# Dedication

To my dear parents and family for having given me supports that I required up to this level.

*Margaret Nyambura Karanja*　　　　　　　　*University of Nairobi*

# Acknowledgement

Writing a Research thesis like this involves gathering raw materials and ideas from various sources. I had also to consult numerous works of others. It therefore took great support and co-operation from dedicated people to see this concept converted to such a report.

I hereby acknowledge my indebtedness and take this opportunity to appreciate each person who has contributed.

I want to thank the Administration Police Service fraternity and more so the retired Administration Police Commandant Mr. Kinuthia Mbugua for having given me an opportunity of serving them and even gone ahead to support me in my endeavor of pursuing a Masters degree in Law in the University of Nairobi; to you I say I cannot thank you enough other than doing a contribution in Police Reforms as I am doing through this research work.

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Immense gratitude to my supervisor Ms. Joy Asiema for being with me as I mould my ideas into this thesis. Her able guidance and support has seen it to this end.

# Statements and Declaration

## Declaration

This work has not been previously accepted in substance for any degree and is not being concurrently submitted in candidature for any degree/diploma.

Signed í í í í í í í í í í í í í í í í í (Margaret Nyambura Karanja)

Dateí í í í í ..day ofí í í í í ..2012

## Statement 1

This thesis is being submitted in partial fulfillment of the requirements for the degree of Masters of Law (LLM)

Signed í í í í í í í í í í í í í í í í í í (Margaret Nyambura Karanja)

Dateí í í í í ..day ofí í í í í ..2012

## Statement 2

This thesis is the result of my own independent work/investigation, except where otherwise stated. Other sources are acknowledged explicit reference. Bibliography is appended.

Signed í í í í í í í í í í í í í í í í í í (Margaret Nyambura Karanja)

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## Statement 3

I hereby give consent for my thesis, if accepted, to be available for photocopying and for inter-library loan, and for the title and summary to be made available to outside organizations.

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Dateí í í í í ..day ofí í í í í ..2012

## Supervisor's Confirmation

I hereby confirm the above statements and declarations.

Signed í í í í í í í í í í í í í í í í í í í (Ms Joy Asiema)

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# List of Abbreviations

| | |
|---|---|
| **AMISOM** | African Mission in Somalia |
| **GJLOS** | Governance, Justice, Law and Order Sector |
| **IPOA** | Independent Police Oversight Authority |
| **KDF** | Kenya Defence Forces |
| **KNCHR** | Kenya National Commission of Human Rights |
| **KNDR** | Kenya National Dialogue and Reconciliation |
| **NACADA** | National Campaign Against Drug Abuse |
| **NARC** | National Alliance Rainbow Coalition |
| **NPS** | National Police Service |
| **NPSC** | National Police Service Commission |
| **PRIC** | Police Reforms Implementation Committee |
| **TOR** | Terms Of Reference. |
| **NGOs** | Non Governmental Institutions |

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# Abstract

Police reform is a key area in security sector reform that needs to be keenly addressed. Since reforms began in the police services in Kenya, little efforts have been made to appraise the reform process. This research is one of the first attempts to address police reform appraisal using analytical and statistical approaches, within the new legal framework. The research uses available data in literature and expert survey to examine the level of Police Reform. Expert respondents were obtained from members of the police service, various stakeholder organizations and the public. Care was taken in respondent sampling so as to get a pool of informed respondents and members of the public, representative of the general Kenyan population. Data sources were the internet, books, periodicals, journals, survey responses among others. Due to the nature of this research which seeks to appraise the extent of the implementations of Police Reform, approaches beyond legal were utilized.

Data analyses were done using Exploratory Data Analysis (EDA) methods, central tendency statistical analysis and structural equation modeling (SEM) using Analysis of Moment of Structures (AMOS®) software to obtain covariance of reform indicator categories. Reliability and validity of survey results and analysis were tested using reliability constant (Cronbach¢s alpha) and average variance extracted (AVE), respectively.

Results of this research show that despite the backing of the provisions of Constitution of Kenya, 2010 and subsequent legislations on Police Reforms, the pace of police reform in Kenya is slow; less is done in terms of putting necessary reform structures and there have been general resistance within police services and by the government. The average respondent rating for the identified 65 police reform indicators was 2.04 in a Likert-scale rate of 1-5. The results further indicate that there is high level of corruptibility of police officers, inadequate management, supervision and monitoring of police and, lack of reasonable and transparent standards of vetting police recruits and those in service. These results have far-reaching implications to the National Police Service, the government, the public and the judiciary.

It is recommended that police reform process should be sped up and be fully implemented through first enacting and amending appropriate legislations. Those recommendations by the Taskforce on Police Reforms should be appropriately implemented. Stakeholders should desist from resisting reform efforts.

# Chapter 1

## 1.0 Introduction

Security is a basic human right as it is underlined by Article 3 of the Universal Declaration of Human Rights. As a member of the family of nations, Kenya subscribes to this Declaration. As a country, we regard security as a matter of national priority.[1]  Security of person's as a basic human right is also one of the most significant factors contributing to the quality of communities worldwide. Security provides an enabling environment for citizens to live and work in, and it stimulates social, economic and political development.[2]

Peaceful co-existence and calmness in the society is the recipe for experiencing and enjoyment of freedom and human rights. With breach of this, society is bound to be in a chaotic state, confusion and fear. This is why police work always comes in handy if professionally applied backed with strong laws and reliable, independent criminal justice systems.

The society creates laws and puts in place the justice system to deal with law breakers; Police on the other hand has a responsibility to enforce these laws within the society for the purpose of sustaining peace and calmness. When a society enjoys relative peace and order, it signifies that people obey the laws laid down, with offenders being subjected to justice promptly. Strict justice systems and societiesø law obedience character ease the work of police.

Kenya's transition, and prospects of development, hinge to a great extent on the country's ability to guarantee security within her borders. This is a goal that the current Government is committed to attain. It is also a good that many Kenyan's are longing for.[3]

## 1.1 Background to the Problem

More often than not the Police have found themselves in crossroads with members of public and Civil Society Organizations. This has led to them being viewed as the key violators of Human Rights[4]. They have earned a title violators rather than protectors and keepers of Human Rights.

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1    Police Reforms. Available at: http://www.kenyapolice.go.ke/police%20reforms.asp. [Accessed on 12th November, 2012]
2    Ibid
3    Ibid
4    Kenya National on Human Rights, KNCHR, (2008) õThe Cry of Bloodö Report on Extra-judicial Killings and Disappearances.

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The Alston Reports[5] on extra-judicial killings laid blame on Police on deaths and disappearance of youth without anybody accounting for them. Several shootings of innocent individuals have been associated with the Police guns.

The duty imposed on Police of protection of life and property has been reduced to perception that they are to eradicate life and destroy property of innocent people. The experts on commission for enquiry and thinkers of reforms came up with recommendations in their reports after the 2007-2008 Post Election Violence which associated most loss of life to the excessive use of force by police amongst other vices and omissions. Waki Report[6] indicate that the õsecurity forces were powerless against the violenceö.

Often, when we think of police reforms, the people concerned many a time tend to either forget or neglect the primary reason and function of the police service right from the initial stage it was formed to where they focus it to be, which is of great importance and should always be taken seriously.

You can institute police reform, you can reorganize service delivery but you cannot alter the fundamental principles of policing and police operations. Reformers and reform agendas must be cognizant of another reality that police officers and police services are delivering something that some people in the society are opposed to. No one wants to be a victim of crime. No one wants the law, criminal or regulatory, enforced on them.[7] Police reform or review will not make this disappear and no matter how one package or tidy up service delivery, there will always be displeasure with the police.

Violations of the founding principle of an organization like Police Service lead to straying away of the officers therein hence corruption, inefficiency and partisanship interest. It is also because of this, that the police have found themselves being misused by politicians as they serve as agents of political executives rather than as an instrument of a democratic state. This leaves a weak police Service heavily reliant of its masters who politicize and destabilize the police.

The police force has been marked with a reputation of applying the law selectively against opponents, whether political or personal, at the behest of person of influence. Impunity has reigned supreme hence reforms appear to be a distant reality.

It is against this background that there have been attempts by the Kenyan Government to institute police reforms. Though the Government had initiated the Police Reforms since 2004

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5    Report of the Special Rapporteur on  Extrajudicial, Arbitrary or Summary Execution, Prof  Philip Alston, on his mission to Kenya from 16-25 February, 2009

6    Final Report of Commission of Inquiry into Post-election violence (CIPEV) page 65
7    Dale Kinnear: conference on police reform from the bottom-up. October 2006

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when the NARC Government first came to power, on platforms of Reforms, these reforms were largely operational and administrative as they did not address the structural policy and legislative reforms that were fundamental in transforming the Police.[8] Consequently, the Government appointed the National Task Force on Police Reforms on the 8th May, 2009, led by The Hon. Justice (Rtd) Philip Ransley in Kenya Gazette Notice No.4790.[9] The Task Force was mandated with the Terms of References [10] on which to base their investigations.

The Task Force submitted its report on October 2009 having made various recommendations summarized under four headings:-Professionalism, accountability, operational and administrative reforms and institutional policy and legislative reforms

On 8th January,2010, the Government established the PRIC  charged with the responsibility of coordinating, supervising, providing, technical guidance, facilitation as well as mobilizing resources, communicating, monitoring and evaluation of reforms in the police.[11]

## 1.2 Literature Review

Berkeley[12] notes: õreform is such a strong word (which) is often misapplied in regard to police service deliveryö. Too often it becomes the term for what should be called organization or structure review.

Reform is defined as a change for the better or improvement by removal of faults[13]; it means to fine-tune and restructure without radical changes[14]. Police reforms therefore mean restructuring the police services with the aim of improving them; changing them for the better and fine-tuning the services.

In respect to security sector reforms (SSR), police reform is defined as the transformation of a security system, including all the actors, their roles, actions and responsibility to manage and operate the system in a manner that is consistent with legal, democratic norms and sound principles of good governanceö[15]. In the recent time, much has been said and written, locally and globally on the need for Police Reform in Kenya. Reform in the Police Services is one of the key

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8    Report of the Police Reform Implementation Committee (PRIC) for the Period January-June 2010 Executive Summary paragraph 1.

9    Report on the National Taskforce on Police Reforms, December, 2009.
10   Kenya Gazette Notice No. 4790 dated 8th May, 2009.
11   Report of the Police Reform Implementation Committee (PRIC) for the Period January-June 2010 Executive Summary
12   Conference Paper. Available at:  http://www.law.berkeley.edu/faculty/sklansky/conference/DK%20paper.doc [Accessed on 15th July, 2012]
13    Merriam-Webster Online Dictionary. Available at:  http://www.merriam-webster.com/dictionary/reform [Accessed on 8th November, 2012]
14    Wikipedia. Available at: http://en.wikipedia.org/wiki/Reform [Accessed on 7th November, 2012]
15   Organization for Economic Co-operation and Security, Security System Reform and Governance, DAC Guidelines and Reference Series, (OECD: Paris), 2005, p.20.
      http://www.oecd.org/dataoecd/8/39/31785288.pdf

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foundations for Kenya Vision 2030. Progress Report on Vision 2030 [16] states: economic, social and political pillars of the Kenya Vision, 2030 are grounded on the existence of security, peace and tranquilityö.

In 2003, the NARC Government came into power on platform of reform[17]. Several attempts were executed to reform the Police through operational and administrative measures such as increment financial allocations and a change in leadership. These initial steps resulted in increased police visibility and capacity. Governance, Justice, Law and Order (GJLOS) programme helped the police to acquire necessary training, equipment and vehicles[18].

The Kenya National Accord and Reconciliation Agreement (NARA) agenda no. 4 analyses actions on the issue of Institutional Reform on Police. The Commission of Inquiry into Post Election Violence (Waki Commission) report dated 16th October 2008 recommended; õThe Parties shall initiate urgent and comprehensive reform of the Kenya Police and the Administration Police. The Independent Review on Kenya 2007 General Election (Kriegler Commission) Report recommended radical reforms in police to commitment to electoral integrity and respect for the inalienable franchise rights of Kenyan citizens.

