



Independent Policing  
Oversight Authority

# PERFORMANCE REPORT

## JANUARY – JUNE 2013



# THE FUTURE OF POLICING IN KENYA<sup>©</sup>

\*PHOTO CAPTION: The photo appearing on the cover of this Performance Report was not taken by IPOA and is also not owned by IPOA. However, the Authority wishes to acknowledge and pass our gratitude to the person who took this photo, which in IPOA's view, points out to the kind of relationship the police and public should have: not adversarial but mutually respectful and accountable.





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**THE FUTURE OF POLICING IN KENYA**



# Table of Contents

List of Abbreviations and Acronyms .....	i
Chairperson's Remarks .....	ii
1.0 Context .....	2
2.0 Main Report .....	3
2.1 Public and Police Complaints against the Police .....	3
2.2 Cases under Investigation .....	5
2.3 Notification by Police on Deaths and Injuries .....	5
2.4 Inspections and Monitoring of Police Premises .....	8
a) Inspections of Police Stations .....	9
b) Monitoring of Police Operations .....	11
2.5 Communications and Outreach .....	11
a) The Communications and Outreach Strategy .....	11
b) Consultation with Stakeholders .....	11
2.6 Risks and Audit Management .....	13
2.7 Human Resources and Competition .....	13
a) Organization Structure and Recruitment .....	13
b) Human Resource Policies .....	13
c) Remuneration .....	14
2.8 Administration and Financial Management .....	14
3.0 Challenges and Gaps .....	14
4.0 Conclusions and Recommendations .....	15
5.0 Pictorial .....	17

## List of Abbreviations and Acronyms

APS	-	Administration Police Service
CIC	-	Commission for the Implementation of the Constitution
CIOC	-	Constitutional Implementation Oversight Committee
CIPEV	-	Commission of Inquiry into Post-Election Violence
CPAs	-	County Policing Authorities
CSOs	-	Civil Society Organizations
DIG	-	Deputy Inspector General of Police
DPP	-	Office of the Director of Public Prosecution
IAU	-	Internal Affairs Unit
ICT	-	Information Communication and Technology
IEBC	-	Independent Electoral and Boundaries Commission
IGP	-	Inspector General of Police
IPOA	-	Independent Policing Oversight Authority
KES	-	Kenya Shillings
KPS	-	Kenya Police Service
MDAs	-	Ministries, Departments and Agencies
NPS	-	National Police Service
NPSC	-	National Police Service Commission
PSC	-	Public Service Commission
SRC	-	Salary Review Commission
UNODC	-	United Nations Office on Drugs and Crime
WPA	-	Witness Protection Agency

## Chairperson's Remarks

The Independent Policing Oversight Authority – hereinafter the Authority or IPOA - was established in 2012 as an overseer of the work of the police in Kenya. Being a civilian entity, IPOA started from humble beginnings. This was reported in the Inaugural Performance Report (June – December 2012). This is the second Performance Report in accordance with IPOA's statutory obligations.

As outlined in the Inaugural Performance Report, the Vision of IPOA, adopted in July 2012, is to become *"a robust civilian accountability mechanism that promotes public trust and confidence in the National Police Service"*. Its Mission is to *"conduct impartial and independent investigations, inspections, audits and monitoring of the National Police Service to prevent impunity and enhance professionalism in the interest of the public."*

In the period under review, the Authority has lived up to this mantra. Not only has the Authority exercised powers given by the public to hold police to account, but also IPOA is now operational, with the following: a) a clear organizational structure for the Secretariat; b) staff recruitment processes have been commenced and some concluded; c) development and adoption of guidelines, tools and procedures to fulfill mandate areas especially investigations and inspections; and d), IPOA has undertaken various activities with clear outputs and outcomes. These are further reported on below.

Nevertheless, the Authority faces some challenges as it establishes itself. These include: lack of adequate human and financial resources, non-compliance by police on their statutory obligations to report to IPOA, lack of public awareness on the mandate of IPOA and also stalling the reform agenda through backward amendments to the National Police Service Act, and in particular, expanding the space for police to use firearms in unwarranted circumstances or attempted deletion of the statutory obligation of the IG to act on IPOA's recommendations.

However, these obstacles can be overcome by constant and consistent effort by IPOA Board and staff, respect of the law by the National Police Service (NPS), and through goodwill on the part of the executive and legislative arms of the government. For example, in the period under review, IPOA has received a lot of political and institutional support from the Parliamentary Departmental Committee on Administration and National Security. The Authority would like to plead with this Committee to ensure that frivolous amendments to the NPS Act are not passed by the 11th National Assembly.

Finally, IPOA will continue with its forward march towards holding the police to account and ensure that the Service is a professional institution that Kenyans demanded and desired through Constitutional and legislative changes. This is what the Board of the Authority pledged to undertake when taking their oath of office: there cannot be any short-cut. The road to resolving or investigating the police and public complaints may be long; the path towards monitoring police operations may appear treacherous; and also the road towards setting up a fully-functional Secretariat may be dented. However, this is a challenge that IPOA Board promised to take in its stride. The Board is steadfastly committed until its Mission and Vision are met.

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**Macharia Njeru**

**Chairperson – Independent Policing Oversight Authority**

## 1.0 Context

During the period under review, January to June 2013, marked a significant phase in policing in Kenya. The general elections were held in March 2013, against a backdrop of the violence that occurred in 2007, when the police was accused of all manner of human rights abuses, violations and abdication of duty to protect life, property and other fundamental rights and freedoms.<sup>1</sup> As the country prepared for the elections, many members of the public, civil society institutions, constitutional commissions and independent bodies, of which the IPOA belongs, were apprehensive about the preparedness of the NPS to handle the period prior to, during and after the outcome of the elections.

Fortunately, Kenya was holding the elections under new laws, though the political actors remained largely the same. For instance, the elections were held under the Constitution of Kenya, 2010, which requires the police to be professional and disciplined, comply with constitutional standards of human rights and fundamental freedoms, and foster cordial relationships with the broader society. Further, the Constitution significantly enhances independence of the police leadership, police accountability and effectiveness. The electoral framework had also changed requiring the police and the Independent Electoral and Boundaries Commission (IEBC) to exercise their powers to ensure elections were peaceful, orderly, and those violating the law were dealt with at various stages of the electoral process.

Under the new rules, the electoral process largely remained lawful and orderly, including voter registration, voter verification, campaigns, political party nominations, the Election Day itself, and also the outcome of the elections. However, there were pockets of violations of the law in the electoral process, especially the political party primaries, which have become – since resumption of multi-party politics, the most cumbersome and violent process in the entire electoral cycle.

