-down criminal justice systems, opportunity, and greed. Corruption within the police force is a concern to professionalism (Holmes ,2020).

Police corruption occurs when an officer uses their official position to facilitate an act or omission to attain personal or organizational gain (Hope, 2017). Corrupt police officers take the law into their own hands by using bribes as a substitute for fines to punish people in conflict of the law (Abbink *et, al.*, 2020). When the institution tasked with upholding the rule of law corrupt, a chain environment of personal and collective immunity emerges, negatively affecting the justice and security sector, resulting in an inability to maintain public order and law rule (Hope, 2019).

Corruption weakens ethical standards in society and makes the public mistrust the police, rendering it more difficult for the police to perform what should be their

primary task, countering crime. Negative perceptions of police integrity are damaging to the credibility and effectiveness of the police (Wambua,2015). For the public to adhere to the law, the police must assure the public by abiding by the law treating people equally in applying the law (Jones, 2018).

Corruption within the police force is not a unique problem, and several countries have attempted to rid their police force of the vice of corruption. In Georgia, the implementation of institutional reforms eradicated low-level corruption. The country instituted police dismissals, increased salaries, and conducted institutional restructuring, a personnel policy, and training on professionalism, awareness, and adherence to human rights and law. In Singapore, Authorities introduced the mechanism to tackle corruption in 1952 by establishing the Corrupt Practices Investigations Bureau. In addition to establishing the bureau, corruption was reduced because of political will and government commitment, recruitment, selection procedures, training, and socialization (Jones,2018).

In South Africa, corruption was reduced in areas where there were improved police-community relationships and the introduction of high-level corruption interventions by the government in several provinces. Due to the anti-corruption interventions, police officers were unwilling to engage in corruption for fear that they could be under investigation (Tankebe *et.al*, 2019).

Corruption within the police mainly takes four forms. Petty corruption is one identified form of corruption. Common among lower-level police officers, petty corruption involves bribery during everyday interaction with citizens. Bureaucratic corruption, also known as administrative corruption, is where internal procedures and administrative procedures are misused for private gain. Corruption linked with criminal groups is another form of corruption where such groups are protected through

misleading investigations or tampering with evidence. The final form of police corruption is a high level of political corruption where high-level police officials abuse their power for personal gain or for the benefit of political groups to which they have formal or informal affiliations (Jones, 2018).

Since 2002, Kenya's Government has put into place measures to fight corruption. These measures include establishment anti -corruption agencies and oversight institutions, introducing legislation to encourage transparency and deter corruption, like the Public Officers Ethics Act. Additionally, Kenya was the first country to sign up to the United Nations Convention against Corruption (UNCAC) (DFID, 2015).

Despite measures put in place by the Kenyan government, Kenya is ranked as one of the most corrupt countries in the world with reportedly seventy percent of Kenyans paying a bribe (Hope, 2017). Transparency International's research on corruption in Kenya reveals that bribery incidence is highest in law enforcement and regulatory functions, with seventy-eight percent of interactions with public officials requiring bribes. The research further reveals that the NPS is the most corrupt with a corruption index score of 68.7 out of a maximum score of 100 (Transparency International, 2017). Police are the largest recipients of national bribes at 43.5 percent with the average bribe received by a police officer is an equivalent of US\$55 (Hope, 2019).

An example of how corruption interferes with professionalism within the NPS is how the NPS conducts its recruitment and promotions. Recruitment within the NPS is riddled with corruption, nepotism, and tribalism. Among the corrupt practices included interference by influential individual's payment of substantial bribes by recruits as an incentive to be picked for the police services (Hope, 2019). Promotions

are reportedly acquired not based on performance but an officer's relationship with his commander and providing a financial inducement to facilitate the promotion. This has resulted in low morale and unqualified officers holding positions they do not deserve (Workman-Stark, 2020).

Cases of NPS members exploiting Kenyan's during the restrictions imposed concerning the COVID-19 pandemic have been reported. The police detained Kenyans in quarantine sites for minor breaches, like violating curfew or not wearing a mask. The individuals were detained for at least 14 days in quarantine facilities and charged and the equivalent of twenty dollars per day during their stay. People who could not afford to bribe were not allowed to leave the facilities (KNCHR,2020).

A functioning mechanism that prevents corruption through investigation and prosecution of corruption is necessary to improve professionalism within the police. (Khalid, 2019). Other strategies recommended for reduction of corruption includes external oversight, improving recruitment and training, command responsibility over corrupt actions of juniors and culture change where corruption is seen to be the exception and not the norm (Van-Der-Spuy,2021). IPOA as an oversight mechanism has been ineffective in prevention of corruption. To date, IPOA has not charged any officer with corruption, and specifically corruption committed during the implementation of the COVID -19 regulations. There is scant information on the anti-corruption initiatives undertaken by IPOA to enhance transparency and accountability. Additionally, in IPOA does not participate in the wealth declaration process undertaken police officers or conduct lifestyle audits on the same.

### **2.2.3 Legal Framework of IPOA Capable of Enforcing Police Accountability in Performance of their Duties Within Mathare Sub-County**

International best practices on the effectiveness of independent oversight institutions establish the criteria of what is required for the institution to be effective. The following section will look at international best practices and establish whether IPOA conforms to the norms and whether that affects its ability to achieve its mandate. The effectiveness of an oversight institution to undertake its mandate is tied to its independence. Further, the independence of an oversight institution is dependent on the following aspects. Firstly, the institutional design and governance structure, its actual autonomy in conducting its mandate, its budget and financial resources, and finally, its human resources policy (De Vrieze, 2019).

In looking at the institutional design and governance structure, an institution must have a secure legal foundation with checks and balances to ensure its permanence, preventing it from being easily abolished or weakened. Additionally, concerning institutional design and governance structure, the institution must have a clear mandate, role, and responsibilities (Newton, 2018). In addition, concerning the governance structure, the appointment of the head of institution or agency or board members must be merit-based and done on time. The institution's nominated head and board members must undergo a confirmation process, including being vetted by parliament. Other factors that shall contribute to the integrity of the institutional design and governance structure included having a fixed term in office, clear grounds of removal, and collegial decision. It offers the possibility of more substantial internal expertise-based discussions before adopting a decision. Finally, there is a need to stagger the terms of the board to ensure continuity, including sudden changes of direction when a new board starts its term (De Vrieze, 2019).

An independent institution must have actual autonomy in exercising its mandate. This is achieved through the appointment of qualified professionals over politicians, cessation of involvement in political party activities, and protection from ministerial/governmental interference in decisions; a relevant indicator of independence of an independent oversight institution or regulatory agency is the degree of ministerial/governmental interference in its decisions (Newton ,2018).

Another indicator of independence is budget autonomy, which includes the availability of financial resources to perform its tasks and functions, is a key indicator for independence. The authority to prepare or adopt its own annual budget and predictability, security, and stability of the budget is an important indicator of independence of the institution (Murphy & De Vrieze, 2020). An independent institution should have the authority to recruit its own staff, decide on the remuneration (salary and benefits) of staff and board members, and the stability of staff and extent of staff turnover is an indicator of an independent institution. A low turnover and resignation rate is an indicator of stability and independence (De Vrieze, 2019).

Looking at the institutional design and governance structure, IPOA's existence is born out of the Independent Policing Oversight Authority Act (Act No. 35 of 2011). The Act in Section 3 of the Act establishes the Authority. IPOA Act in section 5 objectives clearly sets out its mandate of the Authority of holding the police accountable to the public in the performance of their duties. The Act further states in section 5(b) that IPOA's existence gives effect to the provision of Article 244 of the Constitution, which states that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability. Section 3(c) states that IPOA shall ensure independent oversight of handling complaints by the Service. IPOA act clearly sets out the roles and responsibilities of IPOA. Section 6 clearly sets out the

functions of IPOA, and Section 7 of the Authority clearly sets out the powers of IPOA, (IPOA ,2018).

IPOA Act in Section 8 sets out the governance structure of IPOA. It sets out that a board shall govern IPOA. It sets out the board's powers, the membership of the board, and the board members' qualifications. Section 11 underlines the procedure for appointment of members of the board, which includes the constitution of a selection panel, the interview process that includes the shortlisting and interviews of candidates, the forwarding of the names to the president for approval subsequently the vetting of the candidates by parliament. The IPOA Act also provides for the term of office for the board members in Section 13 and the removal of a board member under Section 14 of the Act. Section 18 of the Act provides for committees of the Board as a means of exercising its powers. Salaries Remuneration Commission determines the IPOA Act further gives power to the board to hire a Director of the Authority and appoint staff; however, remuneration of the staff as per the Salaries and Remuneration Act No. 10 of 2011 (Human Rights Watch,2020).

On the issue of independence, Section 4 states that IPOA shall be independent in the performance of their functions and shall not be subject to any person, office, or authority. The only exception to the independence in their functions' performance is S.34 of the IPOA Act about financial management. The Authority's annual estimates must be submitted to the Cabinet Secretary for approval, and IPOA cannot increase any sums provided in the estimate without the Cabinet Secretary's consent. The Authority by law is allowed to prepare its annual estimates. The Authority's annual estimates must be submitted to the Cabinet Secretary for approval, and IPOA cannot increase any sums provided in the estimate without the Cabinet Secretary's consent (KNCHR, 2017).



The Authority has been receiving funding from the treasury to achieve its mandate. The amount of funding received by the Authority has been on the increase from inception and has stabilized during the past 3 years. In terms of the budget of IPOA as per the Appropriations Act 2018, 2019, and 2020. IPOA has received funding from the treasury to undertake its functions. The amount received in the year 2018 was Kshs. 817,002,200; the year received in the year 2019 was Kshs. 892,700,000, and the amount received in the year 2020 was Kshs. 862,628,000 (IPOA,2018).

IPOA, under its constitutive law, has a clear mandate, its institution design and governance structure have been clearly articulated, and the issues of budget allocation and human resources have clearly been defined. Since its inception in 2012, IPOA has continued to receive complaints from the public, entities, media, and police officers. IPOA has also continued to conduct inspections of police facilities and premises, conduct investigations into cases of police misconduct. The efficiency of IPOA in improving professionalism through the investigations, prosecution, and convictions is still being questioned. IPOA has been accused of being ineffective in holding to account police officers accused of human rights violations during the post-election violence. There is no documented evidence that any charges have been brought against security officers concerning the 2017/2018 elections despite documentation and investigations into the violence (Human Rights Watch,2020).

Concerning the resolution of complaints of police misconduct as per Section 24 of its constitutive act, IPOA's had received over 20,000 complaints (IPOA ,2022) but its conviction rate of cases is dismally low. An analysis of the convictions reveals that the cases with convictions involve deaths and not any on corruption or other forms of police misconduct. This is despite S. 6(a) of the IPOA Act, which also mandates IPOA to investigate criminal and disciplinary offences.

In terms of the structure of IPOA, IPOA has been properly constituted as per the law but continues to face challenges in implementing its mandate. Frequent board wrangles and questionable hiring practices compounded by high staff turnover has affected IPOA operations (The Star,2022).

#### **2.2.4 Challenges Faced by IPOA in External Oversight of Police Accountability and Recommended Strategies to Address the Same**

Most countries world over is involved in the process of undertaking reforms in many government institutions especially the police. Countries like the USA and its Western allies have acted as pioneer models to reforms and developing nations are taking them as benchmarks in reforms. Strong countries across the world have been involved in campaigns on the need for governments to respect human rights and adhere to the rule of law. This includes looking at the welfare of the police officers as well (Friesendorf,2019). This would be relevant in the police service where the police leaders must lead by example and ensure the police undergo training in how to do their job and relate well with each other and the public. This may be geared towards changing the opinion and image of the police in the country.

According to (Papazoglou and Tuttle, 2018), the USA has plethora mechanisms that look at the welfare of the police officers. Police issues are a local municipal issue; thus, each municipality has its own mechanisms. USA has implemented various oversight mechanisms that investigate the environment in which police officers operate, as well as their complaints. Independent monitors which entail municipality and police departments have drastically decreased incidences of violence directed towards the police violence and their complaints. In some municipalities, for example Seattle, there is a civilian attorney who sits in the police department and directs internal affairs of investigations. There are civilian review boards which were established initially with

the sole aim of providing external accountability, and now also look at the issues of the police as well. In compulsory reforms and monitoring, the federal governments play a key role in policing issues especially those that have constitutional implications such as civil rights abuse for both civilians and the police.

Indeed, modern policing has been developed in some African countries. (Wall, 2020) states that the African police are mere shadows of former selves, and that the prevalence of repression is symptomatic of their loss of control and systematic corruption. Currently, policing institutions are blamed for colluding with criminals by hiring out their firearms and covering up the actions of these criminals. Most countries internationally began focusing their resources on the social security and the need to empower its citizens economically rather than enhance their military and policing might. New policing systems are being adopted by various states, these systems include community policing, self-policing, vigilantism, commercial security, and citizen's patrols, but the welfare of the police remains neglected.

According to (Hope,2018), several challenges still hinder police reforms in South Africa, these challenges include gender and racial discrimination, lack of teamwork, attachment to the past regimes, power struggles within the police service, inadequate financial resources, lack of solving police complaints, domestic issues of the police left un-attended to, poor working environment and failure of strategies implemented to deliver expected results. Currently there is debate on outsourcing some of the police responsibilities to private firms to fill the gaps due to labour shortage and lack of adequate resources, without necessary remunerating the affected police for the extra duties.