The Alston Report noted that Police executed those they arrested without trial because they believe that the courts will set them free even when guilty. However that is not reason enough to kill suspects, where is the justice? Our national anthem says õjustice be our shield and defender, but it is just a song sung on an occasion and words are of no consequence to many[19].

The Ransley Report, on the second paragraph of the background states that the overall goal of Police reform is to transform the Kenya Police and Administration Police Force into efficient, effective, professional and accountable security agencies that Kenyans can trust for their safety and security.

The Police Reform Implementation Committee (PRIC) Programme, 2011-2013, Minister for State for Provincial Administration and Internal Security notes in his statement that, the 2010 Constitution of Kenya gives momentum for reforms in the Police through the creation and command of National Police Service.

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16  Second Annual Progress Report  on the Implementation of the First Medium Term Plan Medium Term Report (2008-2012 of Kenya Vision 2030 ) Available at:
https://opendata.go.ke/download/p3t9-shd7/application/pdf [Accessed on 10th November, 2012]

17  Lafague, J. and Musambyi, K.i, Kenya in Turmoil: Post Elections Violence and Precarious Pacification in The  General Elections in Kenya, 2007,

18  Police Reform Programme 2011-2013  (2011) õTransforming the Police into an Effective, Efficient and Trusted Security Agency for Kenyansö.

19  Prof Philip Alstonø Report Available: http://jamiiyakenya.blogspot.com/2009/02/prof-philip-alstons-report.html [Accessed on 10th November, 2012]

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Institute of Policy Analysis and (IPAR) Commission for the Implementation of the Constitution, Quarterly Report for the period, January-March 2012, Paper on Police Reforms in Kenya: Perceptions and Expectations of Key Stakeholders, July 2012 noted that the introduction the passage of the new Constitution in Kenya in the year 2010 heralded a new dawn in the management of state affairs and redefined state-society relationship. It provides for far reaching institutional, legal and operational reforms in the police force[20].

Commission for the Implementation of the Constitution (CIC) Quarterly Report for the period, January-March 2012 indicates that delay in operationalization of key constitutional offices is one of the Challenges of implementation of the content of the Constitution[21].

Ciru Getecha, in her article, õ*It is one thing to write a good law, but without values, it amounts to nothing"* [22] notes that; Effective implementation of 2010 Constitution should go hand in hand with a nationwide initiative to radically change the psyche of the Kenyans in a way more fundamental than civic education has done.

Report of the Independent Medico-legal Unit (IMLU), õWheat or Chaff? *Vetting the Kenya Police Force to Establish a Service,"* Sunday, January 15, 2012 page 6 on dynamics of policing in Africa and Reforms notes that Policing in Africa, and the reform impetus, should be discussed within context. There are various dynamics such as policing in conflict prone areas, policing in the rural areas, role of politicians in police reform (who tend to stranglehold the process for vested interests), the policy frameworks that are available, not to mention the funding of those reforms among other variables.

In Singo, Wairagu and Kamenju[23], participant noted that development issues that could influence the improvement of security and development in North Rift Region was poverty and insecurity. United Nations office On Drugs and Crime [24], Series note that the description of the police as the strong arm of the State reflects their authority to enforce laws and policies defined by State institutions. In some countries, this leads to State representatives trying to influence the police to serve their interests rather than the public interest (known as political interference)[25].

Also, the United Nations Office on Drugs and Crime, *Introductory Handbook on policing urban space,* Criminal Justice Handbook Series note that while Government may change, police

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20  Institute of Policy Analysis and Research (IPAR) Paper on Police Reforms in Kenya: Perceptions and Expectations of Key Stakeholders, July 2012 p.1

21  Commission for the implementation of the Constitution Quarterly Report for the period, January-March 2012 p.44 paragraph 3.

22  The Daily Nation, Friday, July 13, 2012

23  Singo, M., Wairagu, and Kamenju, ( 2004)Security Research Information Centre (SRIC) and Catholic Justice and Peace Commission(CJPC) Kitale and Eldoret , Peace, Security and Development: An Agenda for the North Rift Region of Kenya.ö

24  United Nations Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity,*Criminal Justice Handbook, July 2011 Series

25  Ibid

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often remain in their jobs. Strategies and habits acquired under different systems; however remain in place[26].

It is baffling that the police opt for the uncivilized, the anti-people, the old colonial policing approach as opposed to human rights infused policing approach that is transparent, accountable and respectful to people[27]. The British did not succeed with it, and President Kenyatta and President Moi failed with it[28]. And certainly President Kibaki will fail with it[29].

These literatures address the concerns and the need for a reformed police services on effectiveness of administration of any democratic state and the challenges which are encountered during the processes.

## 1.3 Statement of the Problem

Problem statement that this research seeks to address can be summarized as: the effect of legal backing and extent of implementation of recommendations from the Task Forces and Commission of enquiries on bringing about reforms in police.

Reasons for the slow pace of enactment of necessary legislations to speed up the reform process and challenges on implementation of existing law, their possible flaws and the lack of political will. There is lack of continuous expert and internal evaluations. The reliability of the findings which may be questionable; since little has been done in terms of realistically appraising police reforms in Kenya;

The fact that police still have outdated colonial cultures and brutality with deep rooted corruption rate which is a concern of the public, the Kenya Government and the international community. There is lack of professionalism, ineffective supervision and poor managerial skills, inadequate and oversight accountability and oversight mechanisms in the police.

This research is one of the first attempts to appraise police reform in Kenya in academic context. It addresses gaps left by previous research work. It outlines various indicators of police reforms and uses both statistical and analytical approaches to analyze data obtained from both survey and available information from previous work on police reform.

Previous work by government sponsored commissions fails to give details of analysis carried out and there is lack of reliability because the source data and information are mostly non-traceable. This research presents both data and analysis results and tests reliability and validity of the approaches used. Previous research does not contain transparent analysis and tests

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26  Ibid, paragraph 2.

27  Maina Kiai in Saturday Nation, õThere are More Effective Ways to police than killings or use of excessive forceö 6th October 2012, Opinion, p. 13
28  Ibid, p.13
29  Ibid, p13

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for the approaches used. It reviews changes in the legal framework that have influence on policing. It investigates policing in terms of various pillars like legal framework, capacity, budget, personnel among others, efficacies of these pillars and possible solutions. The research includes input of experts, Police themselves and of members of public.

## 1.4 Theoretical Framework

There are various theories which justify reforms. These theories explain the relationship between the ways things are and how they ought to be, the realisms and the idealisms.

The Natural Law views propound that true law as the right reason in agreement with nature.[30] That law is universal, eternal and unchanging and that there is only one source of law and the enforcer of this eternal and unchanging law is God. That law is a rule whereby man is induced to act or restrained from acting. Principles common in all natural law theories are that[31] there are absolute values against which the validity of law should be tested.

a.   That there exists an order which is rational and which can be known by man.
b.   That man can become aware of the universal, eternal and comprehensible values, if he observes nature and understands it correctly. And that from these values man may derive appropriate value-statements.
c.   That, that which is good is in accordance with nature and which is evil contrary to nature.
d.   That a law which lacks moral validity is wrong and unjust.

Positivism refers to a system of philosophy based on things that can be seen or proved rather than ideas. The basic premise of positivism lies in the derivation of ‑positumø meaning that the law is something posited or laid down. The positivist law argues thus that true law is law enacted by the sovereign and backed by sanctions[32].That;

a.   Law is a social fact;
b.   The idea of law being a command emanating from a sovereign power;
c.   The idea that law must embody a medium of sanctions;
d.   The separation of law from morals or ethical concerns;
e.   That society must be in habitual obedience of the law;

Idealism refers to the practice of forming or pursuing or believing in ideas, even when this is not realistic. It is the belief that believed ideas can be actualized to a reality.[33]

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[30]   Cicero, *De Legibus*, bk. 1, sec. 16ó17, Available at en.wikipedia.org/wiki/Cicero [Accessed on 26th September, 2012]
[31]   Omony John Paul, õKey Issues in Jurisprudence, an in-depth Discourse on Jurisprudence Problems õchapter two , 2006.
[32]   Ibid on natural law and positive law compared.
[33]   Ibid  pg.3

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The theoretical framework of this study is therefore to be based on the natural and positive school of thoughts which are related in that positivism arose to answer defects in the naturalists understanding of law[34]. But more to the ideas of the two theories, the study is based on idealisms, what ought to be rather than what is.

## 1.5 Objectives of the Study

The study intends to appraise police reforms in Kenya with a focus on how legal framework has affected the reform process and recommend the best approach to reforms, hence contribute to the process of reforming the police in Kenya to a more effective and accountable in their service to the people. The research will also act as an informative tool and strengthen the knowledge of the readers, researchers, and any other interested parties in police and policing in Kenya. Specific objectives of the study were:

a. To identify the indicators of police reform in Kenya;
b. To identify and examine the challenges facing police reform in Kenya and investigate their effects to the reform process;
c. To recommend ways of realizing the objectives the ongoing police reform, based on the results of the research and utilizations of the best practices within existing legal environment.
d. To identify and utilize appropriate analysis and measurement tools in gauging the level of police reforms in Kenya.

## 1.7 Research Questions

Research questions were designed to respond objectives. They were as follows:-

a. What are the indicators of police reform in Kenya?
b. What are the challenges facing police reform in Kenya and effects of those challenges?
c. How can the objectives of the ongoing police reform be realized?

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[34] Edward B. Davis and Robin Collins, "Scientific Naturalism." In *Science and Religion: A Historical Introduction,* ed. Gary B. Ferngren, Johns Hopkins University Press, 2002, p. 322634

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## 1.8  Research Hypotheses

Hypotheses formulated in this research form ground for evaluation of general beliefs and relations. Confirmatory analyses of the hypotheses are done by proof of significance of data/results obtained from the survey conducted.  The research identified several indicators of police reforms, and therefore hypotheses formulated respond to the level of achievement of the indicators. The hypotheses for this research are as follows:

a.  Null Hypothesis: $H_{10}$ The indicators of police reforms identified in this study has not been significantly achieved;
b.  Alternative Hypothesis: $H_{11}$ The indicators of police reforms identified in this study has been achieved significantly.
c.  Null Hypothesis: $H_{20}$ Challenges that face police reform from within and without have *no* significant effects on police reform efforts;
d.  Alternative Hypothesis: $H_{21}$ Challenges that face police reform from within and without have significant effects on police reform efforts.
e.  Null Hypothesis: $H_{30}$ The objectives of  the ongoing police reforms may not be a realized;
f.  Alternative Hypothesis: $H_{31}$ The objectives of the ongoing police reforms are realizable.

Null hypotheses show that the observations in the research are by chance, while alternative hypotheses denote that the observations are influenced by some non-random cause [37]. Single sample z-statistics will be used to test the hypotheses because the respondent sample size will be greater than 30 and that normal distribution of responses is assumed[38]. Statistical threshold of significance of test is 95% confidence limit[39].

## 1.9 Research Methodology

The research seeks to analyze the effectiveness of the effort of the ongoing police reform in Kenya. The study seeks to explore quantitative and qualitative methods of collection of data and analysis in testing the research problem, questions, objectives, theoretical foundations and hypothesis.

