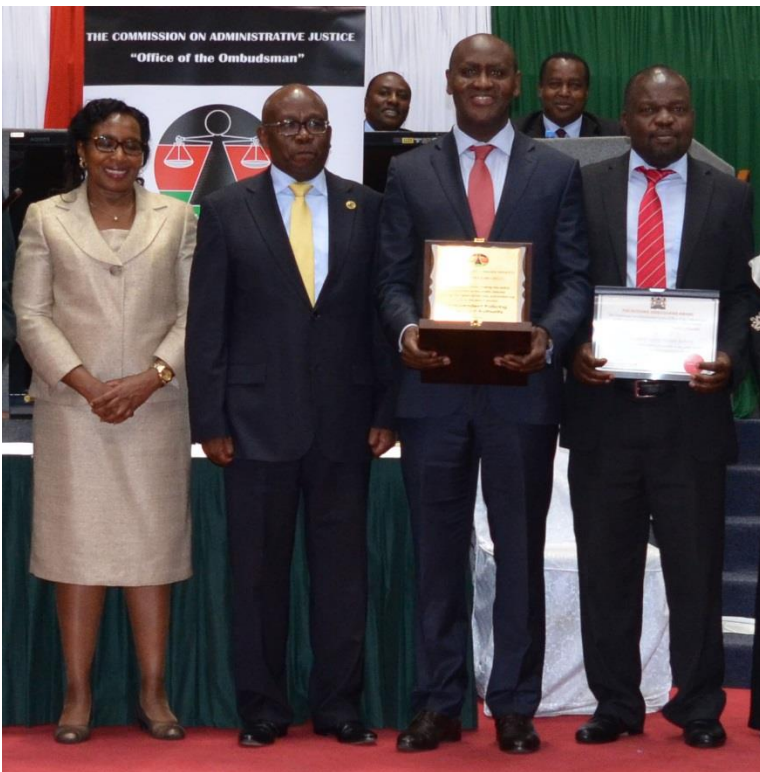




Independent Policing
Oversight Authority



The Independent Policing Oversight Authority Staff Celebrate After Winning the Huduma Ombudsman Award (Best Institution). (Below) CAJ Ag. Chair Dr. Regina Mwatha, the Attorney General, Mr. Githu Muigai, IPOA Chairman, Mr. Macharia Njeru and the IPOA CEO, Dr. Joel Mabonga display the Huduma Ombudsman Award



THE INDEPENDENT POLICING OVERSIGHT AUTHORITY

The Communications and
Outreach Department

April 2017

Issue No.8

The Independent Policing Oversight Authority | 1st
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'Privileged information' is a direct assault on IPOA Functions By Mr. Tom Kagwe (IPOA BOARD MEMBER)

In December 2016, a Statute Laws (Miscellaneous Amendment) Bill – No. 48 of 2016 – was brought to the National Assembly. As has become tradition in Kenya, such Bills are brought in December, when everyone is busy with festivities and celebrations for the New Year. However, there are those who continually watch the space, and in doing so, something against the Independent Policing Oversight Authority was being cooked.

The Statute Laws (Miscellaneous Amendment) Bill, was attempting to stifle all IPOA functions to a zilch. In a simple way, by creating a proviso on the already existing Section 7 of the IPOA legislation. That is, if IPOA would want to continue operating, it must fulfill procedures of privileged information.

Fate of the Bill?

Since the Statute Laws (Miscellaneous Amendment) Bill neither defined what “privileged information” is nor what are the “procedures” to be followed, is it then palpable that the police would determine what these “procedures” were and what “privileged information” would be? The Statute Laws

(Miscellaneous Amendment) Bill was debated at the National Assembly and went into the First Reading. Members of public, who are the main beneficiaries of IPOA, also discussed the Bill in their own spaces. The media houses, especially the print media, dissected the demerits of the same Bill throughout January and February.