In Kenya, various strategic plans by the Kenya's government and reports from various taskforces on police reforms highlight the key reforms that should be implemented to improve the police welfare. These reforms includes restructuring of the police force, establishment of the NPS, modernization of police equipment, enhancement of both individual and institutional accountability through setting up of performance management system, establishment of the NPSC and IPOA, establishment of National Policing Council and Provincial Policing Authorities, dismantling of institutional and structural barriers to policing, professionalism of the police force by enhancement of training and retraining of police officers and improvement of the welfare and service conditions of the police officers. Therefore, for police to be efficient there is a need for them to be well equipped with modern equipment, research centres where new trends in behaviour can be studied and work towards improving their working and living environment (Amnesty International, 2017). In most cases police have complained of the criminal gangs having superior weapons than them, which puts their lives in risk.

The County Policing Authority (CPA) was established through the NPS Act 2011, and its major role is to develop proposals on priorities, objectives, and targets for improved police performance in the counties and monitor trends and patterns of crime in the counties. The establishment of civilian IPOA was critical in the demystifying of police operations since now a neutral civilian authority would receive complains related to criminal and disciplinary offences committed by any member of the police service and institute its own investigations. The creation of NPSC, would address issues of capacity within the NPS which includes manpower and training which was intended to root out the culture of corruption, nepotism and unprofessionalism, lack of resources, low morale due to poor pay, deplorable living and working conditions and an

unsympathetic public and human rights activist for efficient and effective police performance (Human Rights Watch, 2019).

(KNCHR,2017) contextualized police reforms in Kenya. The study found that the government did not consider the police culture and history in the police reforms. The study noted that effective police leadership in Kenya need the capacity to do things, while recognizing when it is time to issue split second orders. The recommended that the Kenya police service change the leadership structured to avoid replication and ensure effective leadership. (Njiri *et al.*,2020) also indicated that organizational structures in the police service should be changed for an efficient police service. However, the authors noted that the police leadership faces a challenge in implementing reforms as the structure is outdated and based on obsolete ideologies. A centralized organizational structure may create a challenge to leaders seeking to implement reforms in the police as it leads to inefficiency, bureaucracy, and low morale. Despite these reforms, the leadership within the police service has continued to be poor with the impunity within the police service still existing. Police leadership has failed to offer support to the police officers through facilities and guidance. The poor leadership may be accrued to the current reforms in the police service as proposed in the new constitution.

IPOA notes that it has faced several challenges in meeting its mandate of investigation, prosecution, and conviction of police misconduct. This includes the aspect of non-cooperation by the NPS. NPS frequently flouts provisions of the NPS Act requiring securing scenes and report cases of deaths and serious injuries within 24 hours IPOA (2018). Additionally, other agencies and key experts, and organizations such as telecommunication service providers have failed to support IPOA investigations due to data privacy concerns (IPOA,2018). This lack of cooperation

occurs despite robust provisions in section 7, the Authority's constitutive statute, which gives the Authority power to gather information by lawful means, including requisition of reports, interviewing persons, and administration of oaths.

IPOA has identified additional challenges as a contributory factor in hampering IPOA's efficiency. Firstly, there are incidents of police interference in investigations, including tampering with evidence and doctoring of official documents, withholding of official documents, victims of crime being maliciously prosecuted for covering up police misconduct as some of the reasons that contribute to its inability to meet its mandate (IPOA ,2018).

Additionally, police cooperation is compounded, where police refuse to testify against the police and refuse to attend court because of the blue code of silence, resulting in court delays (Kempe, 2019). Further cases of witness intimidation also contribute to the failure of IPOA investigations (Yusuf ,2020). Notably, IPOA does not control the duration the Office of Director Public Prosecution takes to review its files and make the decision to charge or the duration the Judiciary takes to conclude the cases filed in court.

There is scant information available to show how IPOA contributed to the improvement of remuneration of police that is adequate to maintain a reasonable standard of living for themselves and their families. This is contrary to the expectation of IPOA's role as derived from Article 244 of the Constitution, to enhance professionalism within the National Police Service. Professionalism can only be achieved if the officer's welfare is catered for, allowing the officers to live in a dignified manner and further deter them from criminal acts which are done under the guise of seeking resources.

### **2.3 Summary of Review of Literature and Research Gap(s)**

The researcher reviewed literature on police accountability in performance of their duties. Literature obligations to conduct democratic policing which involves respect for human rights and the place of ethics and integrity in performance of their duties. The researcher also evaluated factors that contribute to make civilian oversight agencies effective and responsive in handling complaints of the researcher studied the Constitutional provisions that established the National Police Service and Independent Policing Oversight Authority. The Researcher reviewed literature of international, regional, and national legal and institutional frameworks on accountability and oversight and conducted a comparative analysis on different jurisdictions who implement independent oversight on the police.

The researcher has reviewed the literature that relates to the subject of police accountability and oversight. The literature review analysed police officers' use of force, treatment of the arrested persons, and duty of the police to maintain order by providing the critical international, regional, and national laws that guide the police officers on these subjects. It further explains the powers and operations of police-civilian oversight bodies. The Kenyan situation of these subjects is discussed. The review has revealed the provisions of the law in Kenya and has pointed at several allegations, news, and reports of situations where the Kenyan police have violated these provisions. The review has revealed different reported cases of excessive use of force on the members of the public since the inception of IPOA and situations where the police have gone against the principles that guide the treatment of arrested persons and the principles that guide maintenance of public order.

The review has also investigated the corruption concerns amongst the police officers, the cases witnessed, and their negative effect on their accountability. Corruption among police service members is noted to have negatively affected IPOA in its investigations, and this has continued to limit the number of convicted police officers to a deficient number. The review noted that there is scant information on the role of IPOA in improving welfare issues and noted that there is absence of literature showing what action IPOA has taken against the police leadership for violating the rights of their officers, including failure to provide allowances, or using transfers as a punitive measure against officers.

The review has exposed a continuous worrying trend that despite the existence of IPOA, incidences of excessive use of force by the police, improper treatment of arrested persons, corruption, and police misconduct when maintaining public order continue to rise. The literature review has revealed that the IPOA has not been effective in holding to account police officers through investigation, prosecution, and conviction of those who break the law. This is evident by the low number of convictions against the high volume of the cases brought for investigation. It has also revealed that though the legal framework provides an enabling environment for exercising the rights as per the Kenyan constitution, the situation on the ground is not reflective of the same.

The review interrogated literature on the law enforcement techniques further to provide a keener understanding on rights-based policing. A gap in research was identified as most of the literature focused on policing in affluent and business districts. The study did not review law enforcement techniques utilised in low-income areas where a lot of human rights violations are reported.

Other literature reviewed included the impact of public cooperation on the success of law enforcement practices but did not address the impact of external



oversight on performance of policing duties. The researcher studied literature that sought to establish the fundamental reasons for establishing external civilian oversight but did not interrogate the nexus between motivation and police performance, specifically the role of IPOA's role in addressing welfare issues as an accountability strategy.

During the course of literature review publications were reviewed that researched the characteristics of legislative framework that make external civilian oversight a functional and responsive mechanism in improving accountability in police performance however none of the studies were done in low-income areas such as Mathare where police impunity is reported to be high, which is covered in the current study. From the above literature review, this study has established that the effectiveness of the IPOA in addressing the violation of human rights by the police officers in Kenya in informal settlements has not been adequately addressed by other scholars. It is also emerging that research on the role of civilian external oversight on motivation and police accountability in performance of their functions within the NPS in Kenya is also not very clear. This study therefore not only addressed those grey areas to adequately craft strategies that IPOA can utilise in improving professionalism among members of the NPS in Kenya.

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.1 Introduction

The study's general objective was to establish was to examine the influence of external oversight by IPOA in enhancing police accountability in performance of their functions within Mathare sub-county, Kenya. This chapter presents the research methodology. It covers the research design that was adopted by the study, research site, target population, sampling procedure, sample size, data collection measures, development of instruments, pilot testing of instruments, instrument's reliability and validity, data processing and analysis, legal and ethical considerations.

#### 3.2 Research Design

Research design refers to the blueprint that determines the collection, measurement, and data analysis (Bloomfield & Fisher, 2019). The significance of a research design entails the benefit of gathering and evaluating data to acquire a proven comprehension of a phenomenon. However, for an investigation to take place successfully, it must be guided by a proposed methodology. The methodology must clarify the proposed activities that will contribute to data collection, analysis, and interpretation (Abutabenjeh & Jaradat, 2018).

The study adopted a descriptive research design where quantitative and qualitative data was captured. Descriptive research design was appropriate as it attempted to describe behaviour, attitudes, and characteristics observed in their natural existence. The descriptive design enabled the researcher to collect accurate qualitative and quantitative data about different situations and occurrences (Asenahabi,2019). The research design was appropriate because it showed respondents' perceptions

concerning the influence IPOA has on police accountability and performance of their duties.

Quantitative research offered a suitable tool for exploratory analysis since quantitative methods have a significant role when exploration is the focus of inquiry. Additionally, the utilization of qualitative research created a broader understanding of behaviour. It observed opinions, perceptions, human thought, and behaviour in a social context and covers a wide range of phenomena. The use of qualitative data instruments such as observation, open-ended questions, and the in-depth interview provides a full description of the matters under investigation and a more comprehensive understanding of behaviour (Eyisi, 2016).

### **3.3 Research Site**

The research site is the location where the research is conducted, and data collected (Abutabenjeh & Jaradat, 2018). The study was conducted within Mathare Sub- County in Nairobi County. This area measures 3 km squared and comprises six wards (Hospital, Mabatini, Huruma, Ngei, Mlango Kubwa, and Kiamaiko) (Kenya National Bureau of Statistics, 2020). Mathare Constituency was created prior to the 2013 general election. The constituency comprises of informal settlement households mainly in Mabatini and Hospital wards. According to Kenya's Population and Housing Census from 2019, this sub-county had a population of 206,550 persons, 74,967 households and a density of 68,940 persons per sq.km. This is the highest density of a sub-county in Nairobi, and in Kenya. The area was reported to have a population of 114,259 persons (Kenya National Bureau of Statistics, 2020).

The research site has a history of excessive use of force by the police officers on slum dwellers, brutal night patrols and curfews, and a generally high level of police

activity as the area is a high insecurity area. The above formed the basis of the research area it was easy to get to the respondents and allow collation of t-the information required for the study.

### 3.4 Target Population

(Creswell and Creswell, 2017) state that target population entails a set of groups of individuals, objects, or events from which the sample is drawn. The study target population exclusively-comprised of adult males and female residents of Mathare Sub-County. The target population provided adequate information to inform the study due to the exposure of residents to police brutality and misconduct in the slum areas of Mathare. Another set of the population was IPOA senior employees based at the Headquarters in Nairobi, academicians including major universities and organizations dealing with human rights in Nairobi County, Non-Governmental Organisation (NGO) representatives and police officers as shown in Table 3.1.

**Table 3.1: Target population**

No	Category	Target Population	Source
1	The police officers	449	State department for internal security
2	IPOA officers	47	IPOA offices
3	Victims of police misconduct	504	State department for social protection
4	Academicians	23	KNCHR
5	NGO representatives	51	State department for social protection
	<b>Total</b>	<b>1,074</b>	

**Source: Researcher, 2022**

### 3.5 Study Sample

This section details the study's sampling procedure and the sample size that was used during the study.

### 3.5.1 Study Sample Size

A study sample size refers to the total number of people participating in a study as the respondents (Asenahabi, 2019). The sample size for the study was calculated using the Fisher formula as presented below:

$$n = \frac{Z^2 \times p \times (1 - p)}{e^2}$$

n was the sample size.

z was the abscissa of the normal distribution under 95% confidence interval

p was the proportion of respondents aware of IPOA (Unknown therefore 50% will be assumed)

e is the level of precision (5%)

Therefore, sample size was:

$$n = \frac{1.96^2 \times 0.5 \times (1 - 0.5)}{0.05^2} = 384.16 \approx 384 \text{ respondents}$$

The sample size distribution is shown in Table 3.2.

**Table 3.2: Sample and Sampling Procedure**

S/NO	Target	Population	Sample	Sampling procedure
1	The police officers	449	171	Simple random
2	IPOA officers	47	7	Purposive
3	Victims of police misconduct	504	193	Simple random
4	Academicians	23	5	Purposive
5	NGO Representatives	51	8	Purposive
	<b>Total</b>	<b>1,074</b>	<b>384</b>	

**Source: Researcher, 2021**

### **3.5.2 Sampling Procedure**

A sampling procedure refers to selecting a portion of the entire population and testing a hypothesis that captures the entire population. Moreover, it might be challenging to analyse the entire population (Taherdoost, 2016). The researcher adopted two sampling techniques: simple random and purposive sampling procedure. Through simple random sampling technique, every adult respondent, and police officer in the Mathare sub-county had an equal chance of being selected as a respondent for this study. For IPOA officers and senior police officers, purposive sampling was used to obtain data from senior officers on account of their privileged position and data they hold may not be held by the junior officers. For the academicians and NGO representatives, purposive sampling procedure was used due to the officers' strict schedule and police oversight work, which sees most of the officers out of the office in the field frequently (Table 3.2).

### **3.6 Data Collection**

Data collection entails the measures followed when gathering and measuring information on different variables under research to test the hypothesis, evaluate outcomes, and ultimately get solutions to the research questions (Taherdoost, 2016). Primary and secondary sources of data was relied upon during this study. Primary data was collected from respondents through questionnaires and key informant interview guides in each of the six wards within Mathare sub-county and IPOA Headquarters in Nairobi. The secondary data collection method was through the review of books, research works, newspapers, scholarly journals, government documents, and other related literature. Data collection tools consists of in-depth interview schedules and questionnaires.

### **3.6.1 Data Collection Instruments**

In this study, the researcher relied on questionnaires and key informant interview guides. The questionnaires comprised of an introductory section which informed the respondent the title of research, what the research hopes to accomplish, confidentiality of data and also the provision of the informed consent. The questionnaire had a question section consisting of both closed and open-ended questions. The use of closed questions was based on the need to guide the respondents in filling the questionnaire, while open-ended questions gave the respondents a chance to air their views without being restricted to pre-determined outcomes. The questions reflected the accountability or lack of accountability of the police in the area (Appendix I and II). For key informant interview guides, specifically, the research aimed to get elicited information to respond to the study objectives, and support and triangulate data obtained from the questionnaires. The questionnaires targeted Mathare Sub-County victims of police crime and police officers while interview guides were administered to NGO representatives, IPOA senior staff and academicians.