On its part, IPOA made some modest attempts to hold the police leadership accountable and also exercise its mandate of monitoring police operations in the electoral process. This Report captures those attempts. Indeed, in the constitutive Act – the Independent Policing Oversight Act (No. 35 of 2011) – IPOA exercises civilian oversight over the work of the police towards promoting police accountability. As reported herein, the general elections marked the turning point and indeed a litmus test of what IPOA could do to ensure that the police service is held accountable to the Constitution and other significant laws; among others, the National Police Service Act (No 11A of 2012), which establishes the new policing structure and system.

The impetus for the establishment of IPOA arose mainly from the need to reform Kenya's police and the way policing is done across the country. This is because, in the past, public confidence and trust in the police had been eroded, and still is, due to frequent accusations of impunity, excessive use of force, brutality, violations of human rights, abuse of due process of the law and malignant corruption<sup>2</sup>.

The constitutive Act empowers IPOA to: a) hold the police accountable to the public in the performance of its functions; b) give effect to the provision of Article 244 of the Constitution that the police shall strive for professionalism and discipline and shall promote and practice transparency and accountability; and c) ensure independent oversight in the handling of complaints by the Service.

Finally, as per the Act, IPOA is required to generate a Performance Report every six months.<sup>3</sup> The Inaugural Performance Report was released and publicized in January 2013. This is the second IPOA Performance Report since the Authority started operating in June 2012. This Report highlights what the Authority was able to achieve between January and June 2013. In accordance with the Act, this Report will be forwarded to the Inspector General (IG) of the NPS and the National Police Service Commission (NPSC). The report will also be shared with various stakeholders, including government Ministries, Departments and Agencies (MDAs), the National Assembly, the Senate, the 47 County Assemblies, and Civil Society Organizations (CSOs) among others, all of which operate at national and county levels across Kenya.

<sup>1</sup> Commission of Inquiry into Post-Election Violence (CIPEV) Report, Government Printers, 2008

<sup>2</sup> *ibid*

<sup>3</sup> Under Section 30 of its Act, the Authority is required to submit to "the Cabinet Secretary, at least once in every six months, a report of the performance of the functions of the Authority, making such recommendations as it may consider necessary, and the Cabinet Secretary shall, within 14 days after receiving such report, cause it to be published and laid before the National Assembly, or if the National Assembly is not on Session, on the day that National Assembly resumes its seating. The Independent Policing Oversight Authority, Section 30 (1). Government Printer, 2011. IPOA expresses apologies for the lateness in delivering this second Report, for reasons which are inadvertent.



## 2.0 Main Report

IPOA has continued to entrench itself as an independent oversight mechanism by making sure that institutional capacity, management frameworks, tools and procedures of operations, and also the regulations to further implement the constitutive Act, are developed in a systematic and consultative manner. This includes the statutory role of the Board, which governs the Authority, to establish a functional and a professional Secretariat, by hiring qualified managerial and technical staff. It is the intention and commitment of the Board to lay a concrete foundation to implement IPOA's mandate effectively and efficiently.

Towards this end, and in accordance with Section 18 of the Act, IPOA Board established six Board Committees; i) Investigations and Legal; ii) Inspections, Monitoring and Research; iii) Communications and Outreach; iv) Risk and Audit; v) Human Resources and Compensation; and vi) Finance and Administration. In the Inaugural Performance Report, the functions of these Committees were outlined. During the period under review, these Committees continued to work optimally to ensure that IPOA's strategic and policy direction were charted out clearly, including sometimes performing operational duties in the absence of a fully-fledged Secretariat.

During the reporting period, the Committees remained very active and systematically pursuing opportunities to operationalize the Secretariat, and making sure that the Authority's mandate was effectively and efficiently addressed. Taking cognizance of the public and police high expectations about the Authority, the Board and staff are committed to making sure that IPOA is not only professional in doing its work, but also mainstreams transparency, accountability and integrity in its operations and deliverables in line with its seven (7) values that were outlined in the Inaugural Performance Report.

The second Performance Report presents the status of the Authority's operations during the reporting period. The Report is structured to cover the following broad thematic areas:

- 1) Public and Police Complaints against the Police;
- 2) Highlights of the cases under investigation by IPOA;
- 3) Police Notification on Deaths and Serious Injuries;
- 4) Inspection and Monitoring of Police Premises and Detention Facilities;
- 5) Partnership, Communication and Outreach;
- 6) Risk and Audit Management;
- 7) Institutional Building;
- 8) Administration and Financial Management;
- 9) Challenges and Gaps; and
- 10) Conclusion and Recommendations.

### 2.1 Public and Police Complaints against the Police

In accordance with Section 6 of the Act, IPOA has the mandate of receiving and acting on public and police complaints about the police service. These include complaints received (from police or public) or those that IPOA institutes through self-motion, and thus, conducting criminal investigations and making recommendations for disciplinary sanctions or criminal prosecution through the office of the Director of Public Prosecution (DPP).<sup>4</sup>

The Kenyan public, including members of the NPS, have responded positively to the establishment of IPOA and have high expectations on how the Authority is undertaking and delivering on its mandate. The complaints the Authority received during the period and currently under review, demonstrate a

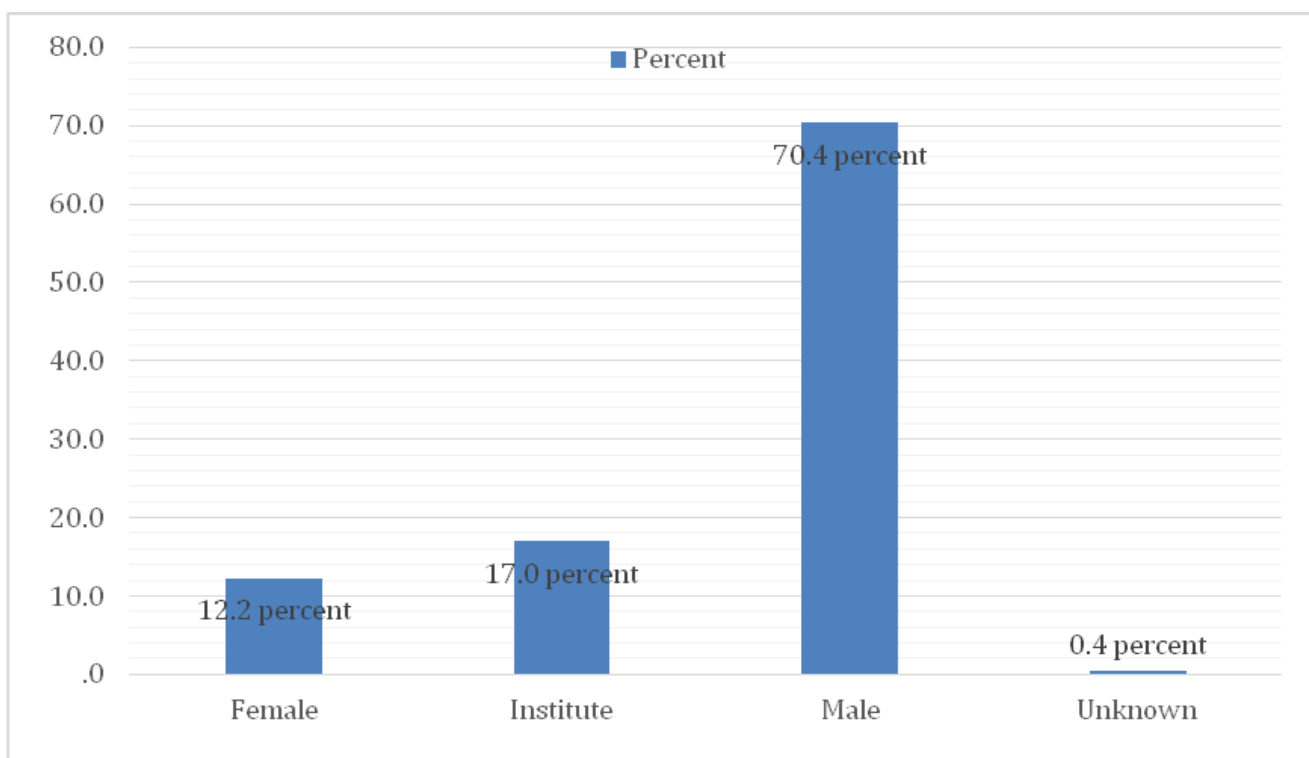
<sup>4</sup> All complaints should be directed to the Authority through [complaints@ipoa.go.ke](mailto:complaints@ipoa.go.ke) or calling 254 725 327 289 / 254 732 081 490.