The civil society, particularly human rights lobbies, spoke from the rooftops about the ills of intended bill and made their voice heard in the National Assembly. IPOA made comprehensive presentations at the Committee Stage in February.

Due to all this pressure, the Bill was withdrawn before it went to the Second Reading by the Leader of the Majority, Aden Duale, on February 08, 2017. The fate of the Bill was sealed: it was dead on arrival. Below is a candid analysis of why the Bill died a premature death.

Key Functions

The IPOA legislation mandates the Authority to investigate deaths and serious injuries caused by police action. Thus, if police were to decide what is privileged, none of the 420 cases already investigated and

concluded, could have been completed. They would simply deny records such as firearms register, deployment register, or even simple cooperation on the matter under investigation.

Literally, the cops in Court facing different cases (about 45 cases are already in Court) would be roaming free, and worse, those serving sentences, following their convictions after IPOA’s successful investigations, would not have been convicted to begin with.

Another key function of IPOA is to investigate police misconduct; arising from police against police or even public against police. Beyond these two, IPOA can investigate on its own motion, especially when a matter is brought to public interest by the media or civil society.

In all these three types of occasions, complaints against police misconduct, rose to about 8,200 by February 2017, would not have been investigated. Further, those disciplinary cases short of criminal prosecution should not have been forwarded to the National Police Service Commission.

Most police complaints are related to their seniors and therefore, this function would be



rendered impossible, which leaves the lower-cadre officers at the mercy of their bosses. These include issues such as unfair administrative action including dismissal, transfers, promotions and trainings. Police leadership has failed the rank- and-file as far as these matters are concerned.

The members of the public have numerous complaints against the police, most of which have ended up being thoroughly investigated by IPOA. These include: abuse of office; arbitrary arrest and unlawful detention; corruption and extortion; malicious prosecution and dissatisfaction with court processes; extra-judicial killings; obstruction of justice; and police assault amongst others.

If the Statute Laws (Miscellaneous Amendment) Bill was left to pass, then the public and police would look for elsewhere to complain; not IPOA. Police would simply refuse to grant “privileged information” to IPOA to enable police and public to access justice.

Overseeing Police IAU

Third, IPOA monitors, reviews and audits investigations and actions by Internal Affairs Unit (IAU) of the police to independently verify that the internal police system deals with complaints against officers fairly and effectively. Further, the

Authority can take over investigations if not satisfied with IAU’s pace of intervention.

The role of IPOA is to ensure standards and measures that can make the IAU not only operational but also functional, in terms of the National Police Service Act. The IAU is not independent. They are not functional. But they are at pains to work it out. Already IPOA has a “black file” on IAU on its underperformance. IAU is not efficient; neither is it functional. In summary, functioning of the internal disciplinary process leaves a lot to be desired. Annually 3 to 5 percent of the cases IPOA receives pertain to IAU complaints.

Further, IPOA reports have clearly pointed out failures of the Inspector General to ensure the operational independence of IAU. Second, our monitoring reports over the years, have shown contempt by police leadership for a functional IAU. Is that the actual state of affairs that executive bureaucrats willed in their support for the Bill?

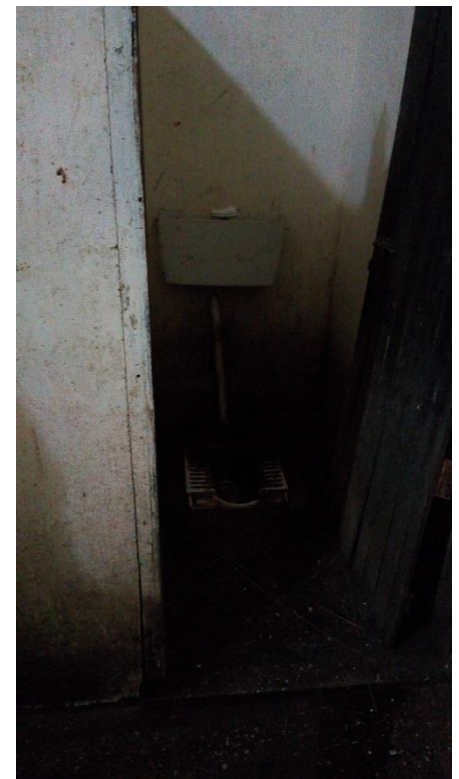
Inspecting Police

IPOA is mandated to conduct inspections of police premises including detention facilities. In this role, IPOA seeks to ensure that police premises meet basic predefined standards and that treatment of suspects and detainees in accordance with the

Constitution.