Primary data was collected through the use of generated questionnaires (see Appendix I) that were customized to answer some selected research questions and directed to sampled members of public and police officers. This type of collection was used due to its capabilities of getting first-hand information because of purposive nature of non-random sampling involved in

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[37]  What is Hypothesis Testing? Available at: http://stattrek.com/hypothesis-test/hypothesis-testing.aspx [Accessed on 10th November, 2012]

[38]  Hypothesis Testing using z and t-tests. Available at: http://www.angelfire.com/wv/bwhomedir/notes/z_and_t_tests.pdf [Accessed on 10th November, 2012]

[39]  Confidence Interval and Hypothesis Testing. Available at: http://davidmlane.com/hyperstat/B15183.html [Accessed on 10th November, 2012]

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this research[40] ; being a non-doctrinal legal research. The research allowed the use of analytical tools from other disciplines to give insights into the study[41]. Purposive sampling was adopted because a randomly selected survey respondent might not be knowledgeable or observant of the on-going police reforms compared to an expert respondent. One concern of purposive sampling is that the researcher gauges respondent reliability as this can be an avenue of error in the survey; inappropriate responses can render the data meaningless and invalid[42]. The researcher addressed the challenge by being equipped thoroughly with knowledge in sampling and statistics and involving experts in these fields in the police service and police reforms to get the target sample of respondents. Qualitative data got from the survey were transformed to quantitative data for statistical analysis and Likert-scale[43] rating was applied to gauge the indicators of police reforms.

Secondary evidence such books, journals and periodical reports were also utilized. The researcher was equipped with background on police, police reforms, research methodology, analytical skills. Empirical data was compared to available information in literature. Internet sources of information were also referred to.

### 1.9.1  Selection of Respondents

Respondent selection was done by non-random sampling since a sample knowledgeable in the subject of study was required. The researcher was guided by theoretical guideline on sample size in Table 1 below.

**Table 1.** Sample size, margin of error and confidence interval

| Population | Margin of Error | | | Confidence Interval | | |
|---|---|---|---|---|---|---|
| | 10% | 5% | 1% | 90% | 95% | 99% |
| 100 | 50 | 80 | 99 | 74 | 80 | 88 |
| 500 | 81 | 218 | 476 | 176 | 218 | 286 |
| 1,000 | 88 | 278 | 906 | 215 | 278 | 400 |
| 10,000 | 96 | 370 | 4,900 | 264 | 370 | 623 |
| 100,000 | 96 | 383 | 8,763 | 270 | 383 | 660 |
| 1,000,000 + | 97 | 384 | 9,513 | 271 | **384** | 664 |

*Source:* http://www.surveymonkey.com/mp/sample-size/

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[40]  McConville, M. and Wing, H. C. (Eds) (2007) Research Methods for Law, Edinburgh University Press:  Edinburgh
[41]  Genn, D.H. Partington, M. and Wheeler, S. (2006) Law in the Real World: Improving Our Understanding of  How Law Works, Final Report and Recommendations, The Nuffield Foundation: London
[42]  Godambe, V.P. (1982) Estimation in survey sampling: robustness and optimality. Journal of the American Statistical Association Vol. 77, p. 393-403.
[43]  Norman  G. (2010)  Likert scales, levels of measurement and the ÷lawsøøof statistics,  Advances in Health Sciences, DOI 10.1007/s10459-010-9222-y

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Since the matter of police reforms in Kenya has effects on Kenyans whose population is about 38.6 million, sample size of at least 384 expert respondents was targeted. Given that 100% response was improbable, percentage response expected was assumed to be 60%, since not all targeted would respond in time to the questionnaires; therefore questionnaires were sent to 662 respondents. Chi-square, $\chi^2$, test for the sample of respondents in Table 3 was calculated using the formula, Chi-square $\chi^2 = \frac{\sum_{i=1}^{N}[F_e - f_0]^2}{F_e}$ regarded as Equation 1 in this thesis. Chi-square for the sample was $\chi^2$=14.8459, degrees of freedom, df= 7, significance (probability of accepting null hypothesis), p (right-tail)= 0.038. It examines whether the observed variables deviate from expected variables.

**Table 2** Criterion-based respondent selection

| Province | Population* | % Of Total Population | Expected respondents ($f_e$) | Respondents who participated ($f_0$) |
|---|---|---|---|---|
| Nairobi | 3,138,369 | 8.13 | 57 | 33 |
| Central | 4,383,743 | 11.35 | 76 | 45 |
| Coast | 3,325,307 | 8.61 | 50 | 34 |
| Eastern | 5,668,123 | 14.68 | 100 | 59 |
| North Eastern | 2,310,757 | 5.98 | 45 | 24 |
| Nyanza | 5,442,711 | 14.10 | 100 | 56 |
| Rift Valley | 10,006,805 | 25.92 | 160 | 104 |
| Western | 4,334,282 | 11.23 | 74 | 45 |
| TOTAL | 38,610,097 | 100 | 662 | 400 |

*\* Source: Kenya Bureau of Statistics 2009 Census Results*

## 1.9.2 Data Analysis

The research was generally analytical and descriptive in nature as it tries to assess the outcome of the reform efforts undertaken; the analysis will be *exploratory* since it attempts to identify factors (independent variables) with high leverage on the dependent variable. The dependent variable is the relative success, and even shortfalls, of police reforms. These variables/indicators were identified both from literature and respondent answers to designed questionnaires[44] and were measured against the objectives of police reforms. Exploratory data analysis (EDA), was

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[44] UN Peacekeeping PDT Standards, Specialized Training Material for Police 1ˢᵗ edition 2009

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embraced in this research because of its ability to detect mistakes, check assumptions in determining the relationships among the variables[45].

Data obtained from Likert-scale rating of indicators by respondents were analyzed using statistical packages for social sciences, IBM SPSS® software version 19. Mean, mode and standard deviations of the respondents' rating of indicators were obtained. Mode was preferred to mean because of concerns indicated in previous literature when using Likert rating. Analysis of z-statistics values showed the significance level for each indicator and a confidence limit of 95% was imposed.

The categories of indicators were correlated by determining Pearson's correlation coefficient between them. For example, the category indicators of political independence and that of õcorruptibilityö correlation test determine the strength and nature relationship between them; whether there is strong/weak, positive/negative effect on the change of either. Pearson's correlation is given by Pearson's correlation coefficient, , in Equation 2.

$$\rho = \frac{Cov(X_i, X_j)}{\sigma_i \sigma_j} \qquad (2)$$

Where $Cov(X_i, X_j)$ is covariance between any two categories of indicators, $\sigma_i$ and $\sigma_j$ are the standard deviations of respective categories of indicators.

Covariance $Cov(X_i, X_j)$ between two categories of indicators i and j is obtained by:

$$Cov(X_i, X_j) = \left[\frac{\sum_{i,j=1}^{N}(X_i - \bar{X}_1)(X_j - \bar{X}_2)}{N-1}\right] \qquad (3)$$

Where $(X_i - \bar{X}_1)$ and $(X_j - \bar{X}_2)$ are the differences between individual indicator rating and mean rating for the indicators in groups 1 and 2 respectively for N ratings (sample size).

Since the indicators were 65, pair-wise covariance analysis of all of them would not be objective. Instead, covariance analysis of groups of indicators was done using structural equation modeling by applying IBM SPSS AMOS® software version 21. SPSS means Statistical Packages for Social Sciences (SPSS). AMOS® software which has also the beauty of testing fitness of the

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[45]   Descriptive Statistics and Exploratory Data Analysis. Available at:
       http://www.gs.washington.edu/academics/courses/akey/56008/index.htm [Accessed on 9th November, 2012]

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mathematical model and gives further insights concerning relationships[46]. AMOS was coined from Analysis of Moments of Structures in structural equation modeling.

Pearson's correlation values are: $-1 \leq m \leq +1$; negative values show that as one factor improves the other decreases; while positive values show that an improvement of one indicator is related to improvement in the other. When Pearson correlation coefficient is more than 0.7 then there is strong correlation[47].

Reliability of the research data was determined by estimating Cronbach's alpha, . Reliability of statistical data occurs when Cronbach's alpha is $\times$ 0.7[48.] Values above 0.8 are attractive. Cronbach's alpha is given by Equation 4.

$$\alpha= \left( \frac{K}{K-1} \right) \left[ \frac{\sum_{i=1}^{N} Var(Xi)}{Var(X)} \right] \qquad (4)$$

Where, K is the number of indicators in a category, $\sum_{i=1}^{N} Var(Xi)$ is the sum of variances of indicator rating in a category and $Var(X)$ is the variance of total test scores in a category.

Convergence of ratings by respondents was an important factor in data. Convergent validity was tested in this research by calculating average variance extracted, AVE[49]. Equation 5 gives the Average Variance Extracted. Acceptable AVE values should be equal to or greater than 0.5[50].

$$AVE = \frac{\sum_{i=1}^{N} \left| \lambda^2 \right| Var(X_i)}{[Var(X)- \sum_{i=1}^{N} Var(\varepsilon_i)]} \qquad (5)$$

where $\hat{U}[\ 2]$ is the sum of the weights/loading factors of indicators xi on reform category X, was obtained from principal component analysis, PCA, using IBM SPSS® software; Var(X) is the variance of indicator ratings in category X while $\hat{U}Var(\ i)$ is the sum of error variances of indicator ratings in category X.

## 1.10  Limitations of the Study

There were obstacles that possibly limited the validity of results of this study to some extent. Limited time and hurdles of data collection ranging from resources to field visits were cumbersome. Questionnaire questions are possible sources of error; so great care in constructing

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[46]  Hu, L. and Bentler, P. M. (1999) Cutoff criteria for Fit Indexes in Covariance Structure Analysis: Conventional Criteria versus New Alternatives, *Structural Equation Modeling*, Vol. 6, p.1-55.

[47]  Huber, P. J.  Robust Statistics, Wiley, N. Y., 2004.

[48]  Zinbarg, R. , Revelle, W., Yovel, I.  and Li,  W. (2005) Cronbachøs , Revelleøs , and McDonalds  : Their relations with each other and two alternative conceptualizations of  reliability, *PSYCHOMETRICA,* Vol. 70,  p. 123ó 133.

[49]  Ping,  R.A. (2005) What is the Average Variance Extracted for a Latent Variable Interaction (or  quadratic) available at http://home.att.net/ ~rpingjr/ave1.doc

[50]  Nunnally,  J.C. õPsychometric Theory,ö McGraw-Hill, New York, 1978

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them is essential if valid information is to be gained from the survey[51].

Some of the interviewees declined to answer questions or were busy or lacked interest hence could give unreliable information. This research addressed this limitation, according to guidelines by Barbara and Robert (1980), õA Practice Guide to Behavioral Researchö, p. 20, using interview techniques like probes and other means of avoiding socially desirable response-statements and other undesirable interviewer/respondent interactions.

Availability of data on police reforms is highly limited especially in Africa[52]. Available police data from the Kenya Police and Administration Police is ad hoc and not systematically collected and cannot be very reliable in appraising the successes and failures of police reforms in Kenya.

## 1.11 Chapter Breakdown

Chapter one introduces the research and gives a background to the problem. In this chapter are presented the statement of the problem, theoretical problem and conceptual framework. Objectives, questions of the research, hypothesis, methodology, and limitations of the Research.

Chapter two briefly gives an account of Police Reform in Kenya in a historical perspective and in the context of legislative framework. Chapter three gives a comparative analysis of Police Reform as undertaken in Africa with a focus to South Africa and United States of America. Key lessons learnt are also enumerated.

Chapter four discusses data and results from the research while chapter five gives a summary, conclusions and recommendations.

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[51]  Barbara Sommer and Robert Sommer  (1980)  A Practical Guide to  Behavioral Research
     Tools and Techniques  4th edition

[52]  Loh, Johannes  (2010) Success factors in police reforms in post-conflict situations Hertie School of Government Working
     Paper No. 57, November, 2010.
     http://www.hertie-school.org/fileadmin/images/Downloads/working_papers/57.pdf

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# Chapter 2

## 2.0 Police Reforms in Kenya

### 2.1 Historical Perspective

In both colonial and post-colonial seasons, the two police forces in Kenya have basically practised regime-based policing. The police were agents/tools of pacification and punishment during the colonial era[53].  After independence, governments under Kenyatta, Moi and even Kibaki continued to use the police to repress citizens; KHRC notes that the police force carried marks of a punitive and citizen containment squad, rather than service oriented force[54]. Substantial police institutional energy was focused on õsustaining the power of the ruling partyö[55].