### **3.6.2 Pilot Testing of Research Instruments**

Pilot testing of the research instruments allowed the researcher to refine the tools further (Creswell & Clark, 2017). After pilot tests, the flow of the questions in the interview questionnaires was fine-tuned to get better responses. The pilot study was in Kibera slums targeting 38 respondents (10% of the sample size, 384). Kibera is deemed an area with many police activities and suitable for testing the interview questionnaires validity and reliability.

### **3.6.3 Instrument Reliability**

Reliability is a measure of the extent to which a research instrument produces consistent results or data after several trials (Eyisi, 2016). Reliability was checked after pilot testing. The split-half method was used to confirm internal consistency and that the results of one-half of the test was similar to the results of the other half of the test. The results from split-half method confirmed that all parts of the test contributed equally to what was being measured. Additionally, the Cronbach Alpha coefficient was used for all items of the questionnaire, where an overall coefficient of 0.911 was obtained, which was considered sufficient to warrant data collection.

### **3.6.4 Instrument Validity**

Validity defines the accuracy of data collected or to be collected in a study or data collection. An important aspect of validity is content validity, which is defined as a research instrument's ability to give adequate results with characteristics to be measured (Asenahabi, 2019). Here, an overall content validity index of 0.871 was obtained, which confirmed content validity of the questionnaire. The pilot study results were also given to supervisors within the African Nazarene University (ANU) to crosscheck the format, relevance, reliability, and content to ensure that the primary research instrument could collect appropriate data. This facilitated face validity. The researcher then aligned the final interview questionnaires to conform to the recommendations made.

### **3.6.5 Data Collection Procedure**

The researcher administered questionnaires and key informant interview guides to collect data from the respondents. The researcher trained research assistants for purposes of data collection. The research assistants were instructed on how to distribute



and collect the questionnaires. The research assistants were also instructed on how to approach the respondents. This ensured a uniformed approach in the collection of data resulting in informative findings that were accurate and high quality. This also made sure that the quality of the data collected was accurate in answering the specific objectives of the study.

### **3.7 Data Processing and Analysis**

Data processing refers to carrying out operations on data by a computer to retrieve, transform, or classify information and make the data meaningful in explaining phenomena (Eyisi ,2016). Upon completion of data collection, the questionnaires and the key information guides were checked for errors. Quantitative data from the questionnaires were processed using the Statistical Package for Social Sciences (SPSS V.26) software. This was done through putting the responses in categories and numbers to allow for analysis. Quantitative data analysis techniques from SPSS V.26 software were used, and data has been presented in percentages, mean, frequency, and standard deviation. The software was used because of its flexibility and ease of use. The analysed data were presented in tables and figures for ease of interpretation and in accordance with the objectives of this study.

For qualitative data, identification of similar phrases, themes and relationships between themes was done. In addition, identification of similarities and differences between population sub-groups was be done. A critical review and revision of generalizations, paying particular attention to contradictory evidence and outliers was done. Qualitative data has been organized into themes, analysed, and reported in verbatim to corroborate the findings from the questionnaires.

### **3.8 Legal and Ethical Considerations**

Ethical considerations guide the norms that govern human conduct to behave in appropriate and accepted ways. The researcher's responsibility is to ensure these norms are not violated, especially regarding respondents' dignity taking part in the study (Abutabenjeh & Jaradat, 2018). In this regard, the identities of the respondents have not been revealed to persons outside the research. The ethical considerations that guided the research included voluntary or willingness to participate in the study, informed consent, confidentiality, and guaranteed protection of information and privacy. The researcher and the research assistants explained the study's objectives and provided room for the respondents to confidently participate in the study. In ensuring this, participants were given their right to withdraw at any stage of the study wherever they wished like doing so, and no names were used to identify the respondents whatsoever.

Legally, permission to conduct the study was obtained prior to the commencement of the study. Before data collection started, the applicable clearance procedures were undertaken, and clearance certificates/letter obtained from relevant authorities. This included an introductory letter from ANU and a research permit from the National Commission for Science, Technology, and Innovation (NACOSTI). This set the stage for data collection.

## CHAPTER FOUR

### DATA ANALYSIS AND FINDINGS

#### 4.1 Introduction

This study sought to examine the contribution of IPOA in enhancing police accountability in Mathare sub-county, Kenya. The study specifically sought to examine the effectiveness of the IPOA in addressing the violation of human rights by the police officers, assess the efficiency of the IPOA in addressing corruption within the NPS, establish the ability of the IPOA structures in improving professionalism among members of the NPS and determine the capability of the IPOA in improving police welfare among members of the NPS in Kenya. This chapter presents the response rate achieved, the demographic information and examines the findings as per the specific objectives.

#### 4.2 Characteristics of the Respondents

The study sought to determine the characteristics of the police and Mathare sub-county victims of police crime, who participated in the study. The demographic information sought from the victims of crime was based on their gender and ward of residence. For the police officers, the demographic information sought was their gender, age bracket, education background and their marital status. The response rate is also provided to show the number of questionnaires and interview guides that were positively returned from the field. The findings on demographics are presented in sub-sections 4.2.1 to 4.2.6.

### 4.2.1 Response Rate

The study targeted to collect data from 384 police officers, IPOA officers, victims of police misconduct, academicians, and NGO representatives. Questionnaires and interview guides were distributed to the respondents and after all responses were returned, review of the responses was done. After review, considering completeness, consistency, and legibility, a total 343 responses had all questions completely responded to and were found eligible for analysis, representing an overall response rate of 89.3%. This response was considered excellent as it was more than 70% as recommended by Creswell and Clark (2017). Table 4.1 shows the response rate for the study.

**Table 4.1: Response Rate**

<b>Strata</b>	<b>Sample</b>	<b>Response Rate (f)</b>	<b>Response Rate (%)</b>
The police officers	171	144	84.2%
IPOA officers	7	6	85.7%
Victims of police misconduct	193	181	93.8%
Academicians	5	5	100.0%
NGO Representatives	8	7	87.5%
<b>Total</b>	<b>384</b>	<b>343</b>	<b>89.3%</b>

Source: Research Data (2022)

### 4.3.2 Gender of Mathare Sub-County Victims of Police Crime and the Police

The study sought to determine the gender distribution of the police and Mathare sub-county victims of police crime. Determining the gender of the respondents was important in gender balancing for the respondents who participated in the study. As presented in Table 4.2, 66% of the police officers are male while 34% are female. The findings imply that there are pre-dominantly more male police officers than their female colleagues in Mathare sub-county. This can be attributed to the prevalence of males

being considered for police officers' jobs, and this was also the case for the study area. For the victims of crime, it was found that 54.7% were male while 45.3% were female. This shows that crime affects both the female and male genders, with a slight preference in men than women in Mathare sub-county. Table 4.2 shows these findings.

**Table 4.2: Respondents' Gender**

Respondent		Frequency	Percent
Police	Male	95	66.0
	Female	49	34.0
	Total	144	100.0
Victims of Police Crime	Male	99	54.7
	Female	82	45.3
	Total	181	100.0

Source: Research Data (2022)

#### 4.2.3 Ward of Residence in Mathare Sub- County

The study sought to determine the ward in which the victims of police crime had been residing in Mathare sub-county as of the time of this study. The findings obtained indicate that 23.2% of the victims lived in Mlango Kubwa ward, 21.5% lived in Hospital ward, while the least lived in Mabatini ward (9.9%). The respondents indicate that the victims of police crime were spread throughout the sub-county, as presented in Table 4.3. The findings also show that the respondents were familiar with the subject area, hence the findings are reliable.

**Table 4.3: Ward of Residence of Victims of Police Crime**

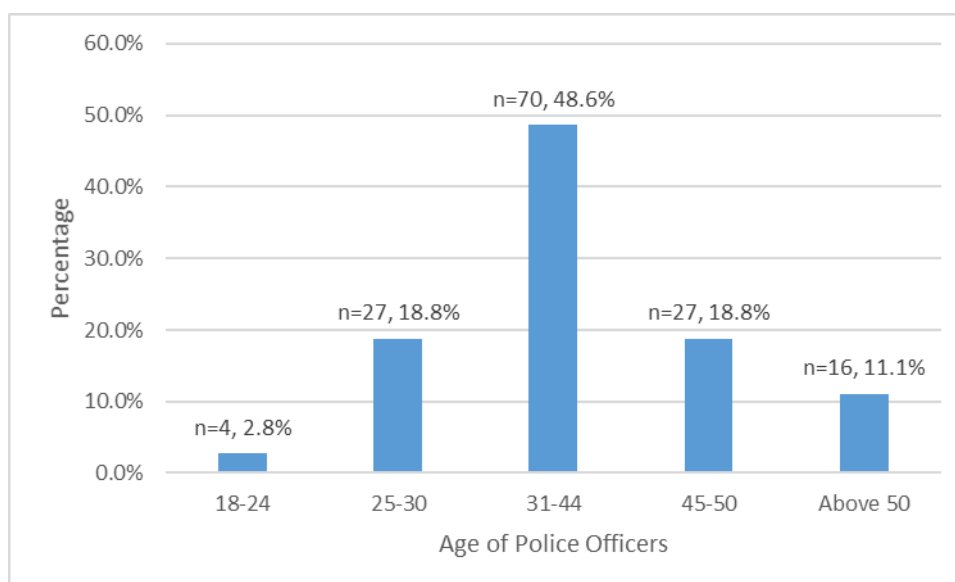
	Frequency	Percent
Mathare Mlango Kubwa	42	23.2
Kiamaiko	26	14.4
Mathare Area 1 (Hospital)	39	21.5
Huruma	34	18.8

Ngei	22	12.2
Mabatini	18	9.9
Total	181	100.0

Source: Research Data (2022)

#### 4.3.4 Age of Police Officers

The study sought to assess the age category of the police officers in order to determine the distribution of ages of the police officers in Mathare sub-county. The findings indicate that 48.6% of the police officers are in the age category 31-44 years, 18.8% are in the age category of 25-30 years, 18.8% are in age category of 45-50 years while 11.1% are in the age category more than 50 years. The findings show that most police officers occupied the age category of 31-44 years, which implies that most police officers are middle-aged. The findings are shown in Figure 4.1.

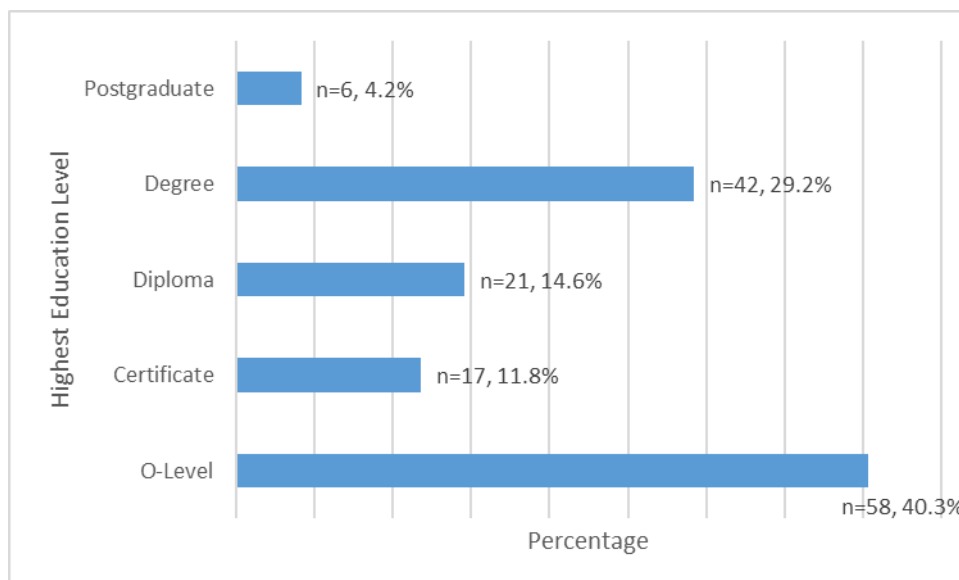


**Figure 4.1: Age Bracket of Police Officers**

Source: Research Data (2022)

#### 4.3.5 Education Background of Police Officers

The level of education was sought in the study in order to determine the capability of the police officers to answer questions given to them. The findings indicate that 40.3% of the police officers had attained secondary/O-Level education level. In addition, 29.2% had attained degree level education, 14.6% had attained diploma level of education and 11.8% had certificate level of education. The findings show that most respondents had adequate education levels and, therefore, were capable of answering the research questions (Figure 4.2).