Those standards are clear; they are in both the Constitution and the respective schedules of the National Police Service Act. If the Statute Laws (Miscellaneous Amendment) Bill was passed, then IPOA would have closed shop and the rest of the work would have been left with the police.

Overtime, inspection reports have been prepared and shared with the relevant government authorities, including the senior command of the police. In the four plus years of IPOA’s existence, over 500 inspections plus half of that number being follow-ups have been



A cell toilet in Athi River Police Station



The Policing Lens

documented to ensure the police abide by their law in terms of detentions facilities.

A clear outcome of these inspections proves that the police cells are dilapidated or in a dreaded condition, especially sanitary facilities are in their worst state. And lastly, all premises of police, including their housing units, require a re-look at policy change – away from building new houses for police to ensuring police rent and live among the communities. Bureaucrats have refused to listen to these various policy options. No wonder they were thinking of disempowering IPOA.

Policing Operations

Amongst the other key functions of IPOA, is that the Authority monitors and investigates policing operations that affect the members of public, including monitoring demonstrations and picketing. Among the highlights of 2016, the Authority did monitor police misconduct during the country-wide demonstrations and picketing regarding electoral laws and the body responsible.

The report thereof, clearly points to a police that has failed to be professional in their approach when policing public order and gatherings. The number of people who suffered, who were injured or those who died, including police, is a pointer to a



A police cell in Buruburu Police Station

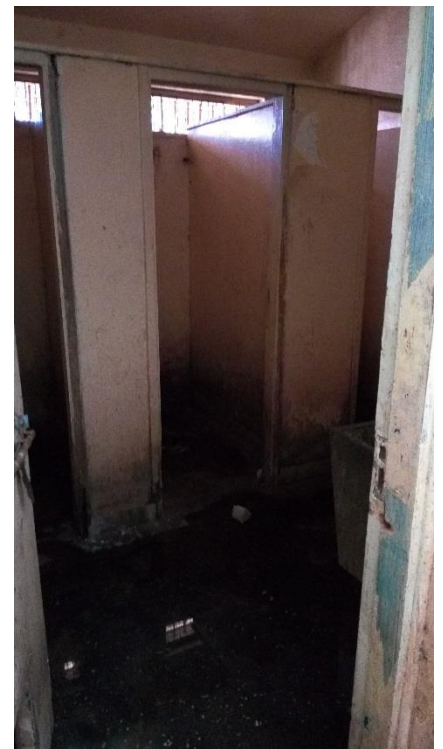
bureaucracy that has failed to change its systems.

So many investigations are still open. One of the key problems and challenges encountered then till now, is to account for the deployment register. Police have simply refused to comply with the law and let Kenyans know which police were deployed where.

Nonetheless, IPOA will be prosecuting the-who-is-who among the top police leadership, since failure to provide such a register, is an offence according to Section 31 of the IPOA Act. If the Statute Laws (Miscellaneous Amendment) Bill could have passed, it could have sanctioned the non-compliance and also non-cooperation, which has left many crying for justice.

IPOA has prevailed in yet another attempt by executive bureaucrats to interfere with an independent institution, which

unfortunately is totally against the backdrop of the Jubilee Alliance government pledges in their Manifesto, and lofty promises of saying one thing and then doing totally another thing. History will judge these bureaucrats very harshly.