### 2.2 Police Reform in the Context of Legislative Framework

In 1902 there existed police service which provided some form of security and protection during the building of railway. The laws that were in force were from India, including the Indian Criminal Procedure Code, Indian Evidence Act and Police Ordinance[56]. In 1902, the Kenya Police was legally constituted by Police Ordinance while the Administration Police was constituted by Village Headman Ordinance[57].

In 1946, the Kenya Police Force was placed under the office of the Attorney General while the Administration Police Force (as Tribal Police) was under Tribal Police Ordinance from 1929[58].

The declaration of state of emergency in 1952 saw increased police numbers and a commission was set up in 1953[59] to review organization, administration and expansion of the Kenya Police Force. In 1958, the Kenya Police Force was integrated with the ministry of defense[60] while the repealed Administration Police Act Chapter 85 Laws of Kenya was enacted to convert Tribal Police to Administration Police Force[61].

The two Police Forces that is, the Kenya Police and the Administration Police Forces had been established under the repealed Police Act Chapter 84 and Administration Police Act

[53]  Maende, J. O. (2004), Perception of Community Policing: Interrogating a Process Centre for Minority Rights and Development (CEMIRIDE), Nairobi.

[54]   KHRC (1998) Mission to Repress, Torture, Illegal Detentions and Extrajudicial Killings by the Kenyan Policeö KHRC, Nairobi.

[55]  The Kenya Police Force Strategic Plan (2003-2007).

[56]  The Kenya Police Service Strategic Plan 2003 ó 2007 Draft 2. Available at: http://www.humanrightsinitiative.org/programs/aj/police/ea/articles/draft_strategic_plan_2003-07.pdf [Accessed on 3rd November, 2012]

[57]   History of Administration Police Service. Available at: http://www.administrationpolice.go.ke/history.php [Accessed on

[58]  Ibid

[59]  See reference 56, above.

[60]   See reference 56, p. 7

[61]  See reference 57

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Chapter 85, respectively. Together with other three sister departments in the Ministry, that is the NACADA, the Government Press and the Provincial Administration, the departments were all answerable to one Accounting Officer under the Ministry.

Landmark in the history of the Police Forces is the promulgation of the Constitution of Kenya 2010 in 27th August, 2010 which changed the face of the Police Forces to one National Police Service. Another milestone is the recent enactment of National Police Service Act No. 11A of 2011[62] .

Itøs paramount to note that the Gazette notice for the National Police Service Act was delayed until the civil society threatened to take the government to court.

The National Police Service Commission Act No. 30 of 2011 and the Independent Police Oversight Authority Act, No. 35 of 2011, has also been enacted.

The implementation of the Independent Police Oversight Authority Act, has led to the establishment and the nomination of six persons for parliament approval to National Police Service Commission.

Though there has been delay in the establishment of the National Police Service Commission, the membership has been finalized in October; 2012.The has vowed to take its tasks with urgency it deserves. This has been demonstrated after it advertised the positions for the Inspector General and two respective Deputy Inspectors General for the two services on 15th, October, 2012 barely two weeks after its establishment. This is a good start but itøs hoped the same spirit will sustained.

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[62] National Police Service Act. Available at: http://www.kenyalaw.org/kenyalaw/klr_app/frames.php [Accessed on 6th September,2012]

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# Chapter 3

## 3.0 Comparative Studies

The study was benchmarked with police reform as undertake in other countries like the United States of America and Africa with specific focus on South Africa.

### 3.1 Police Reforms in Africa

Policing in Africa is still inadequately documented and has been shaped by colonial rule that was greatly concerned with protecting interests of the colonial power compared to safeguarding safety and security needs of the people[63]. After colonial rule mostly during the 1960s, development of more personal, impulsive and arbitrary neo-patrimonial rule played a role in shaping the police. Incumbent regimes utilized colonially inherited repressive capacity of the police to defend regime interests[64].

Since many countries in Africa have faced internal civil war, brutality and destruction, the police became perpetrators, targets and casualties. The 2008 violence in Kenya saw role of Kenyan police forces with large scale brutality and extra-judicial killings[65].

Dynamics of police reform in Africa is understood within the context of policing environment, for example in conflict-ridden areas, rural area policing, role of politics in reform process among others. In conflict areas, general policing is always seen as irrelevant or as part of the problem since more of military approaches are adopted. In such cases, new armed units which õact as roving agents of repression and controlö[66] are created to defend the interest of the power of the day.

There are proofs of intimate connection between police and politics in Africa[67]. Police reform is regarded a political endeavor and political interests are fundamental to the reform process. Police reforms envisaged in Africa involve changes in structure, function and legitimacy. Structurally police change from centralized to decentralized form; functionally the police change from emphasizing defense of regime to protection of citizens, and regarding legitimacy the change is from regime-based to people-driven legitimacy[68].

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[63]  Rauch, J. and Elrena van der Spuy (2006) õPolice Reform in Post-conflict Africa: A Review for Democracy in South Africa (IDASA)

[64]  Ibid .

[65]  KHRC (2008) õVictims or Perpetrators: The Role of the Kenya Police Force in Post-election Violenceö

[66]  The Independent Medico Legal Unit (2012) õWheat or Chaff: Vetting the Kenya Police Force to Establish a Serviceö p. 7

[67]  Ibid.

[68]  Ibid.

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## 3.2  Police Reforms in South Africa and the United States of America

It is important to do comparative analysis of police reforms in Kenya with that in the USA and South Africa as benchmarks. The two countries are chosen as pinnacles of police reforms with South Africa giving a realistic African example.

### 3.2.1  Police Reform in South Africa

Police reform in South Africa is understood within the unique political context. Apartheid system had racial status as its main feature and security institutions were organized in a similar way[69]. South African Police and the judiciary were dominated by white officers at the senior level. Apartheid was known for brutality of security forces and widespread violation of human rights. During 1960 ó 1990, about 78,000 people were detained without trial by the police because of political activism against apartheid[70] . Seventy-three executions in detention by police were recorded during that period of formal apartheid.

In recent years, security forces were responsible for high levels of torture, extra-judicial executions and disappearance of pro-democracy activists. The coercion of unpopular racist laws created a deep crisis of legitimacy in the pre-reform criminal justice system in South Africa. In the late 1980s, the state of apartheid was in serious crisis forcing the police, army and bureaucracy to invent strategies, one being National Security Management System (NSMS) to defeat the liberation movements.  The police and military suppressed protests during the State of Emergency declared in 1985 and there were mass arrests, trials, persecution, and murder.

Police reform was shaped by negotiated political settlement after apartheid, which agreed to retain all employees of the apartheid government, police officers included. The settlement also created a Government of National Unity and Truth and Reconciliation Commission which dealt with some police abuses in apartheid.

As negotiations were going on, the police were already involved in framing new arrangements for the management of public order and security of elections under the auspices of

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[69]  M Dippenaar, <u>The history of the SAP: 1913 to 1987</u>, Promedia, Silverton, (1988)

[70]   Reports on the African National Congress, õThe ANC Blamed ATHE IFP for the Death of 12 People in Natalö Press Briefings Wednesday, 9th February, 1994. Available at: www.e-tools.co.za/newsbrief/1994/news0209 [ Accessed on 9th November, 2012]

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the National Peace Accord multi-party experience that gave the police a preview of the style required by democratic government.

The police reform process was given highest priority in the first period of transition and state institutions relevant to effective combat of crime were put in place[71]. Mandela government had a challenge to build trust between state agencies, including the police, and the citizens. The police was given legitimacy of being associated with the new regime and was attached to repression of apartheid. Police-community relationship was to be built to allow the basic functionality of the police institution[72].

The initial steps to police reform in South Africa were shaped by clear strategic decision taken by the government with strong emphasis on accountability and oversight. In the second term of the democratically elected government, after political control and legitimacy has been achieved, the government started to emphasize the role of police in fight against crime. With many unresolved issues in initial stage of police reform, the government gave great importance to several strategic priorities and policies leading to great ideas in paper but inadequate capacity to implement policies in the police institution. Though South African experience of police reform is cited as a model for other African states, the process was laborious and often agonizing for members of the police organization[73].

### 3.2.2 Police Reform in the United States of America

Initial efforts of reform were through establishment of external commissions that outlined reforms and left the burden of implementation to the police. Important changes in policing, in respect to civil rights and constitutional law, were realized through a number of court decisions[74]. Court decisions between 1961 and 1966, especially Mapp versus Ohio[75] and Miranda versus Arizona[76], were highly influential and thus began to set national policing standards[77.] . During the 1970s, special commissions were used to create changes in police and other law enforcement agencies. Permanent external oversight agencies were used to improve police accountability.

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[71] Fivaz, J G *Status report: Transformation of the South African Police Service,* 7 November 1996, p. 5-6.

[72] National Secretariat for Safety and Security, *Guidelines on community policing*, 1996, p. 4.

[73] Shaw, M *Reforming South Africa's criminal justice system, IDP Paper 8* for Defence Policy, Halfway House, August 1996.

[74] Walker, S. The New World of Police Accountability. Thousand Oaks, CA: Sage. 2005.

[75] Mapp v Ohio. Available at: www.oyez.org/cases/1960-1969/1960/1960_236 [Accessed on 3rd October, 2012]

[76] Miranda v Arizona. Available at: http://caselaw.lp.findlaw.com/cgibin/getcase.pl?court=us&vol=384&invol=436 [Accessed on 18th October, 2012]

[77] See reference 74, p. 33

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The agencies focused on individual improvements[78] and left out broader organizational issues that could result to long-term reform initiatives.

Enactment of Violent Crime Control and Law Enforcement Act in 1994 allowed for suits against law enforcement agencies with regard to abuses resulting into many departments signing memorandum of understandings to reform[79]. The United States Department of Justice conducted investigation on abuse patterns in police and brought legal action to force changes. õLess-than-lethalö weapons like chemical sprays were introduced as alternatives to deadly force[80]. Police reform encouraged police officers to try to deescalate situations with verbal warnings and persuasion and consider use of force continuum[81].

## 3.3   Key Lessons from South Africa and USA

The following are clear from the two experiences[82]:

Substantial resistance to police reform efforts is highly expected from economic elite who gained from the old system and institutions which control public security apparatus. Sectors that feel insecure would champion for citizen-oriented policing. There is possibility of politicians taking selfish advantage of the reform process and thus violating the spirit of police reform. The government in place may form parallel police units that undermine development and legitimacy of the reform process.

Participation of previously neglected groups in policing helps to ensure that policing is effectively representative of and responsive to the society. International actors can provide assistance with issues of composition and doctrine, as well as advice.

To achieve effective reforms, there is need to strengthen and equip criminal investigations unit to boost the ability to obtain prosecutions in serious criminal cases and to dismantle organized crime. To help in improving accountability, oversight units e.g. Independent Police Oversight Authority (IPOA) should be enhanced and deployed simultaneously with operational units to deter development of bad habits.

It is necessary to create public education and awareness involving NGOs and the media to ensure understanding and acceptance of new policing models by the public. It should not fail as previous efforts in the form of community policing[83].