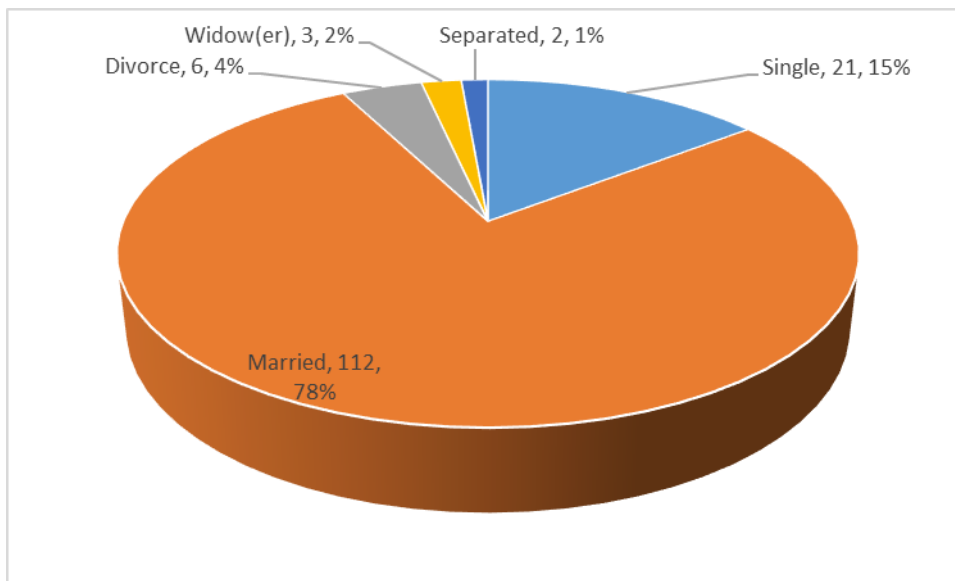
**Figure 4.2: Highest Education Level of Police Officers**

Source: Research Data (2022)

#### 4.3.6 Marital Status of Police Officers

The study sought to determine the marital status of respondents. The findings presented in Figure 4.3, indicate that 78% of the police officers are married while 15% are single. The others were either widowed, divorced, or separated. The findings therefore show that most police officers were married in Mathare sub-county. The

marital status on salient aspect of police welfare such as housing, provision of medical care and how domestic relationships affect performance of duties.



**Figure 4.3: Respondent Marital Status**

Source: Research Data (2022)

#### **4.4 Presentation of Research Analysis, Findings, and Interpretation**

The study sought to examine the contribution of IPOA in enhancing police accountability in Mathare sub-county, Kenya. Specifically, the study sought to examine the effectiveness of the IPOA in addressing the violation of human rights by the police officers, assess the efficiency of the IPOA in addressing corruption within the NPS, establish the ability of the IPOA structures in improving professionalism among members of the NPS and determine the capability of the IPOA in improving police welfare among members of the NPS in Kenya. The findings of the study are presented in four sub-sections (4.3.1 to section 4.3.4), each sub-section based on specific objectives of the study.

##### **4.4.1 Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers**



The first objective of the study was to examine the influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County. The study first sought to determine the most common reported cases of police brutality from the victims of police brutality. The study found that 36.5% of the victims identified police harassment, 27.6% identified police extrajudicial killings, 23.8% identified use of tear gas, rubber bullets, and batons on innocent people while 12.2% identified sexual assault and abuse as some of the cases of reported police brutality. The findings are shown in Table 4.4.

**Table 4.4: Most Common Reported Cases of Police Brutality**

	Frequency	Percent
Police extrajudicial killings	50	27.6
Use of tear gas, rubber bullets, and batons on innocent people	43	23.8
Police harassment	66	36.5
Sexual assault and abuse	22	12.2
Total	181	100.0

Source: Research Data (2022)

The study also sought to determine the frequency in which the police used force on the people of Mathare sub-county. The study found that 43.1% of the respondents said the police often used force on people of Mathare sub-county, 37.6% said it was very often while 15.5% said it was less often. The findings indicate that force was normally used force on people, as shown in Table 4.5.

**Table 4.5: Frequency Police Officers Use Force on People of Mathare Sub-County**

	Frequency	Percent
Not at all	7	3.9
Less Often	28	15.5
Often	78	43.1
Very often	68	37.6
Total	181	100.0

Source: Research Data (2022)

The study also sought to determine the most common reported cases on unlawful treatment of the arrested persons. Most victims of police crime identified inhumane manner of arresting people (38.7%), keeping arrested persons in remand for more than 24 hours before taking them to court (21%), wrongful search and seizure (16.6%) and denial of access to information, communication, and legal advice (15.5%). The findings are shown in Table 4.6.

**Table 4.6: Most common reported cases on unlawful treatment of the arrested persons**

	Frequency	Percent
Wrongful search and seizure	30	16.6
Inhumane manner of arresting people	70	38.7
Denial of access to information, communication, and legal advice	28	15.5
Keeping arrested persons in remand for more than 24 hours before taking them to court	38	21.0
Holding many detainees than the capacity of the cells	15	8.3
Total	181	100.0

Source: Research Data (2022)

Based on Likert scale questions, the study also sought to determine the victims of crime views on the effectiveness of the IPOA in addressing the violation of human rights by the police officers. The study found that the respondents overall agreed to the statements: There are many reported cases of excessive use of force by the police against the members of the public in Mathare ( $M = 3.98$ ,  $SD = 1.181$ ); there are many reported cases of arbitrary arrests and unlawful treatment of arrested persons by the police against the members of the public in Mathare ( $M = 3.97$ ,  $SD = 1.082$ ); police officers continue to use excessive force during public order management / protests in

Mathare the despite existence of IPOA ( $M = 4.06$ ,  $SD = 1.039$ ); the rate of conclusion of the investigation and prosecution of human rights violation cases by IPOA is extremely low ( $M = 3.06$ ,  $SD = 1.149$ ); monitoring of police operations by IPOA has led to a reduction of violation of human rights by police officers ( $M = 3.06$ ,  $SD = 1.457$ ) and IPOA has failed in its mandate to handle the reported cases of human rights violations by the police officers ( $M = 3.22$ ,  $SD = 1.227$ ).

The study nonetheless found that the respondents disagreed to the following statements: The number of unjustified deaths and injuries due to police actions has reduced since the inception of IPOA ( $M = 2.99$ ,  $SD = 1.468$ ); very few cases of human rights violations committed by the police are investigated by IPOA ( $M = 2.98$ ,  $SD = 1.151$ ) and IPOA has led to significant improvement of adherence to human rights of persons by members of the NPS ( $M = 2.94$ ,  $SD = 1.575$ ). The findings are shown in Table 4.7.

**Table 4.7: Victims of Police Crime Views on Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers**

		Strongly disagree	Disagree	Not sure	Agree	Strongly agree	Mean	SD
There are many reported cases of excessive use of force by the police against the members of the public in Mathare	f	8	19	22	51	81	3.98	1.181
	%	4.4%	10.5%	12.2%	28.2%	44.8%		
The number of unjustified deaths and injuries due to police actions has reduced since the inception of IPOA	f	55	3	39	57	27	2.99	1.468
	%	30.4%	1.7%	21.5%	31.5%	14.9%		
There are many reported cases of arbitrary arrests and unlawful treatment of arrested persons by the police against the members of the public in Mathare	f	4	19	27	59	72	3.97	1.082
	%	2.2%	10.5%	14.9%	32.6%	39.8%		
Police officers continue to use excessive force during public order management / protests in Mathare despite existence of IPOA	f	9	6	20	76	70	4.06	1.039
	%	5.0%	3.3%	11.0%	42.0%	38.7%		
Very few cases of human rights violations committed by the police are investigated by IPOA	f	10	66	45	35	24	2.98	1.151
	%	5.6%	36.7%	25.0%	19.4%	13.3%		
The rate of conclusion of the investigation and prosecution of human rights violation cases by IPOA is extremely low	f	12	53	54	37	25	3.06	1.149
	%	6.6%	29.3%	29.8%	20.4%	13.8%		
Monitoring of police operations by IPOA has led to a reduction of violation of human rights by police officers	f	45	20	26	59	31	3.06	1.457
	%	24.9%	11.0%	14.4%	32.6%	17.1%		
IPOA has failed in its mandate to handle the reported cases of human rights violations by the police officers	f	21	30	45	58	27	3.22	1.227
	%	11.6%	16.6%	24.9%	32.0%	14.9%		
IPOA has led to significant improvement of adherence to human rights of persons by members of the NPS	f	56	20	25	39	41	2.94	1.575
	%	30.9%	11.0%	13.8%	21.5%	22.7%		

Source: Research Data (2022)

The study also sought to obtain the police officers' views on the effectiveness of the IPOA in addressing the violation of human rights by the police officers. The study found that the respondents overall agreed to the statements: IPOA has been effective in reducing incidences of human rights violations by members of the NPS ( $M = 3.31, SD = 1.293$ ); IPOA has an efficient reporting mechanism that enables police officers report police misconduct ( $M = 3.29, SD = 1.240$ ); IPOA has helped in improving accountability within the NPS ( $M = 3.39, SD = 1.333$ ); complaints against police should be handled by IPOA ( $M = 3.36, SD = 1.387$ ); the presence of IPOA has reduced incidences of human rights violations by the police ( $M = 3.25, SD = 1.330$ ); IPOA has been effective in reducing complaints of police misconduct and human rights violations ( $M = 3.24, SD = 1.459$ ); IPOA has improved police welfare as a result of police oversight ( $M = 3.01, SD = 1.409$ ); the presence of IPOA has influenced a culture of respect for human rights among the members of the NPS ( $M = 3.24, SD = 1.301$ ) and the police adherence to laws, code of conduct and operational procedures improved since the formation of IPOA ( $M = 3.35, SD = 1.275$ ). The respondents however disagreed that the presence of IPOA makes it difficult for police to do their work ( $M = 2.66, SD = 1.420$ ). The large standard deviations indicate that the respondents had varied views on the responses given. The findings are shown in Table 4.8.

**Table 4.8: Police Officers' Views on Effectiveness of the IPOA in Addressing the Violation of Human Rights by the Police Officers**

		Strongly disagree	Disagree	Not sure	Agree	Strongly agree	Mean	SD
IPOA has been effective in reducing incidences of human rights violations by members of the NPS	f	14	33	20	48	29	3.31	1.293
	%	9.7%	22.9%	13.9%	33.3%	20.1%		
IPOA has an efficient reporting mechanism that enables police officers report police misconduct	f	19	18	29	58	20	3.29	1.240
	%	13.2%	12.5%	20.1%	40.3%	13.9%		
IPOA has helped in improving accountability within the NPS	f	18	23	21	49	33	3.39	1.333
	%	12.5%	16.0%	14.6%	34.0%	22.9%		
Complaints against Police should be handled by IPOA	f	23	16	27	42	36	3.36	1.387
	%	16.0%	11.1%	18.8%	29.2%	25.0%		
The presence of IPOA has reduced incidences of human rights violations by the police	f	23	21	20	57	23	3.25	1.330
	%	16.0%	14.6%	13.9%	39.6%	16.0%		
IPOA has been effective in reducing complaints of police misconduct and human rights violations	f	29	16	26	37	36	3.24	1.459
	%	20.1%	11.1%	18.1%	25.7%	25.0%		
IPOA has improved police welfare as a result of police oversight	f	31	23	24	41	23	3.01	1.409
	%	21.8%	16.2%	16.9%	28.9%	16.2%		
The presence of IPOA makes it difficult for police to do their work	f	40	36	22	25	21	2.66	1.420
	%	27.8%	25.0%	15.3%	17.4%	14.6%		
The presence of IPOA has influenced a culture of respect for human rights among the members of the NPS	f	17	30	26	44	27	3.24	1.301
	%	11.8%	20.8%	18.1%	30.6%	18.8%		
The police adherence to laws, code of conduct and operational procedures improved since the formation of IPOA	f	17	22	26	52	27	3.35	1.275
	%	11.8%	15.3%	18.1%	36.1%	18.8%		

Source: Research Data (2022)

When the respondents were asked from the open ended and interview guides concerning their views on the most common reported cases of human rights violations by the police, the respondents had the following to say.

There is usually assault, unlawful shooting, obstruction of justice, excessive use of force, robbery with violence, enforced disappearance and extra judicial killings, SGBV (not supported), police inaction on reported cases, police taking bribes and shooting causing deaths and injuries (Source: Academician 1, Feb 2022)

There is police brutality (assault and unlawful killing), denial of health services, harassment, bribes, extra judicial killings, enforced disappearance, torture, rape and defilement of female prisoners as well as disappearance of arrested victims (Source: NGO representative 1, March 2022).

On the most common reported cases on unlawful treatment of the arrested persons, the respondents gave the following responses, which support the findings from the questionnaire.

Unlawful treatment is seen when there is illegal stop and search extortion to avoid arrest, detention on cramped and unsanitary conditions, no cells for minors and adults, denial of bond, refusal to refund bail, detention beyond constitutional limit and theft of belongings (Source: IPOA officer 1, Feb 2022)

People are being detained for more than 24 hours, arbitrary arrests, not informing people on the reasons for arrest, not allowing persons to contact the next of kin, injuries from police assaults, threats and intimidation, death and enforced disappearance (Source: IPOA officer 2, Feb 2022)

There is normally a lot of corruption, extortion, falsification, theft of property, arbitrary arrest, illegal search and seizure, planting of evidence and malicious prosecution, poor conditions of cells, soliciting of bribes, manhandling, failure to follow arrests procedure, no opportunity given to person for representation of a lawyer and torture (Source: Academician 2, March 2022)

I would cite cases of unlawful confinement and illegal detention, victimization of poor and commercial sex workers, extra judicial punishment (cleaning cells and offices) and arresting people on Fridays and releasing on Sunday. They also do not tell people the reason for arrest. There is also physical assault, threat to life, extortion, actual lethal force, and extortion of arrested persons (Source: NGO representative 2, March 2022).

The things that I can point out include misuse of power, not following arrest or detention procedures, staying in custody more than 24 hours and extortion, prisoners kept in overcrowded and unsanitary conditions, planting of evidence, threats, forced labour, assault during arrest, violating the 24-hour rule, arresting people on Friday and stealing prisoner property (Source: Police officer 1, Feb 2022)

Based on the efficiency and effectiveness of existing IPOA legal foundations (IPOA Act, Constitution of Kenya) on human rights protection, the respondents had the following to say.

There is no efficiency and effectiveness; IPOA is not even allowed to enter police stations without notice and cooperation is poor (Source: Academician 3, March 2022)

The efficiency is poor; they don't implement IPOA recommendations, don't assist in investigations and are unwilling to provide information against colleagues. It needs improvement especially of arrest, as IPOA relies on IG and court to secure the officers and doesn't follow recognized chain of command. In addition, the law does not give them powers of arrest (Source: NGO representative 3, March 2022).