Cell Toilets in Gigiri Police Station



The Risk and Audit Board Committee Performance in Achieving Organisational Balance and Health By Dr. Joel Mabonga (IPOA CEO)

For IPOA and many other similar organisations, an independent Board Audit Committee fulfils a vital role in institutional governance. Board audit committees are vital to, among other things, ensure the integrity of amalgamated reporting and internal organisational management controls and identification and management of assorted risks for mitigation.

On 22nd through to 24th March, 2017, the Board's Risk and Audit Committee and myself together with the Head of Risk and Audit Department attended a training organized by the Institute of Internal Auditors (Kenya Chapter) at Sopa Lodge in Naivasha. The training, which was themed the "Audit Committee Performance: Achieving the Balance" purposed to converge the Boards, Board Audit Committees and Chief Executive Officers to share knowledge and learn from leading experts on Governance and current issues facing organizations. In the training, other participants included; The National Cohesion and Integration Commission (NCIC), Competition Authority, Anti-Doping Authority, Matter Hospital and The National

Authority for the Campaign Against Alcohol and Drug Abuse (NACADA).

The membership of IPOA's Board Risk and Audit Committee include; Madam Grace Madoka, Fatuma Saman and Rose Bala. During the workshop, a session which was moderated by Mr. Hassan Kidzuga, the Head of Risk and Audit Department at IPOA, the participatory engagement achieved several objectives aimed at ensuring robust achievement-oriented risk and Audit committees. Partly the objectives included training for the improvement of participant knowledge in the following key areas; the legal anchoring of the Audit and Risk Committee and its benefits; operations of the Board Risk and Audit Committee; relationship management; roles of the Board Risk and Audit Committee; risk management oversight; BRAC Performance Management, and; corporate governance for the Board, the CEO and Management.

Part of the discussion areas included the appreciation of the role and mandate played by these committees which includes the all-important duty of oversight of integrated reporting and co-

ordination of the activities of the various directorates and departments. Thus, for us as an institution, we should fully commit to supporting and maintaining effective reporting mechanisms in both our systems and procedures to support the audit processes. We should also readily set aside time to operationalize recommendations arising from risk and audit procedures to help realise our strategic objectives enshrined in our Strategic Plan 2014 – 2018. The work for this committee is thus cut out, the all-important responsibility of overseeing the Risk and Audit Department through deliberation of their summarised risk report information and recommendations, the assessment of internal controls and effectiveness and the assessment of the integrated global risk report for further deliberation by the Board. From these findings and recommendations, the Board then applies its mind to arrive at the most efficient and effective governance and policy solutions. Overall, the training was very useful and fostered an improved understanding of the legal requirements of the Board Risk and Audit Committee as well as



requirements of the PFM Act and Regulations which are aimed at promoting effective and efficient performance of the Board Risk and Audit Committee and the public entities in which they operate in.

Secondly, the participants gained an in-depth insight into the performance management of the Board Risk and Audit Committee including goal setting (linkage to Board and BARC calendar), assessment of performance (individual member's performance, audit committee self-assessment, external peer review and continuous capacity building.

The roles of the Board Risk and Audit Committee were further highlighted and members appreciated their diverse roles in the organizations. These included roles like strategy alignment, culture and governance, internal control framework, risk management framework, ICT oversight, assurance role, compliance and fraud management.

Operationally, the participants also gained valuable knowledge in appreciating the oversight role of the Board on financial reporting; the role of the board in fraud management and whistleblowing; corporate governance at Board, the CEO and Management levels, and; most importantly risk management oversight with emphasis to the responsibilities of the Board, Board Risk and Audit Committee, other Board committees and internal audit.

Far flung Operational Areas will only be safer with a change in Policing Strategies

By Mr. Stephen Musau (IPOA, Director of Inspections, Research and Monitoring)



Clashes in Pokot

On 28th February 2017, the Cabinet Secretary for Interior and Coordination of National Government, Hon. Joseph Nkaissery gazetted 19 locations in Baringo County as disturbed and dangerous following increased cases of insecurity and banditry.