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[78]   See reference 74,  p. 37
[79]   United States Department of Justice, Department of Justice Police Misconduct Pattern or Practice Programö
[80]   Op. cit note 74 at 22
[81]   Op. cit note 74 at 22
[82]   The Independent Medico Legal Unit (2012) õWheat or Chaff: Vetting the Kenya Police Force to Establish a Serviceö p. 14
[83]   Marie-Emmanuelle P. and Ruteere M. (2003) New Wine in Old Skins: Community Policing and Public Policy in Kenya,'

# Chapter 4

## 4.0 Appraisal of Police Reform: Data, Results and Discussions

This chapter presents survey data, results and discussions relating to police reform appraisal. Figure 1 shows an increase in public confidence in the police between 2008 and 2009 followed by a decrease between 2009 and 2010. There was an increase of public confidence between 2010 to 2011. Generally, there was about 16% increase of public confidence in police from 2008 (27%) to 2011 (43%). This increase is attributed to reform efforts that were intensified after 2007/2008 post-election violence. Increase between 2010 and 2011 is most possibly linked to the promulgation of the new Constitution on 27th August, 2010[84]. Since most concerns tied to reforms were addressed in the Constitution, 2010, the public believed that the police are now empowered to work professionally.
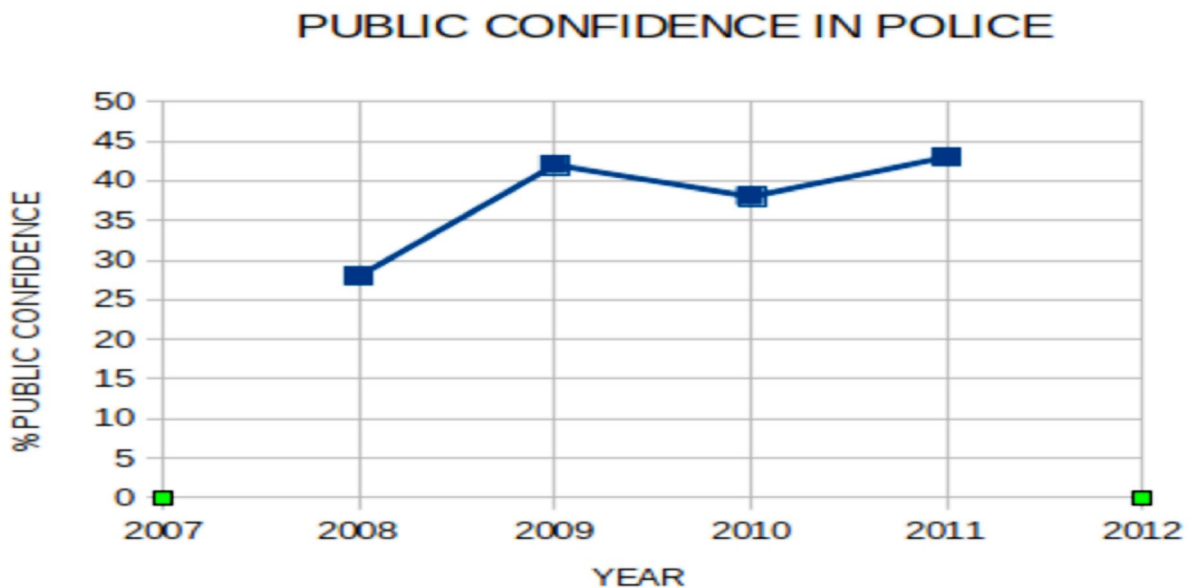


**Figure 1** Public confidence in the police *Source: KNDR Monitoring Project Review Report, May, 2012.*

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African Journal.
[84] Status of Police Reforms: A Progress Monitoring Report - June, 2012.

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RECORDED CRIME PER 1,000 OF POPULATION
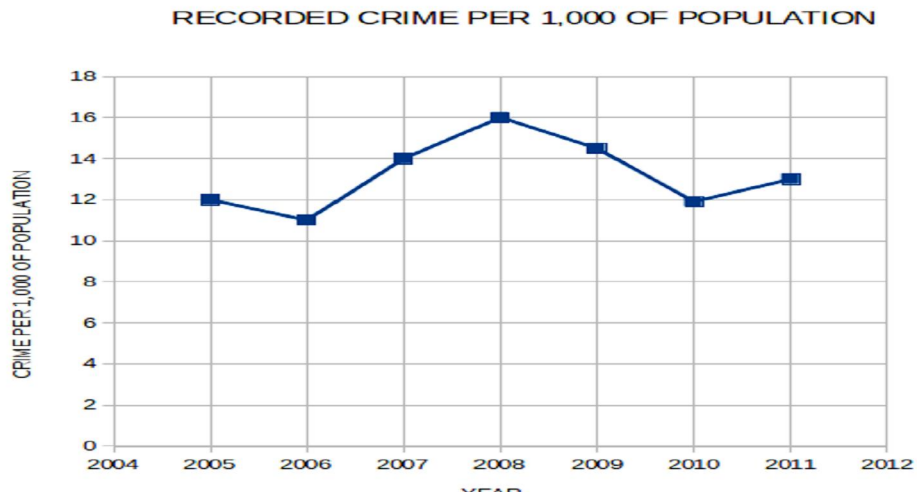


**Figure 2** Recorded crime. Source: *Kenya Police Crime Statistics Survey.*

BORDER CRIMES AND TERRORIST ATTACKS
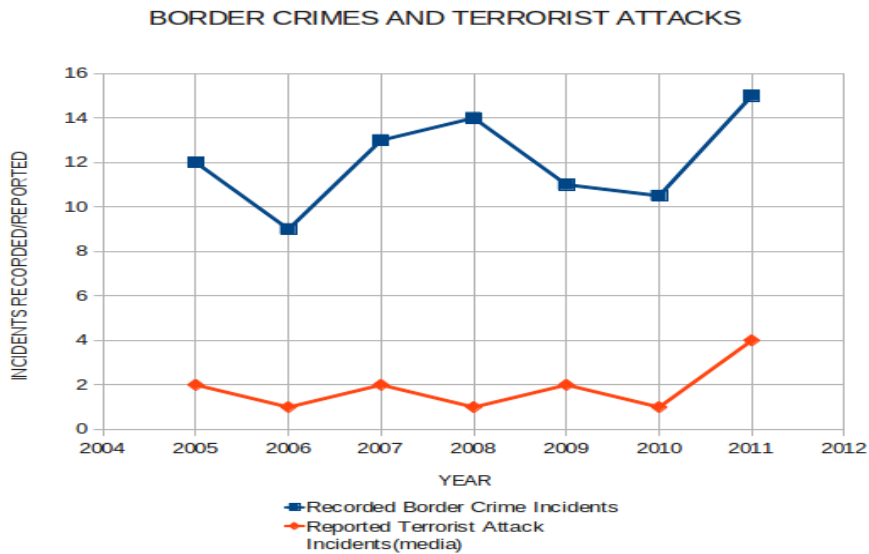


**Figure 3** Border crimes and terrorist attacks. *Source: Status of Police Reforms: A Progress Monitoring Report - June, 2012.*

Between 2006 and 2008, there was increase in number of recorded crimes because of politics that climaxed with the 2007/08 post-election violence. The number of recorded crimes per 1000 of population increased from 11 in 2006 to 16 in 2008 (see Figure 2). Efforts to restore peace through National Accord and police reform efforts led to reduction of recorded crimes after 2008.

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Border crimes and terrorist attacks have also seen a general increase from 9 and 1 reported cases in 2006 to 16 and 4 reported attacks in 2011, respectively (Figure 3). This increase is attributed to the volatile situation in Somalia and security loopholes in Kenya. The sharp rise from 2010 is believed to be fueled by increased military involvement in Somalia by AMISOM troops including KDF. These attacks are pointers to areas of security concerns that the police need to take keen notice of and be well prepared and equipped to handle.

Between 2005 and 2011 there was steady increase in number of police officers as shown in
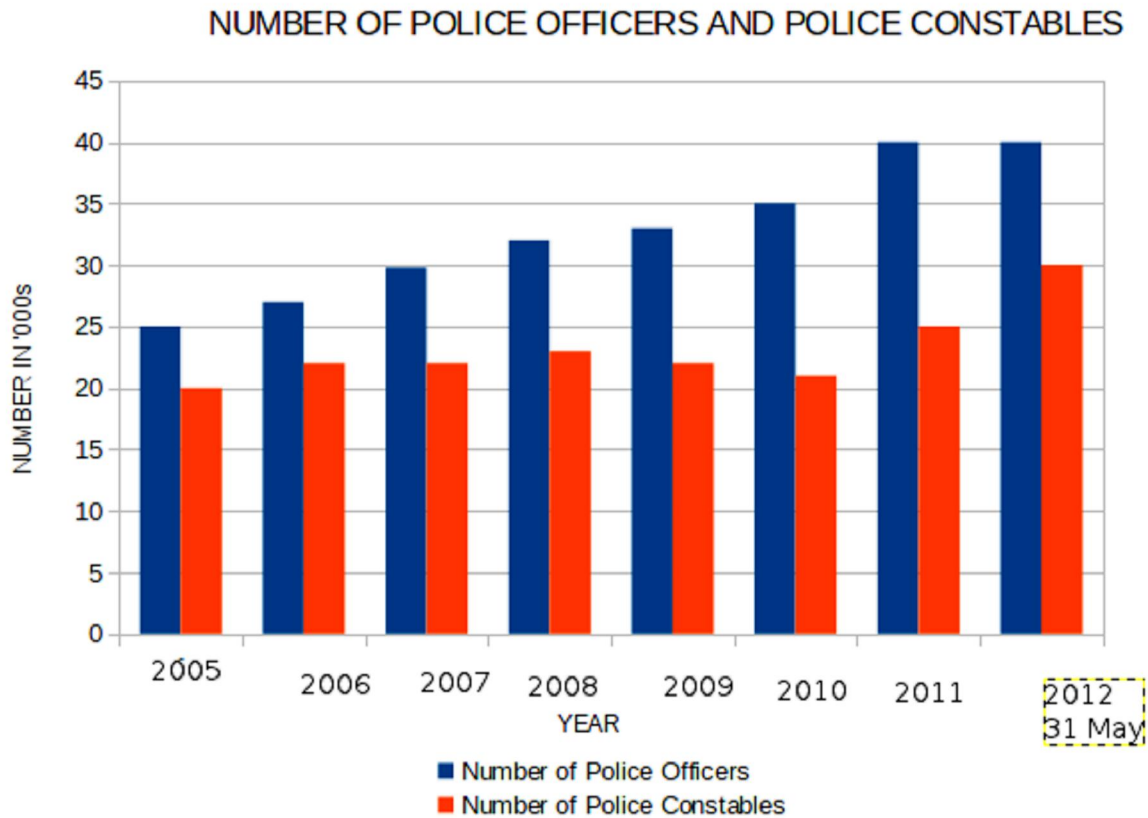


**Figure 4** Number of Police Officers and Constables *Source: Status of Police Reforms: A Progress Monitoring Report- June, 2012*

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Figure 4. It is however noted that the number is still small compared to the UN recommendation of at least one police officer to every 500 of population[85]. Kenya, therefore, requires at least 77,200 police officers for her 38.6 million people. It is noted from Figure 3 that the ratio between total number of police officers to the number of constables increased from 1.25 (25,000 divided by 20,000) in 2005 to 1.67 (35,000 divided by 21,000) in 2010. This increase showed that many officers rose in ranks during the period leaving fewer constables annually to do the basic work of policing. This possibly affected effectiveness of policing and could be another reason for rise in crime incidences.

Reform efforts between 2010 and 2012 saw the reduced promotions in higher ranks and õsince 2008, police have not enlisted fresh officers on three previous occasionsö[86] leading to reduction of ratio of total number of police officers to constables. This is reflected in Figure 3 by reduced ratio from 1.67 in 2010 to 1.33 (40,000 divided by 30,000) in 2011. The total number by May, 2012 remained basically same to that by December, 2011 because there was no recruitment during that period. Last recruitment was done on 27th April, 2011.