#### **4.4.2 The impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner**

The second objective of the study was to assess the impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-County. It further interrogated the efficiency of the IPOA in addressing corruption within the NPS in Kenya. The study first sought to determine the views of the victims of police crime on the efficiency of the IPOA in addressing corruption within the NPS. The study found that the respondents to the following statements: Incidences of police corruption have not reduced since the establishment of IPOA ( $M = 3.10$ ,  $SD = 1.522$ ); despite the presence of IPOA police officers still ask for bribes from members of the public during arrests and policing operations ( $M = 4.04$ ,  $SD = 1.275$ ); IPOA has not been effective in



receiving and investigating complaints of corruption committed by police officers ( $M = 3.55$ ,  $SD = 1.267$ ); police officers regularly ask for bribes during recruitment of members of the public into the police service despite the presence of IPOA ( $M = 4.15$ ,  $SD = 1.123$ ); I have been asked for a bribe by a police officer in the last 12 months ( $M = 3.46$ ,  $SD = 1.562$ ); cases of corruption among the police officers have continuously been on the rise in Mathare Sub-County despite the existence of IPOA ( $M = 3.91$ ,  $SD = 1.257$ ) and the rate of conclusion of the investigation and prosecution of corruption cases by IPOA is extremely low ( $M = 3.23$ ,  $SD = 1.419$ ).

The respondents however disagreed that IPOA has an efficient mechanism for reporting corruption cases anonymously ( $M = 3.00$ ,  $SD = 1.291$ ); the presence of IPOA has influenced a culture of integrity and transparency among the members of the NPS ( $M = 2.87$ ,  $SD = 1.424$ ); and monitoring of police operations by IPOA has led to a reduction of incidences of corruption by police officers ( $M = 2.97$ ,  $SD = 1.477$ ). The findings are shown in Table 4.9.

**Table 4.9: Victims of Police Crime Views on Efficiency of the IPOA in Addressing Corruption within the NPS**

		SD	D	U	A	SA	Mean	SD
Incidences of police corruption have not reduced since the establishment of IPOA	f	49	14	26	53	39	3.10	1.522
	%	27.1%	7.7%	14.4%	29.3%	21.5%		
Despite the presence of IPOA Police officers still ask for bribes from members of the public during arrests and policing operations.	f	16	9	20	43	93	4.04	1.275
	%	8.8%	5.0%	11.0%	23.8%	51.4%		
IPOA has not been effective in receiving and investigating complaints of corruption committed by police officers	f	16	28	23	68	46	3.55	1.267
	%	8.8%	15.5%	12.7%	37.6%	25.4%		
IPOA has an efficient mechanism for reporting corruption cases anonymously	f	38	17	52	55	19	3.00	1.291
	%	21.0%	9.4%	28.7%	30.4%	10.5%		
Police officers regularly ask for bribes during recruitment of members of the public into the police service despite the presence of IPOA	f	11	3	27	47	93	4.15	1.123
	%	6.1%	1.7%	14.9%	26.0%	51.4%		
The presence of IPOA has influenced a culture of integrity and transparency among the members of the NPS	f	56	9	38	59	19	2.87	1.424
	%	30.9%	5.0%	21.0%	32.6%	10.5%		
I have been asked for a bribe by a police officer in the last 12 months	f	38	21	3	57	62	3.46	1.562
	%	21.0%	11.6%	1.7%	31.5%	34.3%		
Cases of corruption among the police officers have continuously been on the rise in Mathare Sub-County despite the existence of IPOA	f	14	17	16	58	76	3.91	1.257
	%	7.7%	9.4%	8.8%	32.0%	42.0%		
Monitoring of police operations by IPOA has led to a reduction of incidences of corruption by police officers	f	52	17	22	64	26	2.97	1.477
	%	28.7%	9.4%	12.2%	35.4%	14.4%		
The rate of conclusion of the investigation and prosecution of corruption cases by IPOA is extremely low	f	29	34	28	46	44	3.23	1.419
	%	16.0%	18.8%	15.5%	25.4%	24.3%		

Source: Research Data (2022)

The study also sought to determine the police officers' views on efficiency of the IPOA in addressing corruption within the NPS. The respondents disagreed to the following statements: Cases of corruption among police officers has reduced since the inception of IPOA ( $M = 2.81, SD = 1.450$ ); IPOA has been effective in investigating complaints of corruption ( $M = 2.90, SD = 1.345$ ) and incidences of corruption has reduced during recruitment and promotion processes ( $M = 2.83, SD = 1.469$ ).

However, the respondents agreed to the following: IPOA has influenced a culture change of integrity and transparency among police officers ( $M = 3.25, SD = 1.203$ ); there has been an improvement in police handling of the public based on citizens' constitutional rights ( $M = 3.53, SD = 1.295$ ); police officers are able to report incidents of corruption to IPOA anonymously ( $M = 3.03, SD = 1.396$ ) and complaints of corruption against Police should be handled by IPOA ( $M = 3.22, SD = 1.492$ ). The findings are shown in Table 4.10.

**Table 4.10: Police Officers' Views on Efficiency of the IPOA in Addressing Corruption within the NPS**

		Strongly disagree	Disagree	Undecided	Agree	Strongly agree	Mean	SD
Cases of corruption among police officers has reduced since the inception of IPOA	F	36	35	18	31	24		
	%	25.0%	24.3%	12.5%	21.5%	16.7%	2.81	1.450
IPOA has influenced a culture change of integrity and transparency among police officers	F	17	23	27	61	16		
	%	11.8%	16.0%	18.8%	42.4%	11.1%	3.25	1.203
IPOA has been effective in investigating complaints of corruption	F	29	31	28	37	19		
	%	20.1%	21.5%	19.4%	25.7%	13.2%	2.90	1.345
Incidences of corruption has reduced during recruitment and promotion processes	F	46	14	20	47	17		
	%	31.9%	9.7%	13.9%	32.6%	11.8%	2.83	1.469
There has been an improvement in police handling of the public based on citizens constitutional rights	F	15	22	14	58	35		
	%	10.4%	15.3%	9.7%	40.3%	24.3%	3.53	1.295
Police officers are able to report incidents of corruption to IPOA anonymously	F	32	22	18	53	19		
	%	22.2%	15.3%	12.5%	36.8%	13.2%	3.03	1.396
Complaints of corruption against Police should be handled by IPOA	F	31	15	29	30	39		
	%	21.5%	10.4%	20.1%	20.8%	27.1%	3.22	1.492

Source: Research Data (2022)

On the ways in which IPOA can intervene on the issue of identification of corruption cases, and how they can be reduced to ensure more accountability of the police service, the respondents had the following to say.

This can be done by monitoring recruitment of police officers, using intelligence, tell people where to report corruption cases, IPOA should employ officers and deploy them in rural areas and once a police officer is found guilty, he or she should not be allowed to carry their firearms while on duty (Source: Victim of crime 1, March 2022)

This can be achieved through ensuring the recruitment is well and monitoring, by being included in every case handled by police for records of information for future influence and it could be better if IPOA can work for 24 hours. Further, they should open more IPOA regions to be able to monitor those police officers, ask police to declare their wealth every year and train officers on anti-corruption to be able to be more ethical (Source: NGO representative 4, March 2022)

Another way to achieve this is by monitoring police recruitment and summoning police officers who engage in corruption cases, police leadership should be changed, put monitoring cameras where police are known to look for bribes, ensure police are paid more so they do not have to be corrupt, get more powers to investigate corruption cases, monitoring of police to ensure they do not commit corruption and increasing monitoring of police operations that are used to extort people on the ground, as shown from the responses below;

This can be done by making sure that in entry activities concern with police/ port should be included, taking corruption to court, focus on prevention rather than enforcement, expose the corrupt, enforce code of conduct including declaration and monitoring and IPOA should be included in every activity, concern with police for recording of more information for more records (Source: Academician 4, March 2022)

I suggest that the authorities should conduct due diligence on all third party, conduct a risk assessment on them, search and arrest operations and entrapment operation, talk to youths if anyone is a witness of corruption should report immediately, keeping the public sector honest, transparent and accountable, identify priorities, problems and find solutions, ensuring that officers are held accountable for their actions and IPOA should recruit more staffs to be deployed in every police station. IPOA should also ensure all police officers under governmental assessment after a certain period of time and stop employing ex-officers (Source: IPOA officer 3, Feb 2022)

#### **4.4.3 Ability of the IPOA structures in improving professionalism among members of the NPS in Kenya**

The third objective of the study was to the legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare

Sub-County. It sought to establish the ability of the IPOA structures in improving professionalism among members of the NPS in Kenya. The study first sought to determine the victims of police crime views on the objective. The study found that the respondents agreed to the following statements: IPOA is an independent institution and can undertake its mandate without interference ( $M = 4.10, SD = 1.165$ ); IPOA conducts independent and impartial investigations against complaints raised ( $M = 3.87, SD = 1.056$ ); IPOA has an adequate budget to ensure it meets its mandate ( $M = 3.58, SD = 1.017$ ); IPOA has been properly established under the law ( $M = 3.58, SD = 0.989$ ); the public has confidence in the leadership of IPOA ( $M = 3.81, SD = 1.089$ ); IPOA has the technical capacity to undertake Police Oversight ( $M = 3.57, SD = 1.265$ ); IPOA has a clear mandate ( $M = 3.81, SD = 0.906$ ) and IPOA has a proper institutional design and governance structure ( $M = 3.66, SD = 1.040$ ). The findings are shown in Table 4.11.

**Table 4.11: Victims of Police Crime Views on Ability of the IPOA structures in improving professionalism among members of the NPS**

		Strongly disagree	Disagree	Not sure	Agree	Strongly agree	Mean	SD
IPOA is an independent institution and can undertake its mandate without interference	f	11	6	30	41	93		
	%	6.1%	3.3%	16.6%	22.7%	51.4%	4.10	1.165
IPOA conducts independent and impartial investigations against complaints raised	f	7	12	36	69	57		
	%	3.9%	6.6%	19.9%	38.1%	31.5%	3.87	1.056
IPOA has an adequate budget to ensure it meets its mandate	f	10	3	78	52	38		
	%	5.5%	1.7%	43.1%	28.7%	21.0%	3.58	1.017
IPOA has been properly established under the law	f	8	12	58	73	30		
	%	4.4%	6.6%	32.0%	40.3%	16.6%	3.58	.989
The public has confidence in the leadership of IPOA	f	5	13	58	40	65		
	%	2.8%	7.2%	32.0%	22.1%	35.9%	3.81	1.089
IPOA has the technical capacity to undertake Police Oversight	f	17	23	28	65	48		
	%	9.4%	12.7%	15.5%	35.9%	26.5%	3.57	1.265
IPOA has a clear mandate	f	2	14	40	85	40		
	%	1.1%	7.7%	22.1%	47.0%	22.1%		
IPOA has a proper institutional design and governance structure.	f	8	9	64	56	44		
	%	4.4%	5.0%	35.4%	30.9%	24.3%	3.66	1.040

Source: Research Data (2022)

The study also sought to determine the police officers' views on the ability of the IPOA structures in improving professionalism among members of the NPS. The study found that the respondents agreed to the following statements: IPOA is properly established under the law ( $M = 3.60$ ,  $SD = 1.286$ ); IPOA has sufficient funding for its operations ( $M = 3.18$ ,  $SD = 1.304$ ); IPOA strategic plan provides a clear roadmap for Policing Oversight ( $M = 3.56$ ,  $SD = 1.216$ ); IPOA has sufficient resources (vehicles, ICT, stationery etc.) for its operations ( $M = 3.12$ ,  $SD = 1.220$ ); IPOA has adequate number of staff to conduct its operations ( $M = 3.31$ ,  $SD = 1.417$ ); IPOA has enough office space for its operations ( $M = 3.24$ ,  $SD = 1.275$ ); IPOA has a governance and

institutional structure ( $M = 3.44$ ,  $SD = 1.289$ ) and IPOA is independent and is able to achieve its mandate ( $M = 3.72$ ,  $SD = 1.330$ ). The findings are shown in Table 4.12.

**Table 4.12: Police Officers' Views on Ability of the IPOA structures in improving professionalism among members of the NPS**

		Strongly disagree	Disagree	Undecided	Agree	Strongly agree	Mean	SD
IPOA is properly established under the law	F	12	23	18	49	42	3.60	1.286
	%	8.3%	16.0%	12.5%	34.0%	29.2%		
IPOA has sufficient funding for its operations	F	20	22	43	30	29	3.18	1.304
	%	13.9%	15.3%	29.9%	20.8%	20.1%		
IPOA strategic plan provides a clear roadmap for Policing Oversight	F	12	14	38	42	38	3.56	1.216
	%	8.3%	9.7%	26.4%	29.2%	26.4%		
IPOA has sufficient resources (Vehicles, ICT, Stationery etc.) for its operations	F	14	35	37	36	22	3.12	1.220
	%	9.7%	24.3%	25.7%	25.0%	15.3%		
IPOA has adequate number of staff to conduct its operations	F	20	23	38	18	45	3.31	1.417
	%	13.9%	16.0%	26.4%	12.5%	31.3%		
IPOA has enough office space for its operations	F	19	20	38	41	26	3.24	1.275
	%	13.2%	13.9%	26.4%	28.5%	18.1%		
IPOA has a governance and institutional structure	F	20	7	40	43	34	3.44	1.289
	%	13.9%	4.9%	27.8%	29.9%	23.6%		
IPOA is independent and is able to achieve its mandate	F	17	11	17	49	50	3.72	1.330
	%	11.8%	7.6%	11.8%	34.0%	34.7%		

Source: Research Data (2022)

When asked about whether IPOA is an independent institution and can undertake its mandate without interference, has the technical capacity to undertake Police Oversight and ways to improve the effectiveness of structures of the IPOA in enhancing police accountability and professionalism, the respondents gave the following responses.