strong desire from the public, and police themselves, to end impunity and to hold the police to account for their actions. To this end, the Authority is striving to put in place robust systems and mechanisms for effective complaints reception, analysis, case management and investigations, where applicable.

In this sub-section, IPOA reports on the number and types of complaints received from the public and the police, highlights of the cases under investigation by IPOA, and finally, notification by the police on deaths and injuries during the review period.

During the period, IPOA received a total of 663 complaints from members of the public and the police. Figure 1 shows that most of the cases (70 per cent) emanated from men while 12.2 per cent were from women. Institutions such as Commission for the Administration of Justice (CAJ), the office of the DPP, Kenya National Commission on Human Rights (KNCHR), not to mention CSOs, lodged about 17 per cent of the complaints, mostly acting on behalf of the victims of violations.<sup>5</sup> 0.4 per cent of the complaints did not specify the gender of the complainant.

Figure 1: Percent of Complaints by Gender and Institutions



(Source: IPOA Data, 2013)

The complaints received from the members of the public, about two-thirds of the 663 complaints, ranged from: assaults by police some leading to serious injuries, inordinately delayed investigations, refusal to investigate or shoddy investigations, death in custody, allegations of extra-judicial or arbitrary executions, intimidation and harassment, police colluding with criminal groups, illegal arrests mostly on trumped-up charges, cover-up of criminal actions, and malicious prosecution among others.

From the complaints received from the police, they cited: unfair or illegal dismissals from the NPS, illegitimate or arbitrary transfers, illegal termination from recruitment to the NPS, lack of promotion, corruption in handling of housing for police, unfair orderly room proceedings, forced resignation, and also police appealing to IPOA to intervene where they feel they were unfairly treated in many other ways.

From these complaints, two issues could be deduced. First, both public and police have confidence in IPOA and feel that the Authority should be able to independently assess, investigate and intervene where injustice seems to have either been meted out on either of them or justice was delayed.

<sup>5</sup> Institutions represents complaints against the police brought forward by institutions and or legal firms on behalf of the public.

Second, the complainants do not seem to know IPOA mandate that well and hence IPOA should invest in the next six months publicizing itself so that, especially the police, file their complaints with relevant institutions, such as the NPSC. Some of the complaints received from the police were indeed forwarded to NPSC for they fall squarely within the human resource function of the NPS.

In summary, during the period under review, 12.8 per cent of the 663 complaints were earmarked for further investigation by IPOA; 41.6 per cent referred to other relevant agencies<sup>6</sup>; 45.3 per cent were yet to be reviewed, and 3 per cent of the cases had been withdrawn by the complainants. The large number of cases to be reviewed was due to lack of capacity of staff to handle both investigations and complaints management. Therefore, in the next reporting period, IPOA shall be able to analyze all the cases received owing to the fact that the Board shall recruit complaints' and case management officers and also set-up and roll out a software for analysis.

## 2.2 Cases under Investigation

As required by the Act, the Authority has put in place mechanisms for investigating complaints by members of the NPS and the public. Currently, the Authority has 6 investigators and has developed an operational manual to guide them in performing this task. In this Manual, public complaints are grouped into five (5) Categories. Those falling under Categories 1 and 2 are given priority for further investigations and action. The Operational Manual shall be used to train all investigators and complaints' and case-management officers.<sup>7</sup> By the end of 2013, the Board has prioritized hiring of an additional fourteen (14) investigators to strengthen the Authority's work in this mandate area. Additionally, the authority will also hire eleven (11) complaints' management officers.

Based on the complaints received by June 2013, IPOA identified some cases for investigations. Table 1 below highlights the nature and status of some of the cases that are being investigated by the Authority.<sup>8</sup>

**Table 1 – Highlights of Cases under Investigation by IPOA**

Nature of Complaint	County
Death in custody	Kwale
Alleged unlawful killing	Nairobi
Alleged unlawful killing	Kajiado
Alleged harassment, intimidation and extortion	Meru

(Source: IPOA Data, 2013)

Once investigations are complete, the Authority will produce a comprehensive report on each of the cases and make appropriate recommendations to the relevant authorities, such as the DPP, in accordance with the constitutive Act. Similarly, the public will also be informed accordingly about the results of the investigations and recommendations made.

## 2.3 Notification by Police on Deaths and Injuries

According to IPOA Act Section 25 (1) and (2), the Authority is empowered to investigate any death or serious injury including deaths or serious injury that occur in police custody, and as a result of police action (or inaction) when the officer was on duty. Further, the NPS, and particularly the officer-in-charge of a police station under that jurisdiction, is required to report to IPOA within 24 hours. Beyond reporting, the Act also obligates the police to:

<sup>6</sup> There are cases that do not fall under IPOA mandate and have been referred to relevant bodies such as NPSC, Office of Ombudsman, KACC and PSC. The files have been prepared for reference to these agencies.

<sup>7</sup> The Operational Manual can be accessed at IPOA offices.

<sup>8</sup> These are only highlights within the reporting period. Subsequently, after 30<sup>th</sup> June 2013, more complaints were filed and new investigations opened. This will be shown in the next Performance Report.