**Table 3** Government expenditure on the police

| Year | Government Expenditure on the Police (KShs Billion) |
|------|------------------------------------------------------|
| 2005 | 30 |
| 2006 | 31 |
| 2007 | 34 |
| 2008 | 36 |
| 2009 | 39 |
| 2010 | 41 |
| 2011 | 44 |

*Source: Status of Police Reforms: A Progress Monitoring Report June, 2012.*

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[85] Auditor General- AFROSAI-E Performance Audit Report, available at: http://afrosai-e.org.za/stes/afrosai-e.org.za/Ghana.pdf
[86] Daily Nation, õKenya: Tough New Rules to Guide Police Recruitmentö, 31 March, 2011

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## Table 4. Statistical analysis of the rated indicators

| Category | | Indicator | Mode | Mean | Std Dev | z-statistics | p-value |
|---|---|---|---|---|---|---|---|
| Capacity | 1. | Adequate physical capacity e.g. manpower and equipment | 2 | 2.00 | 0.90 | -0.89 | 0.3735 |
| | 2. | Effective police training in solving all types of relevant crimes and enforcing public order | 2 | 2.00 | 0.68 | -1.18 | 0.2380 |
| | 3. | Presence of strategies to deal with capacity problems | 2 | 1.77 | 0.60 | -9.00 | 0.0001 |
| Authority and Reach | 4. | Ability of the public to enjoy freedom of movement | 3 | 2.40 | 0.92 | 7.83 | 0.0001 |
| | 5. | Presence of political and legal frameworks that allow police to effectively combat the entire spectrum of crimes | 2 | 1.75 | 0.77 | -7.53 | 0.0001 |
| | 6. | Presence of the police in all areas under its control | 1 | 1.52 | 0.73 | -14.25 | 0.0001 |
| Crime | 7. | Documented links between crime statistics and performance goals and measure outcomes | 2 | 1.99 | 0.88 | -1.14 | 0.2543 |
| | 8. | Presence of detailed crime statistics disaggregated by type of crime, region, gender, and ethnicity of victim and aggressor | 2 | 2.01 | 0.66 | -0.91 | 0.3628 |
| | 9. | Positive rates of change during reforms in each crime category | 3 | 2.37 | 0.95 | 6.95 | 0.0001 |
| Coordination | 10. | Increased level of collaboration with judicial and penal sectors on investigations, arrests, and transfers of suspects from courts and prisons | 2 | 2.01 | 1.00 | -0.60 | 0.5485 |
| | 11. | Enhanced cooperation and consultation with the penal sector on detention, interrogation, and imprisonment | 2 | 2.07 | 0.81 | 0.74 | 0.4593 |

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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | 12. | Greater cooperation and consultation with the judicial sector on trials, witness testimonies, and sentencing | 2 | 1.77 | 0.60 | -9.00 | 0.0001 |
| Management, Supervision and monitoring | 13. | Improved supervision of officers | 3 | 2.42 | 0.93 | 8.17 | 0.0001 |
| | 14. | Mission statement, job descriptions, organizational hierarchy chart, handbook of standard operating procedures, and code of conduct have been distributed to, understood, and followed by all officers | 2 | 2.09 | 0.84 | 1.19 | 0.2340 |
| | 15. | Systematic procedures for how to process a criminal investigation, issue licenses, control riots, and other police functions have been adopted. | 2 | 1.77 | 0.60 | -9.00 | 0.0001 |
| | 16. | The police have adopted the use of a realistic and clearly defined strategic plan | 3 | 2.81 | 0.99 | 15.56 | 0.0001 |
| | 17. | The police use a system that monitors the achievement of the strategic plan's objectives at both the national and local level | 2 | 1.94 | 0.58 | -3.45 | 0.0006 |
| | 18. | Use of data collection, such as crime statistics, in strategic planning efforts is adopted by the police | 2 | 1.78 | 0.64 | -8.13 | 0.0001 |
| | 19. | There exists a system that monitors police officers' performance and it is tied to consequences and incentives | 3 | 2.66 | 0.87 | 14.25 | 0.0001 |
| Oversight and Accountability | 20. | There exists an internal oversight mechanism that enforces discipline and investigates complaints of misconduct | 3 | 2.58 | 1.10 | 9.82 | 0.0001 |
| | 21. | There is an effective external mechanism that collects and investigates complaints of police misconduct | 2 | 1.87 | 0.94 | -3.62 | 0.0003 |
| | 22. | Descriptions/statistics of filed complaints and resulting disciplinary measures are taken by | 1 | 1.54 | 0.80 | -12.50 | 0.0001 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | internal and external police oversight mechanisms | | | | | |
| Personnel | 23. | Recruitment process has a set of reasonable and transparent standards for vetting police recruits | 1 | 1.55 | 0.82 | -11.95 | 0.0001 |
| | 24. | There is merit-based promotion system for monitoring and rewarding the performance of individual officers | 1 | 1.35 | 0.82 | -16.83 | 0.0001 |
| | 25. | Low turnover and high retention rates, disaggregated by rank, region, ethnicity, and reasons for leaving the service | 1 | 1.52 | 0.67 | -15.52 | 0.0001 |
| Human Rights | 26. | Police training curricula currently incorporates international human rights norms throughout training in all subject matters | 3 | 2,46 | 1.10 | 7.64 | 0.0001 |
| | 27. | Public perceives police applying the law evenly and appropriately | 1 | 1.84 | 1.12 | -3.57 | 0.0004 |
| | 28. | There is decrease in number of complaints of human rights violations over time | 2 | 1.70 | 0.64 | -10.63 | 0.0001 |
| Police-public cooperation | 29. | Community relations strategy has been developed and implemented | 2 | 2.53 | 1.15 | 8.52 | 0.0001 |
| | 30. | Improved community policing efforts such as joint forums between police and community members | 3 | 2.34 | 1.04 | 5.77 | 0.0001 |
| | 31. | Available descriptions and statistics of public cooperation on police investigations of both low and high-profile crimes | 2 | 2.20 | 1.13 | 2.83 | 0.0047 |
| | 32. | There exists public security guarantees (e.g., witness protection program) for assisting the police with its investigations | 1 | 2.06 | 1.20 | 0.33 | 0.7414 |

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| | | | | | | |
|---|---|---|---|---|---|---|
| Corruptibility | 33. | Public perceives low police corruption and positive changes over time | 1 | 1.52 | 0.73 | -14.25 | 0.0001 |
| | 34. | Police perceives low corruption within the service | 2 | 1.95 | 0.97 | -1.86 | 0.0629 |
| | 35. | Public, police, and government perceives low corruption in other government institutions, especially those close to the police service such as the ministry of internal security | 2 | 2.04 | 0.94 | 0.00 | 1.0000 |
| | 36. | Officers salaries are sufficient to support an average size family | 2 | 2.00 | 0.94 | -0.85 | 0.3953 |
| | 37. | Presence of merit-based promotion system and/or other rewards for good behavior | 2 | 2.36 | 1.07 | 5.98 | 0.0001 |
| | 38. | Presence and use of disciplinary mechanisms to publicly punish corrupt officers | 3 | 2.64 | 1.06 | 11.32 | 0.0001 |
| Public Acceptance | 39. | Positive public perceptions of the police, its role in the community, and the legitimacy of its authority and reach disaggregated by region, ethnicity, and gender | 2 | 2.14 | 0.98 | 2.04 | 0.0414 |
| | 40. | There is increase in crime reporting disaggregated by region, ethnicity, and gender | 1 | 1.62 | 0.87 | -9.66 | 0.0001 |
| | 41. | There is public differentiation between police and other security actors, both formal and informal | 2 | 1.77 | 0.80 | -6.75 | 0.0001 |
| | 42. | Police annual budget is spent responsibly | 2 | 1.85 | 0.76 | -5.00 | 0.0001 |
| | 43. | Presence and use of a budget plan for the current year and future years that is realistically aligned with the goals of the police service's strategic plan | 2 | 2.09 | 0.75 | 1.33 | 0.1835 |

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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Police budget | | | | | | | |
| | 44. | Percentage of national budget and GDP allocated to policing that is adequate for the service to effectively carry out its duties | 1 | 1.55 | 0.89 | -11.01 | 0.0001 |
| | 45. | Low or decreasing percentage of police budget paid by international donors | 2 | 2.12 | 0.81 | 1.98 | 0.0477 |
| | 46. | Acceptable percentages of police budget is used for officer salaries, maintenance, and purchase of equipment, and training | 2 | 2.44 | 0.96 | 8.33 | 0.0001 |
| | 47. | Police budget is flexible and adapts to changing needs of the police and the resources of the national government | 2 | 1.52 | 0.52 | -20.00 | 0.0001 |
| Training and Equipment | 48. | Sufficient length and high quality of trainings for new officers, including on-the-job training | 3 | 2.51 | 0.90 | 10.44 | 0.0001 |
| | 49. | Subject areas of training are relevant to needs of the service | 3 | 2.43 | 0.77 | 10.13 | 0.0001 |
| | 50. | Number, length, and quality of refresher courses offered to current officers | 2 | 2.09 | 1.10 | 0.91 | 0.3628 |
| | 51. | High quality of trainings of trainers | 2 | 1.93 | 0.77 | -2.86 | 0.0042 |
| | 52. | Adequate number of qualified local trainers trained disaggregated by area of expertise | 1 | 1.75 | 1.09 | 5.32 | 0.0001 |
| | 53. | High retention rate of indigenous trainers | 1 | 1.53 | 0.70 | -14.57 | 0.0001 |
| | 54. | High ratio of vehicles purchased to vehicles used. | 2 | 1.86 | 0.71 | -5.07 | 0.0001 |

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|  |  |  |  |  |  |  |
|---|---|---|---|---|---|---|
|  | 55. | Presence of officers specifically trained in vehicle and equipment maintenance and repair | 1 | 1.63 | 0.96 | -8.54 | 0.0001 |
| Political Independence | 56. | Independence of the police clearly defined in the constitution and/or other laws | 4 | 2.86 | 1.25 | 13.12 | 0.0001 |
|  | 57. | Police is able to prosecute politically motivated crime evenhandedly, especially those involving local politicians or their support bases | 1 | 1.80 | 1.06 | -4.53 | 0.0001 |
|  | 58. | The police are able to maintain adequate degree of control over their budget and resources | 2 | 2.07 | 1.04 | 0.58 | 0.5619 |
|  | 59. | Low threat to the continuity of officersø jobs in the event of political changes and upheavals | 2 | 2.29 | 0.95 | 5.26 | 0.0001 |
| Compensation | 60. | Police salary broken down by rank and region compares to those of other professionals (e.g. soldiers, teachers, doctors, private security guards) and to the national median salary | 1 | 1.37 | 0.69 | -19.42 | 0.0001 |
|  | 61. | Police salary is adequate to support an average sized family | 2 | 1.97 | 0.56 | -2.50 | 0.0124 |
|  | 62. | Existence of compensation other than wages (e.g. health care, housing, pensions) | 2 | 1.94 | 0.66 | -3.03 | 0.0024 |
|  | 63. | Low percentage of officers who hold a second job or have other businesses | 3 | 2.70 | 0.78 | 16.92 | 0.0001 |
|  | 64. | Appropriate increases in officersø salaries as they rise in rank | 4 | 2.92 | 1.09 | 16.15 | 0.0001 |

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| | | | | | | |
|---|---|---|---|---|---|---|
| 65. | Salaries are paid in time | 4 | 2.94 | 1.08 | 16.67 | 0.0001 |
| | OVERALL AVERAGE | 2.04 | | | | |

Modal rating for 15 indicators  was 1, meaning most respondents **strongly disagreed** that the indicators of police reform were realized; 36 indicators had modal rating of 2, meaning most expert respondents **disagreed** that the indicators have been realized;  modal rating of 12 indicators  was 3, meaning that the respondents **agreed** that the indicators have been achieved in the reform process, finally, for two indicators: appropriate increase in officers' salaries as they rise in rank and salaries are paid in time the modal rating was 4, meaning the experts **strongly agreed** that the two indicators have been realized.

It is evident from Table 4 that the modal rating for all the indicators was 2. Overall average rating was 2.04, showing that, in general, the respondents **disagreed** that full/overall police reform has been realized. This means that the respondents had the opinion that the expected level of police reform in Kenya has not been reached.