IPOA is an independent institution which needs to devolve to the smallest administrative in its to ensure any Kenyan can receive justice if they experience misconduct. However, there are instances when its independence is questionable, when they receive money from donors and CSO's which influences them (Source: NGO representative 1, March 2022).

IPOA, like most organizations, are always having leadership wrangles. The turnover of staff affects continuity of investigation which requires enhanced staff capacity, less board interference on secretariat activities, give officers an avenue to complain about unfair treatment and expand investigation mandate, having units handling different aspects of misconduct as well as improve intelligence gathering (Source: Police officer 1, March 2022).

The IPOA should conduct a review on the ten years in existence and based on lessons learned, reconstitute departments to make it more responsive to complaints of police misconduct. There should also be inspection of police premises, training institutions and operations that have resulted in recommendations that have improved the conditions and enhance civilian oversight by training civilians to be investigators instead of hiring former police officers (Source: NGO representative 2, March 2022).

#### **4.4.4 Identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.**

The fourth objective of the study was to identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same. The study sought to determine the police officers' views on the objective. The study found that the respondents disagreed to the following statements: IPOA has contributed to the improvement of the working conditions of the police ( $M = 1.92, SD = 1.135$ ); IPOA has improved the living conditions of the police ( $M = 1.88, SD = 1.265$ ); IPOA contributes in solving domestic issues affecting the police ( $M = 1.93, SD = 1.299$ ); IPOA has a mechanism of listening to the police complaints ( $M = 2.28, SD = 1.310$ ) and IPOA has a structure of responding to the complaints raised by the police ( $M = 2.97, SD = 1.366$ ). Table 4.13 shows the findings.

**Table 4.13: Police Officers' Views on the Capability of the IPOA in improving police welfare among members of the NPS in Kenya**

		Strongly disagree	Disagree	Not sure	Agree	Strongly agree	Mean	SD
IPOA has contributed to the improvement of the working conditions of the police	F	75	28	18	23	0	1.92	1.135
	%	52.1%	19.4%	12.5%	16.0%	0.0%		
IPOA has improved the living conditions of the police	F	81	28	20	1	14	1.88	1.265
	%	56.3%	19.4%	13.9%	0.7%	9.7%		
IPOA contributes to solving domestic issues affecting the police	F	76	38	8	8	14	1.93	1.299
	%	52.8%	26.4%	5.6%	5.6%	9.7%		
IPOA has a mechanism of listening to the police complaints	F	67	10	26	41	0	2.28	1.310
	%	46.5%	6.9%	18.1%	28.5%	0.0%		
IPOA has a structure of responding to the complaints raised by the police	F	36	16	21	59	12	2.97	1.366
	%	25.0%	11.1%	14.6%	41.0%	8.3%		

Source: Research Data (2022)

When the key informants were asked on the capability of the IPOA in improving police welfare among members of the NPS, the respondents had the following responses to the research.

The police welfare is still poor. There are still high levels of depression, suicide, and marriage breakups. However, all officers can lodge complains whether anonymous or whether known (Source: NGO representative 2, Feb 28, 2022)

There is need for housing and prompt payment of allowances and inspections. Though IPOA makes follow up resulting in resolution through ADR, some of issues reported to IPOA are not addressed. IPOA should respond to complaints in good time and have a feedback mechanism of a client charter with timelines (Source: Police officer 3 March 3, 2022).

There is need to do researching and giving recommendations on how NPS can improve and conduct modern policy. Other things needed include a framework on addressing mental health, anonymous outreach programs, working on cases of suicide and spouses murder which are on rise and investigate these complaints rather than forwarding them to the police (Source: IPOA officer 2 April 5, 2022).

## CHAPTER FIVE

### DISCUSSION, CONCLUSION AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter presents the discussion of the findings shown in chapter four, summary of findings, conclusion after the interpretation of the results and recommendations for practice and policy implication. The chapter also presents the areas for further research.

#### 5.2 Discussion

This section discusses the results on the influence of the external oversight of IPOA in enhancing police accountability in performance of their duties within Mathare sub-county, Kenya. The discussion is guided by the specific objectives which include to examine the effectiveness of the IPOA in improving police compliance in respecting human rights, increasing integrity and transparency in policing operations, whether the legal framework creates an environment for a functional oversight authority and the challenges faced by IPOA in oversight and strategies that can be utilised in improving accountability. The study interrogated factors such as IPOA's efficiency in addressing the violation of human rights by the police officers, assess the efficiency of the IPOA in addressing corruption within the NPS, establish the ability of the IPOA structures in improving professionalism among members of the NPS and determine the capability of the IPOA in improving police welfare among members of the NPS in Kenya.

##### **5.2.1 The influence of external oversight by IPOA in accountability on compliance to human rights in performance of policing duties in Mathare Sub- County.**

The study found that 43.1% (78) of the respondents said the police often used force on people. There was police harassment, police extrajudicial killings, use of tear

gas, rubber bullets, and batons on innocent people as well as sexual assault and abuse in Mathare sub-county. In line with the findings of the study, Institute for Economics and Peace (2017) corroborates the commonly experienced violations of human rights include extrajudicial killings, torture, and sexual assault among others. In addition, Holmes (2020) attributed this to corruption within the police force which is a concern to professionalism.

Most victims of police crime identified detention of arrested persons in remand for more than the stipulated legal threshold before taking them to court, wrongful search and seizure and denial of access to information, communication, and legal advice. Kenya Law (2020) agrees with the study findings when it illustrates that the High Court of Kenya has weighed in the matter of arbitrary arrests and illegal detention. In Constitutional petition 14 of 2017, petitioners alleged that their rights were violated when police officers, for instance, in Ongata Rongai arrested them on allegations that they were idle and disorderly. The research illustrated that there were many reported cases of arbitrary arrests and unlawful treatment of arrested persons by the police against the members of the public in Mathare. The findings from Kenya Law (2020) show that there has been unlawful treatment of arrested persons and sometimes loss of self-esteem and reputation associated with the aftermath of such conduct cannot be compensated by way of damages. The High Court subsequently ordered six police officers to pay Sh4 million to a lawyer they had arrested and detained illegally.

The rate of conclusion of the investigation and prosecution of human rights violation cases by IPOA was extremely low. Members of the public therefore would require an avenue to lodge their complaints to ensure police are responsible for their human rights violations. Furthermore, a study by Gonzalez (2021) illustrates that the right of victims to seek redress when violated under international law is provided for

under the International Covenant on Civil and Political Rights (ICCPR), which places an obligation on states to place a mechanism to provide and enforce such remedies when violations occur.

The study determined that monitoring of police operations by IPOA has led to a reduction of violation of human rights by police officers. In line with the findings of the study, (Fagbadebo, 2019) and the accountability theory argue that this has been achieved through accountability which encompasses issues concerning enforcement where power is subjected to sanction threats, monitoring where mechanisms are put in place to ensure power is exercised in a transparent manner, and justification where officeholders explain their use of power.

IPOA has failed in its mandate to handle the reported cases of human rights violations by the police officers. IPOA (2018) also agrees that-IPOA has faced several challenges in meeting its mandate of investigation, prosecution, and conviction of police misconduct. This included the aspect of non-cooperation by the NPS. NPS frequently flouts provisions of the NPS Act requiring securing scenes and report cases of deaths and serious injuries within 24 hours. Additionally, other agencies and key experts, and organizations such as telecommunication service providers had failed to support IPOA investigations due to data privacy concerns, showing how systems can influence cooperation, in line with the systems theory.

The study finds that the respondents disagreed that very few cases of human rights violations committed by the police were investigated by IPOA. (Stinson,2020) agreed with the current study findings that while conducting their duties, police officers may violate the rights of individuals. Members of the public therefore would require an avenue to lodge their complaints to ensure police are responsible for their human rights violations. Also, a study from Institute for Economics and Peace (2017) showed that

notwithstanding the IPOA's existence in Kenya, the police continued to carry out human rights violations. These violations include corruption, disproportionate use of force, brutal crowd control response, and punitive management of public order. Other reported violations of human rights include extrajudicial killings, torture, and sexual assault, among others.

### **5.2.2 The impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-County,**

The study has found that incidences of police corruption had not reduced since the establishment of IPOA. The IPCC (2015) agrees with the current study findings that incidences of police corruption which constitute a criminal offence such as behaviour, which is liable to lead to misconduct proceedings, serious assault, serious sexual offences, and serious corruption. Despite the presence of IPOA, police officers asked for bribes from members of the public during arrests and policing operations. (Abbink, Ryvkin, and Serra, 2020) agrees with the current study findings that corrupt police officers take the law into their own hands by using bribes as a substitute for fines to punish people in conflict of the law. This occurs when an officer uses their official position to facilitate an act or omission to attain personal or organizational gain.

The study has found that the IPOA has not influenced police officers to be transparent and accountable in their duties. IPOA has not been effective in receiving and investigating complaints of corruption committed by police officers. (Holliday and Wagstaff ,2021) concurs with the current study findings that IPOA those has made some strides in holding officers to account it has not succeeded in ensuring professionalism and respect for human rights through civilian oversight over the operations of the police in Kenya.

This study has found that police officers regularly ask for bribes during recruitment of members of the public into the police service despite the presence of IPOA. In line with the findings of the study, research conducted by (Hope,2019) reflected the findings of the with the current study. Hope's study further revealed that police officers are the largest recipients of national bribes at 43.5 percent with the average bribe received by a police officer is an equivalent of US\$55.

Despite the basic principles of selection of officers based on personal integrity and competency, corruption is a common feature during police recruitment. Recruitment within the NPS is riddled with corruption, nepotism, and tribalism. Among the corrupt practices identified is the interference by influential individual's payment of substantial bribes by recruits as an incentive to be picked for the police services. (Jones, 2018) also found that among lower-level police officers, petty corruption involves bribery during everyday interaction with citizens.

Residents of low-income areas are often subjected to extortion by police officers. Though Article 72(2) (c) expects officers to provide selfless service based on public interests, the study has found that the cases of corruption among the police officers had continuously been on the rise in Mathare Sub-County despite the existence of IPOA. Research conducted by IPCC (Home Office ,2016) has also reached the same conclusion. It found that cases of corruption among the police force were higher, despite oversight authorities. IPOA's ineffectiveness in ensuring accountability for violations related to transparency and integrity is reflected by the insignificant percentage of investigation and prosecution of corruption cases .by IPOA. For IPOA to succeed in influencing transparency and accountability, (Khalid, 2019) recommended that investigation and prosecution of corruption cases is essential to improve professionalism within the NPS.

A functioning mechanism that prevents corruption through monitoring of police operations by IPOA has not led to a reduction of incidences of corruption by police officers. A study conducted by (Wambua ,2015) agreed with the current study findings that monitoring was seen to reduce the corruption cases. However, the current study found that corruption weakens ethical standards in society and makes the public mistrust the police, rendering it more difficult for the police to perform what should be their primary task, countering crime. Negative perceptions of police integrity are damaging to the credibility and effectiveness of the police.

### **5.2.3 The legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County.**

The study finds that IPOA is an independent institution and can undertake its mandate without interference. This is seen through identification of corruption, abuse of office and neglect of duty as the most prevalent form of police misconduct. Furthermore, IPOA conducts independent and impartial investigations against complaints raised. Gonzalez (2021) also found that members of the public would require an avenue to lodge their complaints to ensure police are responsible for their human rights violations, through the IPOA. The right of victims to seek redress when violated under international law is provided for ICCPR, which places an obligation on states to place a mechanism to provide and enforce such remedies when violations occur.

IPOA has an adequate budget to ensure it met its mandate. IPOA has also been properly established under the law. In line with the findings of the study, De Vrieze (2019) determined that the independence of an oversight institution is dependent on the institutional design and governance structure, its actual autonomy in conducting its mandate, its budget and financial resources, and finally, its human resources policy.



The findings also show that the public has confidence in the leadership of IPOA. The findings also illustrated that IPOA has the technical capacity to undertake police oversight as the research sought to review whether IPOA as it was currently constituted had the capacity to undertake police oversight and whether this affected its ability to improve adherence to the rule of law by police officers. The effectiveness of an oversight institution to undertake its mandate is tied to its independence, as agreed by De Vrieze (2019). Further, the independence of an oversight institution is dependent on the institutional design and governance structure, its actual autonomy in conducting its mandate, its budget and financial resources, and its human resources policy.

The findings indicate that IPOA has a clear mandate. In line with the findings from IPOA (2018), IPOA Act in section 5 objectives clearly sets out its mandate of the Authority of holding the police accountable to the public in the performance of their duties. The Act further states in section 5(b) that IPOA's existence gives effect to the provision of Article 244 of the Constitution, which states that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability. Section 3(c) states that IPOA shall ensure independent oversight of handling complaints by the Service.

IPOA has a proper institutional design and governance structure. In line with the findings of the study, De Vrieze (2019) found that the independence of an oversight institution is dependent on the institutional design and governance structure, its actual autonomy in conducting its mandate, its budget and financial resources, and finally, its human resources policy. In addition, Newton (2018) agreed with the same study findings that an institution must have a secure legal foundation with checks and balances to ensure its permanence, preventing it from being easily abolished or weakened. Additionally, concerning institutional design and governance structure, the

institution must have a clear mandate, role, and responsibilities. In addition, concerning the governance structure, the appointment of the head of institution or agency or board members must be merit-based and done on time. The institution's nominated head and board members must undergo a confirmation process, including being vetted by parliament. Other factors that shall contribute to the integrity of the institutional design and governance structure included having a fixed term in office, clear grounds of removal, and collegial decision.