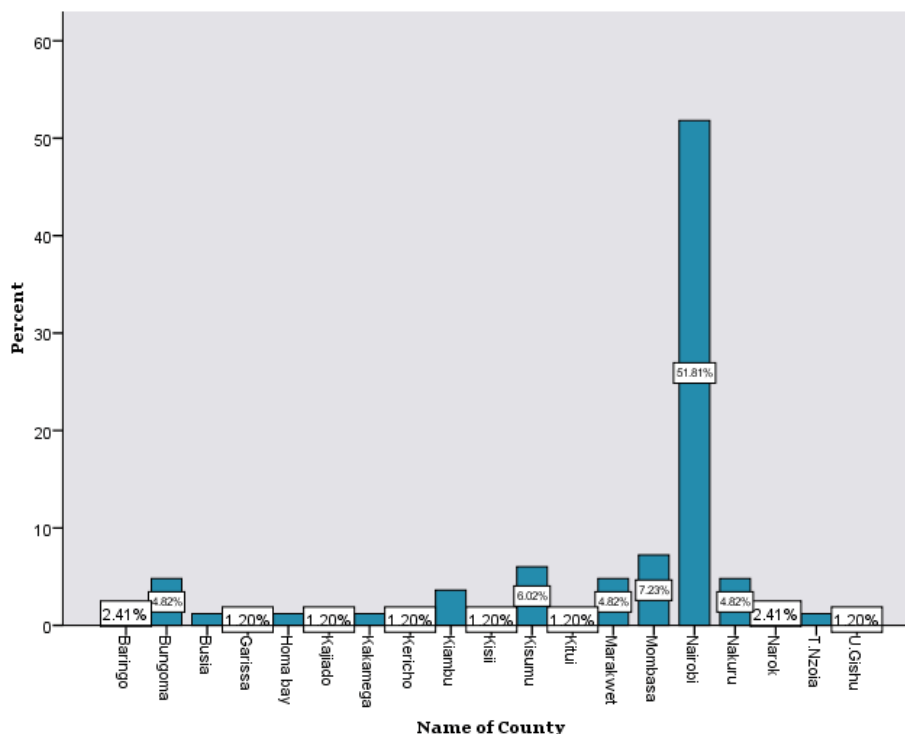
*“Take all necessary steps to secure evidence which may be relevant for the investigation, including pictorial and written evidence, and shall in writing notify the Authority, and supply it with the evidence and all other facts relevant to the matter, including, if available, the names and contact details of all persons who may be able to assist the Authority should it decide to conduct an investigation.”<sup>9</sup>*

The sanctions are also crystal clear: that any police officer who fails to do this commits an offence, *“shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding three years or to both.”*

To ensure reporting and actions are thereafter undertaken, IPOA opened a notification file to capture and manage police reports on deaths and serious injuries. The analysis of the files indicates that the police reported 83 of such cases to IPOA between 17<sup>th</sup> October 2012 and 30<sup>th</sup> June 2013. The cases were spread across 19 counties.

Figure 2 shows that the majority of the notifications (51.8 per cent) came from Nairobi County. This was followed by Mombasa at 7.23 per cent and Kisumu at 6.02 per cent.

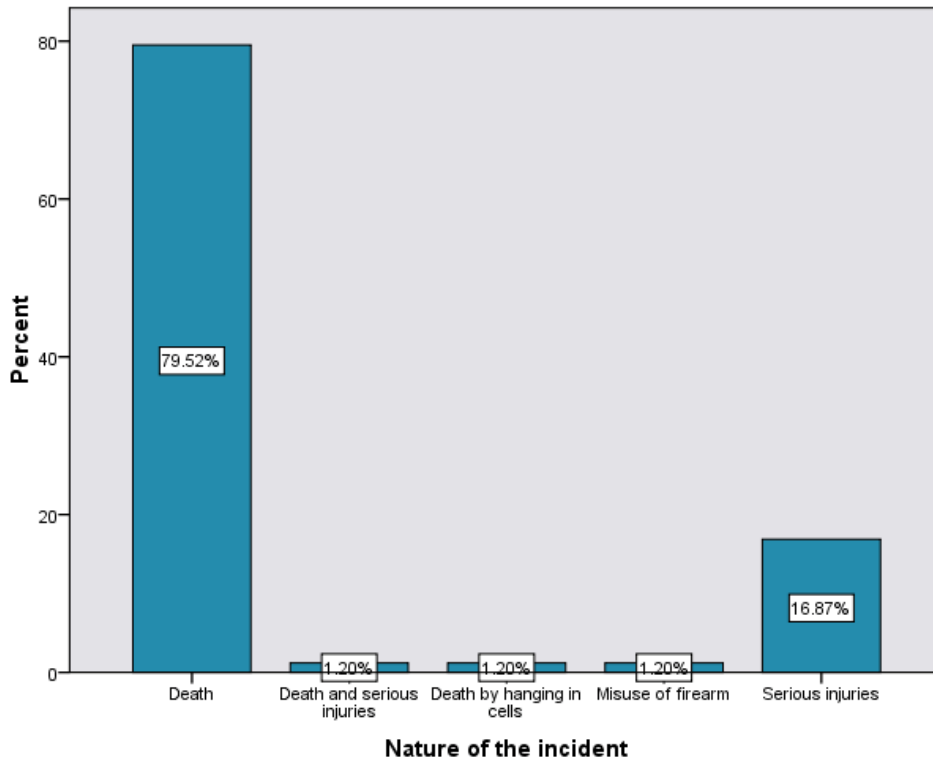
Figure 2: Police Reporting by Counties



(Source: IPOA Data, 2013)

As indicated in Figure 3 below, ‘death in custody’ was the highest category of cases reported to IPOA at 79.52 per cent, followed by ‘serious injuries’ at 16.87 per cent. The other cases, which include a combination of ‘death and serious injuries’, not to mention ‘death by hanging in cells’ and ‘misuse of firearm’ each stood at 1.2 per cent.

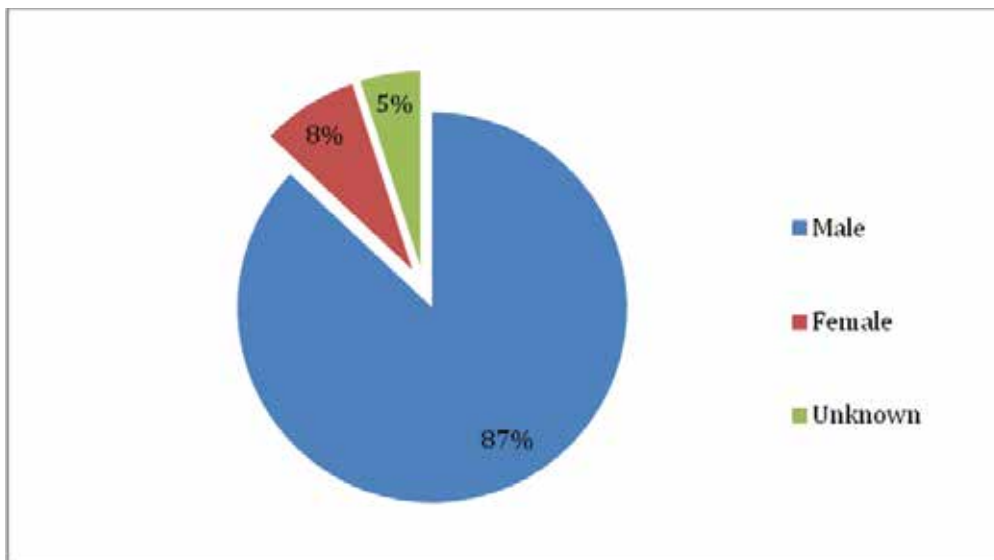
Figure 3: Reporting Incidents



(Source: IPOA Data, 2013)

The police notification reports indicate that a total of 127 victims were affected. The majority of the victims (87 per cent) were male, while 8 per cent were female (Fig 4 below). The police did not indicate the gender of the 5 per cent of the victims.