Through a Special Issue of the Kenyan Gazette notice, many of gazetted locations were in Baringo South, Baringo North and East Pokot. A contingent of

police officers was therefore deployed through Operation Dumisha Amani. This security operation, going for a month, with intended reviews, is meant to flush out bandits behind the runaway insecurity in the Kerio Valley belt.

On 17th March 2017, the President ordered deployment of the military to the North Rift to help police restore law and order in parts of Baringo, Elgeyo Marakwet, West Pokot and Laikipia counties. This was meant to assist in disarmament



and surrender of illegally held firearms. The deployment of the Kenya Defense Forces though was welcomed by Kenyans did not adhere to Article 241 (3) (c) of the constitution which calls for approval of their deployment by the National Assembly, as they will be doing policing work. Guided by the Authority's objectives as stated under Section 5, and under Section 6 (c) of IPOA Act, to monitor and investigate policing operations affecting members of the public, the Authority is keenly monitoring what is happening in the North Rift operation.

The dominant ethnic groups in the affected areas are the Pokots, Tugens, Endorois, Marakwets and Ilchamus. These communities have faced numerous insecurity, raids and banditry challenges. Operation Dumisha Amani has been deployed to contain these challenges. The operation is happening in extremely hostile,

unfriendly, rocky and risky terrain. While the Authority appreciates the officers who have been deployed to restore peace and order in the areas, it is a going concern that some innocent lives are being lost. This has been reported in areas such as Chepkalacha, Mukutani and Loruk. Also many cattle are allegedly being killed during the operation, and houses torched.

It is unfortunate that propaganda in the areas has been used to incite and cause the inter-ethnic tensions and conflicts. Notably, the Marakwets, Pokots, Ilchamus, Endorois and Tugens do not trust each other. Any allegation of cattle raid raises tensions, whether confirmed or unconfirmed. This has been the cause of so much pain, conflict, rustling, raids, fights and deaths. High proliferation of arms is also a major threat to their peaceful coexistence.

The affected areas lack social amenities and economic institutions such as education

centres, health centres, roads, means of communication, markets, water and much needed sustainable pastures for their cattle livelihoods. With these challenges, the noted tensions, conflicts, pressures, raids, fights and deaths are hard to control. The deployment of National Police Reservists should be fair to avoid allegations of downgrading any of the communities.

As IPOA, we have been gradually building strong partnership with local institutions, organisations and contacts for monitoring of the security operations, guided by the mandate of the Authority. As IPOA does that, a long term Marshal Plan is required in these operational areas with change of policing strategies.

Having been to some of these areas, establishment of well-trained and disciplined paramilitary security Camps (KDF and National Police Service) will be a good starting point to avoid on and off deployments of officers when need arises. Secondly, providing closer services to the affected communities is vital. As has been said severally, use of modern technology would solve many of the challenges being faced by tracking any unlawful activities in the affected areas.

In long run and through proper leadership, dealing with social, economic and cultural issues would ensure people centred operations, with education and



A Police Officers Patrol Pokot



Making an Organization Great

By Mr. Dennis Ombuna

(IPOA, Head of Inspections and Monitoring)

water provision being the key sectors of attention.

Human resource investment with basic pillars builds a company or an organization from good to great this is explicit in what Jim Collins in his book *Good to great* say that those great companies never had to turn themselves from good companies into great companies, they had history early stages of development that shaped the character of greatness¹. The question about how a good company becomes a great company therefore forms the basis of the underlying factors of how good becomes great.

Good-to-great organizations do not focus principally on what to *do* to become great; they focus equally on *what not to do* and *what to stop doing*. To become great an organization need to manage change, motivate people and create alignment. Under the right conditions, the problems of commitment, alignment, motivation and change largely melt away. The following are the factors that can transform an organization from good to great.