#### **5.2.4 Identify challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.**

In line with (Hope,2018), several challenges still hinder police reforms in Africa, these challenges include gender and racial discrimination, lack of teamwork, attachment to the past regimes, power struggles within the police service, inadequate financial resources, lack of solving police complaints, domestic issues of the police left un-attended to, poor working environment and failure of strategies implemented to deliver expected results. Currently there is debate on outsourcing some of the police responsibilities to private firms to fill the gaps due to labour shortage and lack of adequate resources, without necessary remunerating the affected police for the extra duties.

The findings illustrate that IPOA has not contributed to the improvement of the working conditions of the police as a strategy to motivate police to be accountable in performance of their duties. The findings also indicate that IPOA had not improved the living conditions of the police. The findings of Amnesty International (2017) agreed with the current study findings that for police to be efficient there is a need for them to be well equipped with modern equipment, research centres where new trends in

behaviour can be studied and work towards improving their working and living environment.

IPOA has not contributed to solving domestic issues affecting the police (Hope, 2018) agreed with the current study findings by pointing out incidences which were not solved by the IPOA. (Hope ,2018) pointed out gender and racial discrimination, lack of teamwork, attachment to the past regimes, power struggles within the police service, inadequate financial resources, lack of solving police complaints, domestic issues of the police left un-attended to, poor working environment and failure of strategies implemented to deliver expected results.

IPOA does not have a responsive mechanism of listening to the police complaints. (IPOA Act, 2011) are however different from the current study findings, that IPOA oversees the complaints resolution mechanism by the Internal Affairs Unit with the objective of attaining efficiency, ensuring expeditious resolution of disputes, assisting in capacity building of the unit, and building public confidence in the operations of the Unit. IPOA does not have a responsive structure that addresses complaints in a timely manner that are raised by the police. Findings from (Njiri and Wasonga ,2020) also indicated that a centralized organizational structure may create a challenge to leaders seeking to implement reforms in the police as it leads to inefficiency, bureaucracy, and low morale.

### **5.3 Summary of Findings**

This study sought to examine the contribution of IPOA in enhancing police accountability in Mathare sub-county, Kenya. Specifically, the study sought to examine the effectiveness of the IPOA in addressing the violation of human rights by the police officers, assess the efficiency of the IPOA in addressing corruption within the NPS,

establish the ability of the IPOA structures in improving professionalism among members of the NPS and determine the capability of the IPOA in improving police welfare among members of the NPS in Kenya.

On the first objective on the influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County, looking at the effectiveness of the IPOA in addressing the violation of human rights by the police officers, the study finds that the police often used force on people. There was police harassment, police extrajudicial killings, use of tear gas, rubber bullets, and batons on innocent people as well as sexual assault and abuse in Mathare sub-county. Most victims of police crime identified inhumane manner of arresting people, keeping arrested persons in remand for more than 24 hours before taking them to court and wrongful search and seizure. It was also found that the rate of conclusion of the investigation and prosecution of human rights violation cases by IPOA was extremely low and monitoring of police operations by IPOA had led to a reduction of violation of human rights by police officers. However, IPOA has failed in its mandate to handle the reported cases of human rights violations by the police officers and the number of unjustified deaths and injuries due to police actions had not reduced since the inception of IPOA.

Based on the second objective on the impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-Count, looking at the efficiency of the IPOA in addressing corruption within the NPS, the study finds that despite the presence of IPOA, police officers asked for bribes from members of the public during arrests and policing operations, IPOA has not been effective in receiving and investigating complaints of corruption committed by police officers, police officers

regularly ask for bribes during recruitment of members of the public into the police service despite the presence of IPOA, the cases of corruption among the police officers had continuously been on the rise in Mathare Sub-County and the rate of conclusion of the investigation and prosecution of corruption cases by IPOA was extremely low.

Based on the third objective on the legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County specifically looking at the ability of the IPOA structures in improving professionalism among members of the NPS in Kenya, the study finds that IPOA is an independent institution and can undertake its mandate without interference, conducted independent and impartial investigations against complaints raised, has an adequate budget to ensure it met its mandate, has been properly established under the law and the public has confidence in its leadership.

On the final objective on the challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same the findings illustrate that IPOA has not contributed to the improvement of the working conditions of the police as a strategy to motivate police to be accountable in performance of their duties. In Kenya, the study finds that IPOA has not contributed to the improvement of the working conditions of the police, has not improved the living conditions of the police, does not contribute to solving domestic issues affecting the police, does not have a mechanism of listening to the police complaints and does not have a structure of responding to the complaints raised by the police.

## 5.4 Conclusions

On the first objective on the influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County the study established that there was police harassment, police extrajudicial killings, use of tear gas, rubber bullets, and batons on innocent people as well as sexual assault and abuse was used by the police officers. There was also inhumane manner of arresting people hence keeping them in remand for more than 24 hours. The rate of human rights violation led to lack of trust between police officers and people hence making IPOA fail in its mandate to enhance compliance of human rights in police performance of duties.

On the second objective on the impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-Count, the study concluded that police officers were not performing their duties in a transparent and accountable manner as there were reported cases of officers asking for bribes from members of the public during arrests and policing operations. The IPOA should initiate interventions to ensure that police officers should not charge for police services to contribute to the reduction of police officers engaging in incidences of bribery. This will make police officers adhere to the rule of law and only limit the rights of the public as per the in line with the Constitution.

On the third objective on the legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County. The Researcher found that IPOA was properly established and had a legal framework that allowed it to be independent. The respondents perceived IPOA as an independent institution and can undertake its mandate without interference. IPOAs adequate budget

ensured that it met its mandate hence improved its professionalism among the members of national police service in the country. However, it noted that its governance structure required restructuring to differentiate between the role of the secretariat and the board. Additionally, the frequent board wrangles and frequent staff turnover may hamper its ability to efficiently influence accountability in police performance of duties. Police respondents also felt that IPOA was biased against police officers in favour of citizens but largely felt that IPOA was capable of undertaking its mandate as human rights violations within the police had reduced from the inception of IPOA.

On the fourth objective on the challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same. the study concluded that IPOA was not effective due to the challenges faced in implementing its mandate. One of the key contributing factors was IPOA's lack of influence in contributing to the improvement of the working conditions of the police officers and solving domestic issues as well as lack of structure of responding to the complaints raised by the police. IPOA should in addition to other interventions, focus on improving motivation of police officers by improving welfare. This will contribute to a change of attitudes and culture of the police and subsequently improve police accountability in performance of their duties.

## **5.5 Recommendations**

Based on the study findings, the discussion and the conclusion made, the study makes the following recommendations:

### **5.5.1 Identify Influence of external oversight by IPOA in accountability regarding compliance to human rights in performance of policing duties in Mathare Sub- County**

1. IPOA should initiate proactive monitoring to inform proper and timely interventions on public order management and crowd controls, traffic management and control and beats and patrols activities
2. IPOA should utilise research as a strategy in developing interventions to enhance police compliance to human rights. This includes:
  - a. Utilization of disaggregated data and statistics to strengthen and inform the police reform discourse with data and information gleaned from IPOA oversight.
  - b. Analysis of the trends and patterns of reported criminal actions and misconduct of police officers to inform interventions, policy, and legislative, judicial, and administrative strategies to enforce professionalism.
  - c. Establishment of a robust monitoring and evaluation process that will audit the operations of the National Police Service and the Internal Affairs Unit, assessing and tracking the implementation of the recommendations made by IPOA as a result of the complaints received and processed, investigations conducted, inspections and monitoring of Police operations by IPOA.
  - d. IPOA should interrogate policing policies, procedures, systems, and practices within the National Police Service to detect systemic challenges and identify loopholes for Police misconduct that allow malpractices leading to violations and abuse of office by Police officers.



3. IPOA should implement strategies that change attitudes through education and collaboration by initiating interventions that could lead to transformation of systemic issues that cause and lead to police misconduct. This include:
  - a. Implement punitive measures such as investigations for deaths, serious injuries, sexual violence, and other matters of public interest but embrace alternative dispute resolution for minor offences to improve relations with the community.
  - b. Strengthening internal oversight mechanisms for discipline within the police.
  - c. Continuous training on police use of force, handling of vulnerable groups, and community relations to enhance adherence to the law and safeguarding of human rights.
4. IPOA in conjunction with National Police Service and other relevant actors come up with provisions that focus on de-escalation when it comes to use of force and alternative to arrests to reduce violations of human rights that result in loss of life and serious injuries.

#### **5.5.2 Impact of external oversight by IPOA on police accountability in performance of their duties in a transparent and accountable manner while performing their duties within Mathare Sub-County**

1. IPOA should investigate cases of corruption and abuse of power and put in place preventative measures such as police anticorruption initiatives' such as awareness raising to citizens on their rights and training to police officers on their role in desisting and preventing corrupt practices. This will contribute to the prevention of extortion of people by members of the National Police Service.

2. IPOA should advocate for the adoption of bribery rules as a means to combat corruption.
3. Engage with the National Police Service and the Inspector General of Police of the National Police Service to ensure that the training curriculum includes anti – corruption and whistle blowing training.
4. IPOA should develop a whistle blowing policy that encourages members of the public and the police to make anonymous complaints about corruption and put in place mechanisms to protect the whistle blowers.

**5.5.3 Legal framework of IPOA and its capacity to enforce police accountability in performance of their duties within Mathare Sub-County.**

1. IPOA should undertake corporate governance training for the board and management to improve operations including hiring, termination, promotions and further improve the corporate image of the authority.
2. Create a pool of investigators who are civilians and avoid reliance on former members of the National Police Service and other members of the discipline services to avoid conflict of interest.
3. Enhance interdepartmental sharing of information and undertake thematic investigations to inform proper and timely interventions on systemic issues around policing such as unlawful detentions, police harassments, bribery, extortions, abuse of cash bails and utilisation of Authority to Incur Expenditure (AIE) by Ward Commanders.
4. IPOA should enhance its human resource capacity to enable the Authority to oversee the entire establishment of the National Police Service.

#### **5.5.4 Challenges faced by IPOA in external oversight of police accountability and recommend strategies to mitigate the same.**

1. IPOA should initiate an audit of the hiring, promoting, and termination practices of the National Police Service to establish if the processes consider meritocracy and the represents the diversity of the country and further complies to Section 5 of the National Police Service Act on hiring.
2. IPOA should advocate for amendment of the recruitment guidelines placing a higher focus on intellectual capabilities to complement the physical requirements.
3. IPOA should engage with the National Police Service Commission, NPS, Ministry on Interior and Kenya National Bureau of Statistics, Salaries and Remuneration Commission among other agencies to analyse whether the remuneration of the police supports officer to maintain a decent standard of living and make appropriate recommendations and implement a pay rise that is line with the current cost of living.
4. IPOA should seek sanctions against the superior officers within the National Police Service who fail to enforce court orders, who fail to cooperate with IPOA or those who obstruct IPOA investigations. This will drastically reduce the time taken by IPOA in investigating crimes committed by members of the National Police Service and improve its conviction rate.
5. IPOA should also exercise powers provided in the law to petition the court to implement the recommendations made by IPOA when the National Police Service fails to do so.
6. Make recommendations to the National Police Service Commission to ensure recruitment process that provides proper screening to ensure that proper screening

and vetting of candidates only allow those who have the relevant physically, moral, and psychological qualities qualifications

7. IPOA should engage with relevant state actors to implement policies to ensure decent and affordable housing, medical care including psychosocial support and facilitation and payment of allowances.
8. Entrench the concept of chaplaincy service within the NPS.

#### **5.5.6 Overall Recommendations**

1. IPOA in collaboration with community-based organizations and non-governmental organizations among other agencies conduct outreach on police oversight and also demystify its operations as many respondents did not know how IPOA operates
2. NPSC, Inspector General in collaboration with treasury should provide adequate medical cover, including psychosocial and mental health support to officers and families of the police officers.
3. All actors in the Criminal Justice System come up with a strategy to expedite cases on police killings and enforced disappearances in court and work with the judiciary to provide a realistic timeline for when they will be resolved.
4. IPOA, KNCHR and NPS in collaboration with the Kenyan Law Reform Commission should develop a habeas corpus guideline in collaboration with state oversight agencies, the judiciary, and civil society organizations.
5. IPOA in collaboration with the civil society lobby for the operationalization of the National Coroners Service Act to ensure proper documentation of extrajudicial killings in consultation with the CS National Treasury and Ministry of Health. This includes working with the National Security team to increase budgetary allocation to facilitate the operationalization of the National Coroners Service under the National Coroners Service Act.

6. The officer of the Attorney General must fast-track the payment of court awards and reparations to victims of unlawful police killings in consultation with the CS National Treasury.

## **5.6 Suggestion for Further Research**

The study recommends further areas of study specifically focusing on other factors that can be affecting the Influence of External Oversight by the Independent Policing Oversight Authority on Police Accountability in The Performance of Their Duties Within Mathare Sub-County, Nairobi County, Kenya apart from those studied in the current study. The study also measured the viewpoints of victims of crime, police officers, academicians, IPOA senior officers and NGO representatives only; consequently, the views of other actors such as the Directorate of Criminal Investigations, Office of the Director of Prosecution and Judiciary were not measured. The study therefore recommends that other studies be conducted on the same subject using views of those left out for comparative results in the future.