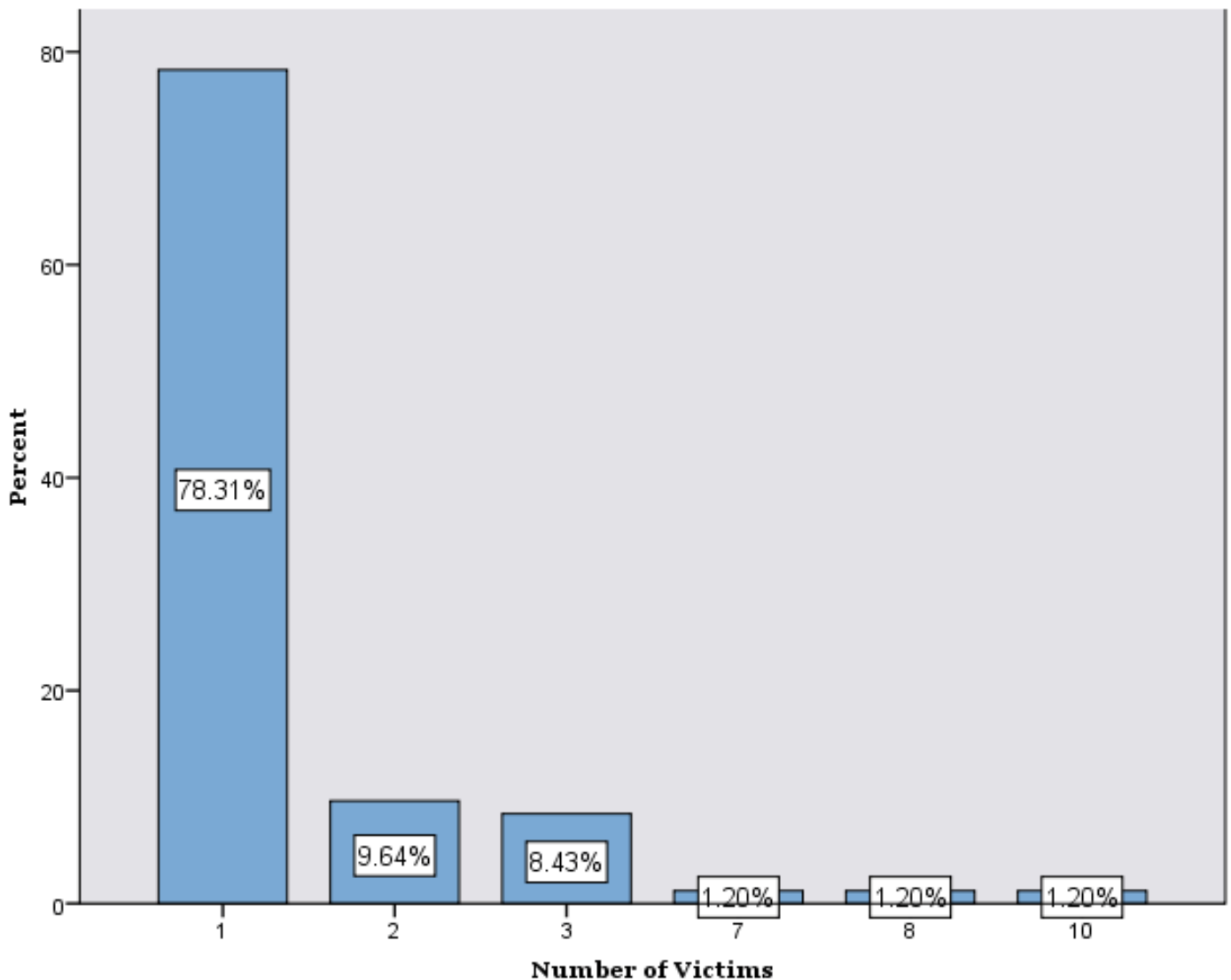
Figure 4: Gender of Victims of Reported Police Cases



(Source: IPOA Data, 2013)

The analysis was further done by specific number of victims affected in each case/incident. Figure 5 indicates that only one victim affected was predominant at 78.31 per cent, followed by cases of 2 victims in one case at 9.64 per cent, 3 victims per case at 8.43 per cent, and 10 victims per case at 1.20 per cent. The 10 victims are under category of “death and serious injuries” complaints.

Figure 5: Number of victims



(Source: IPOA Data, 2013)

As mentioned above, it is a statutory obligation that the police notify IPOA of any deaths or serious injuries within 24 hours of the occurrence. However, between January and June 2013, only 3.6 per cent of the cases reported adhered to this stipulated timeline. The highest numbers of cases (19.3 per cent) were reported on the sixth day after it had happened, 14.5 per cent of cases on the third day, 10.4 per cent on the seventh day; and 7.3 per cent on the fifth and eighth day. Cumulatively, 65.1 per cent of the cases were reported on the seventh day after they had happened.

## 2.4 Inspections and Monitoring of Police Premises

Through Section 6 (e) of its Act, IPOA is mandated to conduct inspections of police premises, including detention facilities under the control of the NPS. This is to ensure that the premises meet the national and international standards, and that the rights of detained persons are protected and that the police work and live in humane conditions.