LEADERSHIP

To go from good to great requires leaders to know what their organizations are passionate about, what drives

their basic objectives, mandate and vision and at what they can (and cannot) be the best in the world. Leaders in the good to great companies *first got the right people on the bus, the wrong people off the bus, and the right people in the right seats*—and *then* figure out where **to drive it**. Research has shown that every good-to-great company embraced what is called *the Stockdale Paradox* by maintaining unwavering faith of prevailing until the end. They also have the discipline to confront the most brutal facts of the current reality. Staff retention, better pay and employee morale major challenges most organizations are grappling with, for example a job market survey, commissioned by the Institute of Human Resource Management (IHRM), found that most firms (49 per cent) are grappling with provision of competitive compensation followed by lifting employee morale at 42 per cent and retaining top talent at 39 per cent².

ORGANIZATIONAL CULTURE AND DISCIPLINE

Good-to-great companies tend to have rigorous cultures, cultures in which leadership consistently applies exacting standards at all

The Stockdale Paradox is named after **admiral Jim Stockdale**, who was a United States military officer held captive for eight years during the Vietnam War. Stockdale was tortured more than twenty times by his captors, and never had much reason to believe he would survive the prison camp and someday get to see his wife again. Stockdale approached adversity with a very different mindset. He accepted the reality of his situation. He knew he was in hell, but, rather than bury his head in the sand, he stepped up and did everything he could to lift the morale and prolong the lives of his fellow prisoners. He created a tapping code so they could communicate with each other. He developed a milestone system that helped them deal with torture. And he sent intelligence information to his wife, hidden in the seemingly innocent letters he wrote.

times and at all levels, especially upper management. The critical important thing is to have practical discipline. For example ***when in doubt, don't hire, when you know you need to make a***

¹ Good to great by Jim Collins

² Job outlook survey 2017; trends, challenges and future outlook.



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people change, act; Letting the wrong people hang around is unfair to all the right people, who often find themselves compensating for the wrong people's inadequacies. Get the wrong people off the bus. And finally **putting your best people on your biggest opportunities, not your biggest problems**; many companies think that putting their best people in bad situations will help turn the bad situation around. While this sometimes works to everyone's advantage, managers who do so fail to grasp the fact that managing your problems can only make you good. Building opportunities is the only way to become great.

CONFRONTING THE BRUTAL FACTS

All good-to-great companies began the process of finding a path to greatness by confronting the brutal facts of their current reality. When a company starts with an honest and diligent effort to determine the truth of its situation, the right decisions often become self evident. Good decisions are impossible without an honest confrontation of the brutal facts. One of the primary tasks in taking a company from good to great is to create a culture wherein people have a tremendous opportunity to be heard and, ultimately, for the truth to be likewise heard. To accomplish this, you must engage in four basic practices:

Lead with questions, not

answers. Leading from good to great does not mean coming up with the answers and motivating everyone to follow your messianic vision. It means having the humility to grasp the fact that you do not yet understand enough to have the answers, and then to ask questions that will lead to the best possible insights.

Engage in dialogue and debate, not coercion. All good-to-great companies have a penchant for intense debates, discussions and healthy conflict. Dialogue is not used as a sham process to let people "have their say" so they can buy into a predetermined decision; rather, it is used to engage people in the search for the best answers.

Conduct autopsies, without blame. Good-to-great leaders must take an honest look at decisions his or her company makes, rather than simply assigning blame for the outcomes of those decisions. These "autopsies" go a long way toward establishing understanding and learning, creating a climate where the truth is heard.

Build red flag mechanisms that turn information into opportunities that cannot be ignored. Good-to-great companies have no better access to information than any other company; they simply give their people and customer's ample opportunities to provide unfiltered information and insight that can act as an early

warning for potentially deeper problems.