All the indicators had mean rating of <3 (less than 3), meaning that, on average, the respondents had the opinion that all the indicators listed in Table 5 has not yet been fully realized. Thirty-one indicators (47.69% of 65 indicators) have been rated below 2, on average, meaning that, on average, the experts **strongly disagreed** that close to half the indicators have not been realized.

Standard deviations show variability of responses. Standard deviations ranged from 0.52 to 1.25   Values more than 1.00 statistically show very high variability, possibly showing different understanding or background concerning the indicators; therefore less reliable. A total of 31 indicators had standard deviations of ¯0.9 (see Table 4), meaning that the variability of ratings of these indicators was high. This shows that the respondents had **widely varying opinions** concerning the realization of the indicators in the reform process.

Significance level and z-statistics indicate the nature of responses relating to a normally distributed random sample of a population. This indicates that the results can possibly be actually achieved as given in real life. Research of this nature allows for ¯95% confidence limit. This means that probability of accepting null hypothesis is less than 5%. Results of the survey show that for 13 indicators (see Table 4) significance level (p-value) was greater than 0.05 (z<1.96) meaning that the null hypothesis regarding them will be accepted.  The z-statistics values for the

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indicators were not far from zero. For the indicators, the confidence limit within which the researcher could report their realization/achievement was below 95%.

The researcher reports with ¯95% confidence that the rest of the indicators, 52 indicators, realized with mean and modal ratings shown in Table 4.

Table 5 shows covariance between categories indicators. The values were got by structural equation modeling of the indicators and drawing covariance between pairs of indicator categories. Covariance shows level of dependence between any pair of categories. Positive covariance shows that when one category in the pair increases the other also increases, and vice versa.

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### Table 5. Values of Covariance between Indicator Categories

| | Capacity | Authority and Reach | Crime | Coordination | Management and | Oversight and | Personnel | Human Rights | Police-Public Cooperation | Corrupti | Public Acceptance | Police Budget | Training and | Political | Compensation |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Capacity** | Xxx | 0.70 | 0.78 | 0.84 | 0.73 | 0.88 | 0.60 | 0.89 | 0.91 | 0.55 | 0.81 | 0.51 | 0.70 | 0.94 | 0.41 |
| **Authority and Reach** | | Xxxx | 0.70 | 0.77 | 0.78 | 0.79 | 0.59 | 0.89 | 0.91 | 0.78 | 0.73 | 0.52 | 0.68 | 0.96 | 0.35 |
| **Crime** | | | xxxx | 0.57 | 0.71 | 0.88 | 0.57 | 0.87 | 0.90 | 0.53 | 0.79 | 0.51 | 0.69 | 0.94 | 0.32 |
| **Coordination** | | | | xxxx | 0.80 | 0.98 | 0.68 | 0.99 | 1.01 | 0.61 | 0.89 | 0.56 | 0.78 | 1.04 | 0.48 |
| **Management and** | | | | | xxxx | 0.92 | 0.57 | 0.92 | 0.91 | 0.53 | 0.77 | 0.52 | 0.71 | 0.96 | 0.45 |
| **Oversight and Accountability** | | | | | | xxxx | 0.58 | 0.89 | 0.91 | 0.57 | 0.77 | 0.48 | 0.68 | 1.16 | 0.41 |
| **Personnel** | | | | | | | xxxx | 0.59 | 0.63 | 0.58 | 0.55 | 0.33 | 0.49 | 0.65 | 0.19 |
| **Human Rights** | | | | | | | | Xxxx | 0.60 | 0.38 | 0.55 | 0.35 | 0.48 | 1.27 | 0.24 |
| **Police-Public Cooperation** | | | | | | | | | xxxx | 0.71 | 1.02 | 0.76 | 0.88 | 0.68 | 0.43 |
| **Corruptibility** | | | | | | | | | | xxxx | 0.49 | 0.46 | 0.53 | 0.74 | 0.74 |
| **Public Acceptance** | | | | | | | | | | | xxxx | 0.44 | 0.61 | 0.81 | 0.82 |
| **Police Budget** | | | | | | | | | | | | xxxx | 0.50 | 0.91 | 0.28 |
| **Training and Equipment** | | | | | | | | | | | | | xxxx | 0.74 | 0.25 |
| **Political Independence** | | | | | | | | | | | | | | xxxx | 0.47 |
| **Compensation** | | | | | | | | | | | | | | | xxxx |
| **STANDARD DEVIATION** | **0.819** | **0.877** | **0.794** | **0.922** | **0.860** | **1.024** | **0.812** | **1.058** | **1.072** | **0.624** | **0.933** | **0.656** | **0.806** | **1.081** | **0.529** |

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The values of covariance were used to obtain correlation coefficients by dividing each covariance value by product of standard deviations of the categories of police reform indicators in each pair. Results were as shown in Table 6 below.

**Table 6**. Values of Correlation Coefficients between Indicator Categories

| | Capacity | Authority and Reach | Crime | Coordination | Management and Supervision | Oversight and Accountability | Personnel | Human Rights | Police-Public Cooperation | Corruptibility | Public Acceptance | Police Budget | Training and Equipment | Political independence | Compensation |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Capacity** | Xxx | 0.80 | 0.98 | 0.91 | 0.85 | 0.86 | 0.74 | 0.84 | 0.85 | 0.88 | 0.87 | 0.78 | 0.87 | 0.87 | 0.78 |
| **Authority and Reach** | | Xxxx | 0.88 | 0.76 | 0.81 | 0.68 | 0.86 | 0.66 | 0.65 | 0.90 | 0.75 | 0.90 | 0.87 | 0.65 | 0.93 |
| **Crime** | | | xxxx | 0.62 | 0.83 | 0.86 | 0.70 | 0.82 | 0.84 | 0.85 | 0.85 | 0.78 | 0.86 | 0.87 | 0.60 |
| **Coordination** | | | | xxxx | 0.93 | 0.96 | 0.84 | 0.94 | 0.94 | 0.98 | 0.95 | 0.85 | 0.97 | 0.96 | 0.91 |
| **Management and Supervision** | | | | | xxxx | 0.90 | 0.70 | 0.87 | 0.85 | 0.85 | 0.83 | 0.79 | 0.88 | 0.89 | 0.85 |
| **Oversight and Accountability** | | | | | | xxxx | 0.71 | 0.84 | 0.85 | 0.91 | 0.83 | 0.73 | 0.84 | 0.97 | 0.78 |
| **Personnel** | | | | | | | xxxx | 0.59 | 0.63 | 0.58 | 0.55 | 0.33 | 0.49 | 0.65 | 0.19 |
| **Human Rights** | | | | | | | | Xxxx | 0.60 | 0.97 | 0.88 | 0.35 | 0.48 | 0.97 | 0.89 |
| **Police-Public Cooperation** | | | | | | | | | xxxx | 0.89 | 0.89 | 0.60 | 0.97 | 0.88 | 0.60 |
| **Corruptibility** | | | | | | | | | | xxxx | 0.90 | 0.89 | 0.89 | 0.89 | 0.89 |
| **Public Acceptance** | | | | | | | | | | | xxxx | 0.91 | 0.97 | 0.90 | 0.91 |
| **Police Budget** | | | | | | | | | | | | xxxx | 0.89 | 0.89 | 0.48 |
| **Training and Equipment** | | | | | | | | | | | | | xxx | 0.90 | 0.97 |
| **Political Independence** | | | | | | | | | | | | | | xxxx | 0.89 |
| **Compensation** | | | | | | | | | | | | | | | Xxx |

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Values of correlation coefficients in Table 6 show that 15% (16 out of a total of 105 ) of coefficients were less than 0.7, meaning that 85% of the indicator categories of police reforms strongly or very strongly correlate with each other. It is also noted that all the coefficients were positive, meaning that an improvement in one category is relates to an improvement of the other and vice versa.

Correlation coefficients values of 0.4 or less show weak correlation. Table 6 shows that values of correlation coefficient of õpolice budgetö and õhuman rightsö, and õpolice budgetö and õpersonnelö were 0.33 and 0.35 respectively. Therefore, only 1.9% (two out of 105) of coefficients showed weak correlation.

**Table 7.** Reliability and Validity of the Survey Results

| Indicator Category | RELIABILITY TEST | | | VALIDITY TEST | | |
|---|---|---|---|---|---|---|
| | $\dfrac{\sum VarXi}{VarX}$ | $\dfrac{K}{K-1}$ | Cronbach's alpha | $\sum [\lambda]^2 Var(X)$ | $\sum Var(\varepsilon i)$ | AVE |
| Capacity | 0.473 | 1.50 | 0.71 | 0.54 | 0.07 | 0.90 |
| Authority and reach | 0.561 | 1.50 | 0.84 | 0.62 | 0.11 | 0.95 |
| Crime | 0.520 | 1.50 | 0.78 | 0.51 | 0.05 | 0.88 |
| Coordination | 0.607 | 1.50 | 0.91 | 0.69 | 0.06 | 0.87 |
| Management and Supervision | 0.660 | 1.17 | 0.77 | 0.60 | 0.04 | 0.86 |
| Oversight and Accountability | 0.500 | 1.50 | 0.75 | 0.85 | 0.13 | 0.74 |
| Personnel | 0.579 | 1.50 | 0.87 | 0.46 | 0.02 | 0.72 |
| Human Rights | 0.506 | 1.50 | 0.76 | 0.73 | 0.34 | 0.93 |
| Police-Public cooperation | 0.555 | 1.33 | 0.74 | 0.93 | 0.03 | 0.83 |
| Corruptibility | 0.582 | 1.20 | 0.70 | 0.21 | 0.03 | 0.57 |
| Public Acceptance | 0.613 | 1.50 | 0.92 | 0.71 | 0.07 | 0.88 |
| Police Budget | 0.732 | 1.20 | 0.88 | 0.31 | 0.05 | 0.80 |
| Training and Equipment | 0.640 | 1.14 | 0.73 | 0.40 | 0.12 | 0.75 |
| Political Independence | 0.648 | 1.25 | 0.81 | 0.60 | 0.08 | 0.55 |
| Compensation | 0.574 | 1.20 | 0.69 | 0.11 | 0.04 | 0.48 |

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Table 7 shows results of reliability and validity tests calculated using Equations 4 and 5 respectively. The values of reliability were all above 0.7 except for compensation which had a value of 0.69. This indicates that survey results were reliable. Validity estimates using Average Variance Extracted (AVE) gave values that were above 0.5 except for compensation which had AVE of 0.48. These values are proofs of validity. The low values of reliability and validity estimates can also be rounded off to 0.7 and 0.5 respectively for compensation; thus no loss of generality.

One of the pillars of police reform identified in this research is conducive legal environment. In this regard, presence of political and legal frameworks that allow police to effectively combat all spectrums of crimes, item 5 in Table 4, was rated with a mean of 1.75 and mode of 2, meaning that the experts disagreed that there is political and legal framework to facilitate reform. One of the key milestones in this respect is the enactment of the National Police Service Act, the Independent Policing Oversight Authority Act and the National Police Service Commission Act. Though there are legal foundations to support police reform, not much has been done with respect to establishing the requirements of the Acts. Rating by respondents was based on the fact that not much has been done as per the contents of the Acts, and that there was delay in publishing the National Police Service Act after the presidential assent. After that delay, the Act was finally published.

Regulatory and policy framework for the National Police Service Commission is also a key to reform[87]. The commission has not yet taken its full legal responsibility for recruitment, remuneration, performance appraisal, discipline and general conditions of the police service. Table 5 shows ratings of compensation, management and supervision rated 2 and below, meaning that expert respondents had the opinion that the factors have not been fully realized.