The Authority considers inspection and monitoring of police premises a strategic policy action. This is because the Authority will use the opportunity to gather credible evidence to inform policy, decision making and efforts to improve conditions of such premises (including cells) and enhance working and living environment for members of the NPS. The Constitution of Kenya obligates that the police premises, working environment, and detention facilities under the control of the NPS have to adhere to

human rights and fundamental freedoms. IPOA believes that continuous inspections and monitoring will provide necessary and relevant data to inform necessary comprehensive reforms. During the reporting period, the Authority was able to achieve the following:

#### a) Inspections of Police Stations

In order to familiarize itself with the police premises and facilities, the Authority visited various police stations across the country. This was the first visit and was meant to provide the Authority with facts that would inform the development of national standards for future inspections. Further, this gave Board members the opportunity to witness the challenges and gaps that the NPS is currently facing which need to be addressed as part of a comprehensive reform agenda. The Authority visited the following police stations:

- 1) Kisumu Central Police Station
- 2) Kisii Central Police Station
- 3) Sigomere Police Station
- 4) Migori Police Station
- 5) Vihiga police Station
- 6) Vihiga Administration Police Camp
- 7) Kakamega Police Station
- 8) Luanda Police Station
- 9) Bungoma Police Station
- 10) Busia Police Station
- 11) Nakuru Police Station
- 12) Naivasha Police Station
- 13) Trans Nzoia Police Station
- 14) Kitale Police Station
- 15) Endebess Police Station
- 16) Eldoret East Police Station
- 17) Eldoret West Police Station

The Authority produced a detailed Report on this important mission.<sup>10</sup> Below find some key highlights of the Report:

*General outlook of Police Stations across the country:* Most of the Police stations visited had old and dilapidated infrastructure. Generally, the working environments in these stations were not conducive for the officers, and even for the visiting members of the public, leave alone the detainees. For example, office space was very limited in almost all the stations visited. Besides, most of the furniture in the few available offices was in deplorable conditions. But at least, most stations had a signal room and a workshop.

Most stations did not have adequate and/or professionally organized and equipped offices for interviewing suspects. The general environment in the stations visited was not conducive for such a crucial exercise. Additionally, very few police stations had a "Gender desk" or office. In most stations, there was no "Child Protection Unit" and where they were available, the facilities were used for other things, like storing exhibit.

*Police Housing - Lines and Homes:* The accommodation situation for police officers in almost all police stations visited were not only deplorable but also embarrassing in this time and age, and in fact against

<sup>10</sup> The full report can be accessed at <http://www.ipoa.go.ke>

human rights as articulated in The Constitution of Kenya, 2010. The stations had very poor housing facilities. In some stations, we found police officers living in traditional huts that were poorly constructed and maintained. Others lived in iron sheet houses that were inhabitable. In almost all the stations visited, police officers shared houses. In one of the stations, we found police officers living in a hall like structure that they called a "barrack". The beds for different officers were separated with curtains, denied them privacy and living in a dignified manner.

*Detention Facilities and Cells:* In most of the police stations visited, there existed separate cells for female and male. But in most cases, juveniles were kept in the same room with adults of their gender. Water and sanitation facilities in the stations were in very bad condition thus posing health risks. In most cases, inmates used buckets that were kept in the cells, with stench emanating from them. In the Stations that had separate toilets, the facilities were never cleaned; very dirty and a health hazard to the suspects.

*Vehicles and Working Equipment:* In all the stations visited, there were inadequate motor vehicles, thus transportation and response to distress, was a big challenge. In some cases, vehicles had broken down and were grounded for lack of spare parts. However, the officers had enough firearms and riot gear. A few bulletproof jackets were available, but were said to be very heavy and not popular among officers. Another challenge was the inadequacy of officers' uniform and boots in most stations. The officers reported that the problem of having old / worn-out uniform in some cases forced the affected officers to buy/replace them using their own money.

*Computers and Stationery:* Stationery in almost all police stations was lacking. Police officers were left to improvise on stationery. They used photocopy of occurrence books, cell registers, arms movement registers, and charge sheets. Members of the public were asked to photocopy or download P3 forms and Police abstract forms from the NPS Website. Very few stations had a computer and where they existed, in most cases, they were not working.

Apart from the general inspection of facilities, the Authority had open discussions and consultations with the police officers during the visits to the police stations. Police officers all over the country raised concerns about their welfare, mostly accommodation, feeding and long working hours leading to fatigue. Some of the key concerns include the following:

- a) Staffing was inadequate, one of the challenges in all the stations visited. Lack of adequate staffing has led to some of the officers getting overworked, desperate and obviously frustrated. The few available police officers in a particular station are assigned to work long hours in and out of the station.
- b) Due to the extra (and sometimes, conflicting) duties officers are assigned, they do not get adequate time to conduct thorough investigations on various cases. This sometimes leads to courts throwing out genuine cases they handle for lack of evidence.
- c) Frequent transfers of police officers, from station to station, affects the welfare and livelihoods of their children, in particular their schooling. This adversely affects the family set up. The officers claimed that female officers are affected by transfers more than their male counterparts.

Some officers complained that they served in certain ranks for too long, while others got promoted easily.

## **b) Monitoring of Police Operations**

Frequent engagement with the police operations and the public is one of the strategies that IPOA is going to use to collect critical policy data/information and gauge the public's confidence and satisfaction with policing in general, and the work that IPOA is doing in particular. Discussions with the leadership and staff of the NPS and communication with members of the public across the country via phone or email and town-hall discussions will be used from time to time to deliberate on issues of common interest and to inform and educate the nation on issues of policing and professionalizing the police service.



During the period, the Authority monitored police operations during the general elections in March 2013. Various members of the Board visited, or worked within the border confines, of all the former eight (8) Provinces across Kenya: Nyanza, Central, Western, Eastern, North Eastern, Rift Valley, Nairobi, and Coast.

As an initial step, a meeting was held between IPOA and top police leadership to discuss and assess preparedness of the Police. It emerged that the Police were well prepared and trained by the IEBC on the exercise and were issued with election manuals for security officers.

Further, members of the public were informed through the media on how IPOA intended to carry out the exercise and were also advised on how to reach the Authority in case they wanted to share information in any part of the country. During the exercise, the following observations were made:

- a) Generally, the police conducted themselves professionally and on overall terms, law and order prevailed;
- b) Police officers all over the country raised concerns about their welfare, mostly accommodation, the feeding program and long working hours;
- c) Reports of insecurity in certain, but isolated areas were raised;
- d) A case of an IEBC clerk being accidentally shot was reported;
- e) There was a report on an officer who accidentally shot himself; and finally,
- f) Some members of the public actually called to congratulate the police on their good work in certain areas.

In future electoral processes, IPOA intends to have a full-scale monitoring exercise, and ensuring that the police remain accountable especially during peak seasons of heightened perceptions of insecurity and political activities that come with general elections.

## 2.5 Communications and Outreach

IPOA recognizes the fact that reforming and professionalizing policing in Kenya, and civilian oversight in particular, depends on recognizing the linkages and partnerships between security and other issues in the governance and development realm. All over the world, security, peace, human rights and development are interdependent. It is for this reason that the Authority established the Communications and Outreach Department. During the period, the following achievements were realized:

### a) The Communications and Outreach Strategy

First, the Board developed a Communications and Outreach Strategy. At a workshop, the Board members were sensitized and trained on media relations' guidelines, social media, key messages, the IPOA brand and advised on key communication opportunities.

Second, the IPOA logo was developed, including communication and related materials. Resultantly, the Authority brands all its materials and other communication messages emanating from the office. These include reports, business cards, fact-sheets, press releases, PowerPoint presentations, letters and advertisements.