TECHNOLOGY ACCELERATORS

Good-to-great companies do not jump on technological bandwagons or chase after fads. They determine what technology makes the most sense for them, and then pioneer its application. They avoid the fads and bandwagons that typically arise from new technology, instead becoming pioneers in the application of carefully selected technologies. When used correctly, technology becomes an accelerator of momentum, not a creator of it. Leaders of good-to-great companies respond with thoughtfulness and creativity, driven by a compulsion to turn unrealized potential into results. They do not take reactionary measures, defining strategy in response to what others are doing. They act in terms of what they want to create, and how to improve their organizations, relative to an absolute standard of excellence. Those organizations that stay true to their fundamentals and maintain their balance will accumulate the momentum required to break through; those that do not will spiral downward or remain mediocre.

In conclusion to become great the Authority must confront its brutal facts of the current reality by the Police, Staff Retention, perceived insecurity among others and avoid *the ostrich approach* that sticks its heads in



Yes! They Are Our Friends, They are Part of Our Society

By Mr. Job Mugiira (IPOA Senior Research Officer)

the sand and hoping for the difficulties to go away.

Have you ever come across a police officer and after a minute the only image left in your mind is that blue or that jungle green uniform? Is the only image existing in your mind that red, green or black beret? Well, this happens to many and it is somehow a culture infiltrated into majority in the society. However, a policeman/woman was not born and will never be born a policeman/woman.

The officers are our parents, siblings, relatives and friends. I know you are now thinking about that officer from your village. That good neighbour of yours. That primary school days' friend who is now a police officer. That knowledgeable church elder who is a police officer. Yes! That is how they are because we know them closely.

Then what happens when you find that officer whom you don't know? Are they not a neighbour, a parent, a sibling or a friend to someone else? Do they suddenly become 'karao or askari' simply because you don't know them? Have you ever tried greeting them like you greet that good neighbour of yours or the loving mum to you who works as a police officer elsewhere? Your response could be as fair as mine.

The truth however, is not dependent on how we perceive it. The police officers are a part of our society. A great component that a society would not exist without. The police officers play such a unique role that even a surgeon, an engineer or a pilot will not play. They are the people who ensure an enabling environment for all the aspects of the society to thrive positively. They are our friends, our parents, our siblings and the society should treat them as such. They have sacrificed the comfort of their houses, the warmth of their beds, the love of their families and friends and braved all odds to ensure you enjoy all that they sacrifice. They are our heroes. They are our friends.

As the note retires, it retires with a loud call for cooperation, love and concern for our officers. Let the society cooperate with them, let the society love them, let the society show concern for the



A Police Officer saves a baby during the Westgate Terrorist Attack

officers, for they are part of this society. It begins at the individual level and eventually the society becomes a friend to the police as they go about their duties of policing work. The police officers too should adhere to the rule of law and observe maximum integrity as they carry out their duties.

With this relationship, there will be a society to be proud of.



Before I die I Want to ...

By Ms. Sheila Gachanja (IPOA Senior Counselling Phycologist)

Death and dying is a topic rarely discussed until it happens to someone we know and within a short time it is forgotten and we move on. Having lost my father in a sudden and unexpected way I have had to deal with the pangs of pain and disillusionment. As we age death becomes the one constant thing that we have to deal with in our daily lives. When I lost my father, it made me to really think of my own death. Is the life that I am living today full or empty? What is the purpose of my life? If I were to know that I would be no more in a year's time what would I want to accomplish before I go? Are we caught up with life's ups and downs that we forget to attend to that which really matters? The more digital the world is becoming the lesser are meaningful relationships. The lesser the time we have for ourselves to really enjoy life.

Thinking about death qualifies life. When we will go remains hidden, but that we shall all be gone by the next century is fact! Scary isn't it?

I would like to encourage us all to reflect on our day to day lives and see if what we do each day is worthwhile. That when death calls upon us or our loved ones it shall have been well with our souls. That we shall have tied the loose ends, that we shall have had meaningful relationships, that we shall look back and say it was awesome when it lasted!

Death is not an ultimate end in itself... it is not the greatest loss, the greatest loss is to have life yet be dead on the inside. Let's do a soul search and see what extra baggage it is that we are holding on to and best of all ask yourself before I die what do I want to.....



We pray for peaceful elections