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## APPENDICES

### **Appendix I: Questionnaire for Mathare Sub-County Victims of Police Crime**

My name is Diana Watila. I am a student with African Nazarene University. I am currently conducting a research study on “**THE INFLUENCE OF EXTERNAL OVERSIGHT BY THE INDEPENDENT POLICING OVERSIGHT AUTHORITY ON POLICE ACCOUNTABILITY IN THE PERFORMANCE OF THEIR DUTIES WITHIN MATHARE SUB-COUNTY, NAIROBI COUNTY, KENYA.**” The findings of this study will inform IPOA on the best approaches in conducting police oversight and the members of the police service will gain more knowledge on the significance of accountability and ways of instilling positive values to the police service. The public will gain more insights on their rights and the acceptable treatment by the police officers. This interview will take approximately 30mins or less and all your responses will remain confidential and in line with ethics in research. You are free to participate or not participate in the research, but it would be of great help if you agreed to offer 30 minutes of your time.

Would you like to participate by offering 30 minutes of your time?

Yes

No

#### **Section A: General information**

1. Gender: Select the gender or respondent

a. Male

b. Female

2. Which is your ward of residence.....



**SECTION B: The effectiveness of the Independent Policing Oversight Authority  
in curbing the violation of human rights by police officers**

3. Which would you say are the most common reported cases of police brutality?
  - a. Police extrajudicial killings
  - b. Use of tear gas, rubber bullets, and batons on innocent people
  - c. Police harassment
  - d. Sexual assault and abuse
  - e. Others, Specify.....
4. How often do the police officers use force on the people of Mathare sub-county?
  - a. Not at all
  - b. Less Often
  - c. Often
  - d. High often
5. Which would you say are the most common reported cases on unlawful treatment of the arrested persons?
  - a. Wrongful search and seizure
  - b. Inhumane manner of arresting people
  - c. Denial of access to information, communication, and legal advice.
  - d. Keeping arrested persons in remand for more than 24 hours before taking them to court
  - e. Holding many detainees than the capacity of the cells
  - f. Specify.....
6. Kindly rate the extent to which you agree with the following statements:

*Key: 5-Strongly agree, 4- Agree, 3-Not sure, 2-Disagree, 1-Strongly disagree*

Statement	Scale				
	1	2	3	4	5
a. There are many reported cases of excessive use of force by the police against the members of the public in Mathare					
b. The number of unjustified deaths and injuries due to police actions has reduced since the inception of IPOA					
c. There are many reported cases of arbitrary arrests and unlawful treatment of arrested persons by the police against the members of the public in Mathare					
d. Police officers continue to use excessive force during public order management / protests in Mathare the despite existence of IPOA					
e. Very few cases of human rights violations committed by the police are investigated by IPOA					
f. The rate of conclusion of the investigation and prosecution of human rights violation cases by IPOA is extremely low.					
g. Monitoring of police operations by IPOA has led to a reduction of violation of human rights by police officers					
h. IPOA has failed in its mandate to handle the reported cases of human rights violations by the police officers					
i. IPOA has led to significant improvement of adherence to human rights of persons by members of the NPS					

**Section C: Corruption Concerns within the NPS, IPOA Interventions and their**

**Effectiveness.**

7. In your opinion tick the most appropriate in a scale where 1=Strongly Disagree, 2=Disagree, 3=Undecided 4 = Agree 5 =Strongly Agree

STATEMENT	Scale
-----------	-------

a. Incidences of police corruption have not reduced since the establishment of IPOA	1	2	3	4	5
b. Despite the presence of IPOA Police officers still ask for bribes from members of the public during arrests and policing operations.					
c. IPOA has not been effective in receiving and investigating complaints of corruption committed by police officers					
d. IPOA has an efficient mechanism for reporting corruption cases anonymously					
e. Police officers regularly ask for bribes during recruitment of members of the public into the police service despite the presence of IPOA					
f. The presence of IPOA has influenced a culture of integrity and transparency among the members of the NPS					
g. I have been asked for a bribe by a police officer in the last 12 months					
h. Cases of corruption among the police officers have continuously been on the rise in Mathare Sub-County despite the existence of IPOA					
i. Monitoring of police operations by IPOA has led to a reduction of incidences of corruption by police officers					
j. The rate of conclusion of the investigation and prosecution of corruption cases by IPOA is extremely low.					

8. Propose ways in which IPOA can intervene on the issue of identification of corruption cases, and how they can be reduced to ensure more accountability of the police service

.....  
 .....

**Section D: Effectiveness of structures of the Independent Policing Oversight**

**Authority in enhancing Professionalism**

9. Kindly rate the extent to which you agree with the following statements:

*Key: 5-Strongly agree, 4- Agree, 3-Not sure, 2-Disagree, 1-Strongly disagree*

No.	Statement	1	2	3	4	5
a.	IPOA is an independent institution and can undertake its mandate without interference					
b.	IPOA conducts independent and impartial investigations against complaints raised					
C	IPOA has an adequate budget to ensure it meets its mandate					
D	IPOA has been properly established under the law					
E	The public has confidence in the leadership of IPOA					
F	IPOA has the technical capacity to undertake Police Oversight					
G	IPOA has a clear mandate					
h	IPOA has a proper institutional design and governance structure.					

**Thank you for your time and information**

## Appendix II: Police Officers Questionnaire

My name is **Diana Watila**. I am a student with African Nazarene University. I am currently conducting a research study on “**THE INFLUENCE OF EXTERNAL OVERSIGHT BY THE INDEPENDENT POLICING OVERSIGHT AUTHORITY ON POLICE ACCOUNTABILITY IN THE PERFORMANCE OF THEIR DUTIES WITHIN MATHARE SUB-COUNTY, NAIROBI COUNTY, KENYA**”. The findings of this study will inform IPOA on the best approaches in conducting police oversight and the members of the police service will gain more knowledge on the significance of accountability and ways of instilling positive values to the police service. You are free to participate or not participate in the research, but it would be of great help if you agreed to offer 30 minutes of your time.

Would you like to participate by offering 15 minutes of your time?

Yes

No

### **Section A: General information**

1. Gender: Select the gender of respondent

- a. Male
- b. Female

2. Age of respondent: What is the age range of the respondent?

- a. 18-24
- b. 25-30
- c. 31-44
- d. 45-50
- e. Above 50

3. Education background: What is the highest education level attained?

- a) O-Level
- b) Certificate
- c) Diploma
- d) Degree
- e) Postgraduate

## 4. Marital status

- a. Single
- b. Married
- c. Divorce
- d. Widow(er)
- e. Separated

**SECTION B: EFFECTIVENESS OF IPOA IN REDUCING INCIDENCES OF HUMAN RIGHTS VIOLATIONS**

## 5. Kindly rate the extent to which you agree with the following statements:

*Key: 5-Strongly agree, 4- Agree, 3-Not sure, 2-Disagree, 1-Strongly disagree*

	1	2	3	4	5
IPOA has been effective in reducing incidences of human rights violations by members of the NPS					
IPOA has an efficient reporting mechanism that enables police officers report police misconduct					
IPOA has helped in improving accountability within the NPS					
Complaints against Police should be handled by IPOA					
The presence of IPOA has reduced incidences of human rights violations by the police					
IPOA has been effective in reducing complaints of police misconduct and human rights violations					
IPOA has improved police welfare because of police oversight					
The presence of IPOA makes it difficult for police to do their work					
The presence of IPOA has influenced a culture of respect for human rights among the members of the NPS					
The police Adherence to laws, code of conduct and operational procedures improved since the formation of IPOA					

**SECTION C: IPOA’S EFFICIENCY IN HANDLING CORRUPTION ISSUES**

**WITHIN NPS**

6. Kindly tick where appropriate in a scale of 1-5 (1=strongly Disagree, 2=disagree, 3=Undecided 4 = Agree 5 =Strongly Agree)

Statement	1	2	3	4	5
Cases of corruption among police officers has reduced since the inception of IPOA.					
IPOA has influenced a culture change of integrity and transparency among police officers					
IPOA has been effective in investigating complaints of corruption					
Incidences of corruption has reduced during recruitment and promotion processes					
There has been an improvement in police handling of the public based on citizens constitutional rights					
Police officers can report incidents of corruption to IPOA anonymously					
Complaints of corruption against Police should be handled by IPOA					

7. In your own opinion, how can IPOA improve on its investigations of police corruption

.....  
 .....

**SECTION D: EFFICIENCY OF IPOA’S STRUCTURES IN ENSURING POLICE ACCOUNTABILITY**

8. What is your opinion how efficient IPOA’s structures are in ensuring police accountability? Kindly tick where appropriate in a scale of 1-5 (1=strongly Disagree, 2=disagree, 3=Undecided 4 = Agree 5 =Strongly Agree)

Statement	1	2	3	4	5
IPOA is properly established under the law					
IPOA has sufficient funding for its operations					
IPOA Strategic Plan provides a clear roadmap for Policing Oversight					

IPOA has sufficient resources (Vehicles, ICT, Stationery etc.) for its operations					
IPOA has adequate number of staff to conduct its operations					
IPOA has enough office space for its operations					
IPOA'S governance and institutional structure					
IPOA is independent and can achieve its mandate					

9. Any other comment on IPOA's capability to hold NPS Accountable through receipt of complaints, investigation of reported cases and closing cases?

.....  
 .....

10. Briefly give your opinion on how IPOA has influenced your performance as police officer

.....  
 .....

**SECTION E: CAPABILITY OF THE IPOA IN IMPROVING POLICE WELFARE AMONG MEMBERS OF THE NPS**

11. Kindly rate the extent to which you agree with the following statements:  
 Key: 5-Strongly agree, 4- Agree, 3-Not sure, 2-Disagree, 1-Strongly disagree

No.	Statement	1	2	3	4	5
a.	IPOA has contributed to the improvement of the working conditions of the police					
b.	IPOA has improved the living conditions of the police					
c.	IPOA contributes to addressing mental health issues / domestic issues affecting the police					
d.	IPOA has a mechanism of listening to the police complaints					
e.	IPOA has a structure of responding to the complaints raised by the police					

**Thank you for your time and information**



**Appendix III: Interview Guide for Academicians, IPOA senior officers and NGO representatives**

My name is Diana Watila. I am a student with African Nazarene University. I am currently conducting a research study on “**THE INFLUENCE OF EXTERNAL OVERSIGHT BY THE INDEPENDENT POLICING OVERSIGHT AUTHORITY ON POLICE ACCOUNTABILITY IN THE PERFORMANCE OF THEIR DUTIES WITHIN MATHARE SUB-COUNTY, NAIROBI COUNTY, KENYA** .The findings of this study will inform IPOA on the best approaches in conducting police oversight and the members of the police service will gain more knowledge on the significance of accountability and ways of instilling positive values to the police service. The public will gain more insights on their rights and the acceptable treatment by the police officers. This interview will take approximately 30mins or less and all your responses will remain confidential and in line with ethics in research. You are free to participate or not participate in the research, but it would be of great help if you agreed to offer 30 minutes of your time.

Would you like to participate by offering 30 minutes of your time?

Yes

No

**Section A: The effectiveness of the Independent Policing Oversight Authority in curbing the violation of human rights by police officers**

1. What would you say are the most common reported cases of Human Rights Violations by the police?
2. Which would you say are the most common reported cases on unlawful treatment of the arrested persons?
3. Do you think members of the police fully cooperate with IPOA in investigations regarding violations by police? How is the cooperation?
4. What can you say about the efficiency and effectiveness of existing IPOA Legal Foundations (IPOA Act, Constitution of Kenya) on human rights protection?

**Section B: Corruption Concerns within the NPS, IPOA Interventions and their Effectiveness.**

5. Are the incidences of police corruption reduced since the establishment of IPOA?
6. Has IPOA been effective in receiving and investigating complaints of corruption committed by police officers?
7. How effective has IPOA been?
8. Propose ways in which IPOA can intervene on the issue of identification of corruption cases, and how they can be reduced to ensure more accountability of the police service

**Section C: Effectiveness of structures of the Independent Policing Oversight Authority in enhancing Police Accountability and Professionalism**

9. Is IPOA is an independent institution and can undertake its mandate without interference?
10. Does IPOA conduct independent and impartial investigations against complaints raised?
11. Is there public confidence in the leadership of IPOA?
12. Does IPOA have the technical capacity to undertake Police Oversight
13. What can be done to improve the effectiveness of structures of the IPOA in enhancing police accountability and professionalism?

**Section D: Capability of the IPOA in Improving Police Welfare among Members of the NPS**

14. How has IPOA contributed to the improvement of the working conditions of the police?
15. How has IPOA improved the living conditions of the police?
16. How has IPOA contributed to solving domestic issues affecting the police?

17. Does IPOA have a mechanism of listening to the police complaints? If yes, how does it work?
18. Does IPOA have a structure of responding to the complaints raised by the police? How is it functional?

**Thank you for your time and information**

## Appendix IV: ANU Introduction Letter



10<sup>th</sup> February 2022

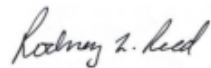
**RE: TO WHOM IT MAY CONCERN**

---

Diana Watila (16S03DMGP016) is a bonafide student at Africa Nazarene University. She has finished her course work and has defended her thesis proposal entitled: -


*“Impact of Independent Policing Oversight Authority on Police Accountability in Mathare Sub-County, Nairobi County, Kenya”.*


Any assistance accorded to her to facilitate data collection and finish her thesis is highly welcomed.



**Prof. Rodney Reed**  
**DVC, Academic & Student Affairs.**


Appendix V: NACOSTI Letter

  
**REPUBLIC OF KENYA**

  
**NATIONAL COMMISSION FOR  
SCIENCE, TECHNOLOGY & INNOVATION**

Ref No: **835933** Date of Issue: **25/February/2022**


**RESEARCH LICENSE**




**This is to Certify that Ms., Diana Mutunga Watila of Africa Nazarene University, has been licensed to conduct research in Nairobi on the topic: IMPACT OF THE INDEPENDENT POLICING OVERSIGHT AUTHORITY ON POLICE ACCOUNTABILITY IN MATHARE SUBCOUNTY for the period ending : 25/February/2023.**

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**Appendix VI: Map of Study Area (Mathare Sub-County)**