Finally, the Board developed the IPOA website. The Head of Information, Communication and Technology (ICT) was recruited. The process of researching and developing content for the website is on-going. The activity will be completed in the next one to two months. During the reporting period, IPOA registered and procured its domain, **[www.ipoa.go.ke](http://www.ipoa.go.ke)**.

### b) Consultation with Stakeholders

IPOA strives to build partnerships and networks with appropriate institutions in and outside the country. To this end, during the reporting period, the Authority met and had discussions with various partners including the following:

- In February 2013, seven Board members went to the United Kingdom (England and Northern Ireland) on an experiential visit of police facilities, premises and operations.<sup>11</sup> The benchmarking visit was an eye opener and provided useful lessons insofar as policing is concerned. The police in England, Wales and Northern Ireland are well equipped and facilitated for their operations. The following key lessons were learned during the visit:
  - The need to ensure that police in Kenya, across the country, are well resourced in terms of facilities/equipment and preparedness, if they are to carry out their duties efficiently and effectively.
  - There is need to develop standards for professional policing in Kenya. The experiential learning from the Independent Police Complaints Commission (IPCC) informed IPOA's Board members that the Authority must have adequate resources, personnel and clear Statutory Guidelines if it is to perform the oversight role effectively and efficiently.
  - Partnerships and networking with other authorities and agencies with similar interests as those of IPOA are necessary. This will promote sharing of ideas and innovativeness in providing civilian oversight on the work of the police.
- The Board members met with the leadership of NPS and the NPSC to discuss areas of common interest and concerns, like the establishment of the Internal Affairs Unit (IAU) in the office of the Inspector General (IG), and other legal requirements needed to move the process of police reforms forward.
- A consultation meeting was held with the Witness Protection Agency (WPA). The meeting resolved the ways and means of enhancing collaboration with the WPA on mutual legal concerns on protecting witnesses so that the respective mandates could be met.
- A meeting was held with the Parliamentary Constitutional Implementation Oversight Committee (CIOC) on areas that are stalling the police reforms agenda and on how IPOA could unlock the seeming deadlock.
- Various meetings with the Parliamentary Departmental Committee on Administration and National Security were held to discuss police reforms, IPOA's budget shortfall, and other relevant matters relating to the mandate of IPOA, including the proposed amendments to the National Police Service Act.
- A courtesy call to the Deputy President, Hon. William Ruto, most of which dealt with the role of the Jubilee Coalition in ensuring that police reforms do not stall and also budgetary constraints that IPOA is currently experiencing.
- The Authority received visitors from Sweden (from the police reforms unit) who were here to study police reforms and how the Swedish government would render support.
- The Directorate of the Police Complaints Authority in Lesotho made a familiarization visit to Kenya. Their Director was particularly impressed with the legislation establishing IPOA and will be seeking to replicate the same in their country.

IPOA is continuously building a good rapport with the media fraternity. During the period, IPOA Chairperson and some members of the Board were called upon by various media houses to respond to issues and inquiries related to policing and Authority's mandate. Apart from these interviews, IPOA has issued press releases in both print and electronic media houses on topical issues relating to its mandate.<sup>12</sup>

As part of its mandate, IPOA made a presentation to all 47 Governors in a meeting in Naivasha. The presentation was on the role of Governors in the establishment of the County Policing Authorities (CPAs), as established under Part VI of the National Police Service Act.

<sup>11</sup> The full report of the UK experiential learning is available at IPOA. The visit was sponsored by the British Government

<sup>12</sup> Visit IPOA Website

## 2.6 Risks and Audit Management

Risk and audit management is a key component of IPOA. The aim is to ensure that the Authority is professional, transparent and accountable in its operations in order to meet public expectations. IPOA has planned to mainstream risk and audit management in all its operational areas.

During the period, the Authority developed drafts of relevant frameworks/tools for risk management including the following:

- o Risk Management Policy;
- o Security and Safety Policy; and,
- o Ethics and Compliance Policy.

These frameworks will be finalized and adopted by the Authority by the next reporting period.

IPOA will strive to establish and operationalize a good and clear road-map for risks management and security for the Board, staff and equipment/facilities.

## 2.7 Human Resources and Compensation

To enable the Authority to deliver on its mandate, it is important to have a functional and effective Secretariat. IPOA Board has continued with efforts to operationalize the Secretariat. During the period, IPOA recorded the following achievements:

### a) Organization Structure and Recruitment

In order to have an effective and efficient Secretariat, the Board developed an organizational structure for staff establishment (80 staff members for the financial year 2013/14) and job descriptions, defining requisite jobs required for the Authority. The same documents were forwarded to the Directorate of Public Service Management (DPSM) for review and approval. The review and approval process is currently underway.

In February 2013, the Authority advertised for various management and technical positions through a transparent process, and thereafter the following positions have been filled:

- a) Deputy Director, Research and Strategy
- b) Deputy Director, Business Services
- c) Head of Human Resources
- d) Head of ICT
- e) Head of Corporate Communications
- f) Investigation Officers (6 in number)

During the first phase of recruitment, IPOA could not get suitable candidates for the following positions: the Director/CEO, the Deputy Director, Investigations, Deputy Director, Inspections & Monitoring, Deputy Director, Complaints & Legal Affairs, and Head of Risk and Audit. These positions were re-advertised, and will be filled in the next reporting period.

Meanwhile, the Authority continues to retain the employees deployed to it by the Public Service until such time that the remaining critical positions are filled. In the next 6 months, IPOA Board intends to hire additional management and technical staff for the Secretariat.

### b) Human Resource Policies

The Authority developed a human resources manual that consists of policies, procedures and code of conduct for both Board and staff members.

### c) Remuneration

In February 2013, the Board submitted to the Salaries and Remuneration Commission (SRC) a recommended salary structure and related employee benefits. However, the delayed feedback hampered the process of recruitment. In April 2013, a provisional salary structure was provided by SRC, which was far below IPOA's proposal and could not enable the Authority to attract and retain qualified and experienced employees. In June 2013 the Board appealed to SRC to reconsider their position and discussions are progressing well. The Authority believes that uncompetitive salaries would not be motivating enough to attract the targeted caliber of professionals. This could have negative repercussions on IPOA's future operations.

## 2.8 Administration and Financial Management

The Authority, guided by the Interim Financial and Procurement Guidelines, has managed to ensure that the meagre financial resources allocated during the 2012/13 financial year were applied efficiently to carry out all the aspects of IPOA mandate throughout the reporting period. Among others, the Authority managed to undertake the following:

- Strategically identify areas for priority spending, especially on purchase of operational goods and payment for services;
- Sourced and paid for the new IPOA office accommodation space (at ACK Garden Annex, on 1st Ngong' Avenue, Nairobi), which included partial payment for partitioning of the offices and installation of required facilities. The work is currently ongoing;
- The Board and staff members, through consultations with the relevant structures and systems, managed to prepare the Procurement Planning Tool to be able to undertake efficient financial management and ensure that the Authority's scarce resources are utilized for public good and in public interest;

The Authority managed to prepare the Budget for 2013/14 Financial Year and presented the same to the National Treasury, Parliamentary Departmental Committee on Administration and National Security, not to mention the current Cabinet Secretary in accordance with IPOA's constitutive Act. However, the printed estimates fell so much below IPOA's budget, which was initially approximated at KES 603 million. Only KES 153 million was allocated, which will affect implementation of the Authority's planned activities during the year. IPOA has, however, made presentations to the above parliamentary Committee of the National Assembly, so as to secure additional funds during the current financial year. The Committee has made recommendations for an additional KES 380 million.

## 3.0 Challenges and Gaps

Despite the gains that IPOA has made as outlined in this Performance Report, the Authority's board and staff see these challenges as surmountable. The Authority will certainly and effectively deliver its services as required by its Act. The Board and staff believe that these challenges can be addressed and gaps filled through sustained consultations and networking with various relevant government organs and partners. Some of the challenges include the following:

- *Public Expectations:* Based on the history of the police, including allegations of extra-judicial killings, there is no doubt that the public expect IPOA to reign in quickly on such felonies. The Authority will remain accountable to the public. The investigations into these matters, not to mention the culture change, within police themselves, will take time. Nonetheless, IPOA will surmount this through comprehensive and credible investigations and will promptly deal with complaints as soon as they are reported. This is also to reassure the public that IPOA shall always strive to get credible data and evidence before reporting, responding or commenting on any issue in the media.

- *Investigations:* Unfortunately, the Authority has not managed to conclude investigations on many complaints received from the public and the police. However, IPOA pledges to set up a complaints and case management department and that the process of recruiting an adequate number of investigators and case managers will be fast-tracked.
- *Recruitment of Staff:* It has not been easy to recruit senior staff as IPOA Board would have wished. Getting the right people for the job has been a challenge. IPOA has advertised for these positions twice because the applicants have not had the requisite competences. However, the Board is determined to ensure that these positions are filled without compromising the standards set out or desired by law. In the next reporting period, a report will be filed on who has been recruited.
- *Financial Resources:* Having adequate financial resources to quickly establish a robust, effective and efficient independent civilian oversight body remains a challenge to the Authority. This is because the funds allocated from the National Treasury are far below the Authority's required budget for its operations. During the period, IPOA Board has been in consultation, with both the executive and legislative arms of government, not to mention various grant-makers, to ensure that financial resources are availed to enable it implement its mandate as expected. In the next reporting period, this challenge may be behind IPOA.
- *Public Awareness:* Being a new organization, there is still a perception from the public that the Authority is part of the National Police Service, or is being confused with the NPSC, thus confusing its mandate and roles. IPOA Board will conduct many county-hall meetings to avail public the information of what IPOA mandate is, and including clear structural and systemic connections to the various institutions with the mandate to ensure police accountability.

## 4.0 Conclusions and Recommendations

IPOA, being the first civilian police oversight body in Kenya (and the East African region) is laying a solid foundation and growing gradually. The Authority is quickly gaining the confidence of the public and NPS.<sup>13</sup> The increased number of public complaints received so far, is a sign of confidence the public and police has on the Authority to restore and make police account for their actions. For example, IPOA notes with grave concern lack of police adhering to set standards and laws with regard to reporting to IPOA on deaths and serious injuries. The Authority is currently putting in place a compliance mechanism, with clear sanctions to those who are responsible.

Further, IPOA is prepared to build on the gains of its first year of operation. The Board is committed to do even better and operate effectively within the mandate set forth. The Authority is aware of the public expectations and that the number of complaints will increase more than two-folds taking into account of what IPOA has already received so far. But, the Authority would like to assure the public on two fronts:

- a) First, that IPOA is prepared and ready to meet this challenge and effectively serve the public as per its mandate; and,
- b) Second, that the findings of the few cases that are being investigated by the Authority's staff will be made public when the exercise is complete and relevant recommendations will be made as required by the Authority's Act.

In order to live within its Vision and Mission, and satisfy public expectations, the Authority requires adequate financial and human resources. IPOA therefore requests the two arms of government to approve additional financial resources to the Authority in the next three months and especially during the supplementary estimates for this Financial Year.

During the period, the Authority made its position clear on the on-going police reform, in particular the amendment of the National Police Service Act. The Authority supports, in principle, the separation of powers and functions of the Chairperson of the National Police Service Commission versus the IG of the

13 See IPOA Baseline Report on Policing Standards and Gaps in Kenya, visit IPOA's Website

National Police Service, so long as such action is not done to undermine the leadership of any of the two bodies or going against the spirit and letter of the Constitution.

In the same breath, IPOA has made its position clear to Parliament and other stakeholders with regard to the proposed amendment on the use of firearms, which is contrary to the Constitution, and reduces accountability of the police. An additional proposed amendment is deletion of the role of the IG to act on the recommendations of IPOA. The Authority has vehemently opposed these amendments and will seek to oppose the same both in the court of public opinion and in the law courts, if need be. The Constitution is superior and the Board shall always uphold, defend and protect it.

Indeed, the experience of this reporting period does indicate that to live up to the IPOA Act, there must be sustained constitutionalism, government and political goodwill and commitment to professionalizing policing in Kenya. Therefore, the country's top leadership and Constitutional bodies such as the National Assembly, the Senate and Commission for the Implementation of the Constitution should continue and sustain their support to the police reforms and those of the entire security sector. What is needed is to avoid politicisation of the police reform agenda. Key is for the NPSC, NPS and IPOA need to be given sufficient resources and support to operate effectively.

More critical, there is need to invest time, resources and effort in monitoring progress in police reforms and assessing the outcomes of these reforms across the country. IPOA is prepared to work together with NPSC and NPS, and other partners, to produce credible evidence and data, which will inform policy and decision making or planning for professionalizing the police, and making the Service gain public confidence across the country.

In the next review period, among others, the Authority will focus and report on the following activities:

- a) Publishing and launching of IPOA' *Baseline Survey on Policing Standards and Gaps in Kenya 2013*;
- b) Finalizing the few cases that are under the Authority's investigation and making the findings public;
- c) Developing tools for complaints and launching on-line complaints reception through the Authority's Website;
- d) Hiring additional management and technical staff;
- e) Profiling and branding IPOA, building partnerships and networks, and reaching out to the public across the country; and finally,
- f) Finalizing and approving IPOA tools, rules and regulations including the following: Operation Guidelines, Rules and Regulations, and Board Policies and Guidelines.

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© IPOA's Performance Report: January – June 2013.

## 5.0 Pictorial



Kakamega Police Premises



Police quarters - Endebess



Gender reporting desk - Luanda



Grounded vehicles - Vihiga



IPOA Board at Belfast



Exhibits - Kitale







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## **CONTACTS**

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