Community Policing and Partnership strategies is currently not well developed. The National Police Service has not yet developed a national policy with tactical and strategic operational guidance for police and communities. Curriculum development with regard to community policing is not comprehensive and its development left out key stakeholders in police training and research. There is no proper operational definition of community policing; the approach used is copy-paste where ideas learnt and/or uplifted from other countries are pumped on officers and applied with little regard to the nature of the local communities. Due to this, police-public cooperation and public acceptance of the police have not been good as evidenced by expert rating in Table 4. Police Reform Programme Report 2011-2013 notes on page 13: ðPerception index of the public on police is far too low.ö

Operational preparedness, logistical capacity and capability of the police are still key concerns. Inadequate tools and poor kitting have been cited as major hindrances to proper

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[87] Op.cit note 18 at 12

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performance of the police[88]. Fleet management policy for National Police Service has not yet been developed. Each police service has its own way of managing fleet, the Administration Police Service recently forwarded a document on proposed motor transport standing orders which is soon to be effected. Significant budget and necessary financial support to facilitate agile police logistics and adequate operations capacity as well as training in these relevant areas have not yet been realized. Ratings of indicators of capacity and budget are shown in Table 4 support the argument that a lot more should be done to fully realize this aspect of reform.

Robust performance management system is a requirement to manage proper reform initiatives.

Factors were obtained from responses to the questionnaireø open-end questions are as presented in Appendix II.

## 4.1 Implications of Research Findings

Implications of findings of this research are in four dimensions namely: the National Police Service, the government, the public, other sectors in Criminal Justice System including the judiciary.

## 4.2 Implications to the National Police Service

The results of this research show that a lot need to be done within the National Police Service to champion reform initiatives. This research reveals that lack of adequate capacity and strategies to deal with policing problems are hindrances to ongoing police reform. The police need to build its capacity in line with the on-going reform to speed up the pace of transformation. This capacity building includes logistical capability improvements, modernization of management, adoption of information and management systems, among other key factors.

Level of coordination within the National Police Service and between the police and other sectors in the Criminal Justice System including the judicial and penal sectors is rated low by the expert respondents. This coordination should cover investigations, arrests, transfers of suspects from courts to prison, detention, interrogation and imprisonment. There should be improved cooperation within sectors criminal justice system more particularly sectors on trial, witness testimonies and sentencing.

Management, supervision and monitoring of performance within the National Police Service are inadequate and need improvements. The National Police Service needs to adopt and use realistic and clearly defined strategic plan with feasible objectives in both local and national levels. Collection of statistical data should be encouraged for the sake of strategic planning and the use of information systems should be adopted to foster fast reform. There should be a clear system that monitors police officersø performance and it should be related to results and

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[88] Ibid, p. 12

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incentives.

Results of this research show that there is high level of corruptibility in the National Police Service. Even the police officers themselves perceive high corruption within the service. The results imply that many promotions are not based on merit and rewards are seldom anchored on performance, but mostly on tribalism, nepotism, patronage (technical *know-who*) and loyalty to person and not to service. The police need to address this issue of corruptibility with keen interest to weed out corruption within the police service.

It is noted that police training and equipment is still inadequate. Subject areas of training are still not very relevant to needs of the service. There should be improvement of training of police instructors and more local trainers should be trained and disaggregated by area of expertise. The police should develop ways of retaining indigenous trainers. Special training of officers in use, maintenance and repair of vehicles and equipment is needed to keep and/or improve their serviceability.

The results of this research show that there is lack of reasonable and transparent standards of vetting police recruits. The National Police Service should develop necessary standards of vetting recruits to avoid recruiting wrong people into the service. Other personnel related issues are high turnover and low retention rates. There should be proper mechanisms to retain officers especially graduates in the police service by improving working and living conditions, compensation based on merit and promotions due to relevant qualifications and distinguished service.

## 4.3 Implications to the Government

National Police Service is part of the executive arm of the government. It rests squarely on government funding. This research shows that police budget is inadequate to steer the expected reform it aims to achieve. The government therefore needs to increase budgetary allocations for the National Police Service and ensure that acceptable percentages of police budget are used for officersø salaries, maintenance and purchase of equipment and in training. Police budget should be flexible and adaptive to changing police needs. The percentage of Gross Domestic Product (GDP) allocated to the police should be adequate for the National Police Service to carry out policing duties.

The government should ensure that it respects the independence of the National Police Service described in the Constitution and other laws. The government should let the police and the judiciary to prosecute politically motivated crimes without interference. The National Police Service should be left to maintain adequate degree of control over policing matters including police budget. The government should not threaten continuity of officersø jobs in the event of political changes or upheavals.

The government should appropriately compensate police officers and ensure that the

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salaries of police are comparable to those of other professionals like doctors, soldiers, and in line with national median salary. There should be in place compensation other than salaries and there should be a good increase in officersø salaries as they rise in rank and length of service.

The legislative arm of the government should speed up enactment of necessary legislations to facilitate reforms. Slow pace of enactment of necessary laws has hindered the reform process. Up-to now the Inspector General has not yet been appointed and necessary structures have not been put in place. The government should stop dragging the process and should spearhead reform initiatives.

In Maina Kiaiøs article on Saturday Nation[89] notes: "While true and real transformation will take between five and ten years, there are some things that can be done quickly and in time for the next elections to give us more confidence in the police, much as Willy Mutunga has changed our perceptions on the Judiciaryö.

## 4.4 Implications to the Public

Members of the public are direct customers to policing. This research shows that there cannot be any tangible reforms without the will of stakeholders. Members of the public need to fully support reform efforts by suggesting ways and nature of policing they expect. Through police-public cooperation and initiatives like community policing, the members of the public can boost police reform. This research shows that police-public cooperation is still inadequate and, therefore, needs to be improved.

Expert respondents strongly disagreed that public acceptance of the police has been realized. This means that the members of the public have to accept that they cannot do without the police, and they should therefore accept the police as part of them to foster reform efforts. There should be public differentiation between the police and other security actors. The public should increase crime reporting disaggregated by region, ethnicity and gender.

Community relations strategy should be developed and the resulting initiatives should be implemented by both the National Police Service and the public. More joint forums between the police and the members of the public have to be conducted. Members of the public should cooperate in reporting and investigating crimes. They should be law abiding to avoid conflict between them and the Police, and other law enforcement agencies.

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[89]   Op.cit note 24 at 14

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## 4.5 Implications to Criminal Justice System Sectors

Reform efforts in the police service have implications to the criminal justice sectors such as the judiciary. This research indicates that cooperation and consultation with the criminal justice sector is inadequate. This cooperation should improve and that the criminal justice sectors should not be obstacle to reform efforts. For example, judicial laxity and impunities may ruin reform efforts in the National Police Service.

Rapid criminal justice sector reform is a requisite to effective police reform. Dr. Willy Mutunga notes: õ...judiciary is a critical pillar in the transformation of societiesö [90].

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[90] Mutunga, Willy (2011) The Judiciary Transformation Agenda within the Context of the New Constitutionö, In Kenya Dialogue and Reconciliation, Building a Progressive Kenya, December 2011, KNDR; Nairobi, p. 18

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# Chapter 5

# 5.0 Conclusions and Recommendations

## 5.1 Summary and Conclusions

This research sought to appraise police reform in Kenya by: benchmarking with the United States of America and South Africa; performing analyses based on existing data and information and conducting a survey using expert respondents conversant with policing, police officers themselves and informed members of the public. The research used statistical analyses and mathematical modeling, structural equation modeling, to give insights into the level of police reform in Kenya.

The findings were that the pace of police reform in Kenya is slow and that there is general resistance to police reform by government and within the National Police Service. Respondent survey showed that there was general disagreement that the listed 65 indicators of police reforms (see Table 4) have been realized. Average rating for all the reform indicators was 2.04 showing that, in general, the respondents **disagreed** that full/overall police reform has been realized.

The respondents had varied views about what police reform means, with some having the opinion that it is government programme. This varied view of police reform has far-reaching implications on the reform process. A total of 28% of the interviewed members of the public have not heard of police reforms while 62.5% of the interviewed respondent had negative perception of the police. Respondents identified the following factors as obstacles to police reform: much is being talked of police reforms than done; poor conception of the reform process; lack of financial support to gear reforms; lack of clear policy of vetting and filtering out anti-reformists; poor coordination between the two police services; prevailing poor public perception; political interferences; the fear of change by the police officers and the government in place; delays in establishing the necessary structures for reforms in the police service among others.

It is concluded that police reform process is slow and need to be speeded up. For this to be realized, stakeholders need to watch over the process which is deemed to be a government project. Necessary legal framework should be put into place. This includes enactment of necessary legislations and review of existing laws and policies to conform to the spirit of Reforms.

Infrastructural, logistical and technological structures should be put in place and be disaggregated by county, district, division, location and sub-location levels as foundations for meaningful reform.

Time frame that is reasonable to fully reform police service is internationally agreed to be five years. Since the process of passing necessary legislations and establishing new police units like NPS Act, NPSC Act, IPOA Act took two years, the remaining parts of reforms can be done

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in the remaining three years[91].


## 5.2 Recommendations

The following recommendations are made concerning police reform:-

a. Police reform should be sped up and possibly be fully achieved before the next General Elections in March, 2013.

b. Recommendations by Taskforce on Police Reform (Ransley's Report) should be implemented.

c. The government should lead the speedy reform process of the National Police Service, establishment of standing orders for the National Police Service, appointment of the Inspector General and the Deputy Inspectors General and necessary structures down to county, district, division and location levels.

d. Budgetary allocations for operations, reforms and development of the National Police Service should be increased and responsibly used to boost reform initiatives, police capacity and remuneration.

e. There should be increased support to reform process by all stakeholders including the government, members of the public, and development partners, among others. Greater awareness should be created and the local populations should contribute their opinions on better ways of policing.

f. Stakeholders should stop resisting reform efforts. Efforts should be made to eliminate resistance within the National Police Service and even resistance from outside the police like the influence from politicians.

g. Remuneration should be clearly disaggregated by rank and should be comparable to that of other professionals like doctors, engineers, lawyers, judges, lecturers and to the national median salary.

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[91]    Minister of Internal Security during Kenya National Dialogue and Reconciliation (KNDR ) III Conference in December, 2011

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# Appendices

## Appendix I  Questionnaire Questions

Questionnaire questions were designed with aim to answer research questions stated.  The questions were as follows:


1.   What is your perception on Police in Kenya?(Tick appropriately)

      Positive [  ]             Negative [  ].

2.   What do you think are the impacts of the Provisions of Constitution of Kenya 2010 in relation to Policing in Kenya?

3.   Have you ever heard of Police Reforms?     Yes [   ] No [   ].

4.   If yes what is your understanding of police Reforms

5.   What are your expectations on Police Reforms?

6.   Do you think there will be change on Police work on the Implementation of Police Reform?       Yes [  ]          No   [  ]

7.   Do you think the Police reforms will be realized?     Yes [  ]    No [  ]

8.   What are some of factors which are likely to hinder the realization of Police Reform in Kenya?


9.   Do you think the attitude of member of public on policing may affect Police Reform?

     Yes   [  ]         No  [    ]

10.   Gauge the pace of Police Reform in Kenya. Fast [  ]          Slow [   ]

   If slow, what do you think should be done to hasten the pace?

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11. Do you think the change in government will affect the police reforms initiative.

      Yes [ ]      No [ ]

12. Can there be changes without the will from the affected parties i.e. the police and the public in general?   Yes [ ]      No [ ]

13. What is the effect of resistance to the police reforms effort?

14. Are the ongoing police reforms a reality?

    Yes [ ]      No [ ]

       Give reasons for your answer.

15. To what extent do you agree that the following indicators of police reforms have been realized? (Kindly choose your rating from: 1= very much disagree, 2=disagree, 3=agree, 4=strongly agree, 5=very strongly agree)

Table of Police Reform Indicators

| Category | | Indicator | Your Rating |
|---|---|---|---|
| Capacity | 1. | Adequate physical capacity e.g. manpower and equipment | |
| | 2. | Effective police training in solving all types of relevant crimes and enforcing public order | |
| | 3. | Presence of strategies to deal with capacity problems | |
| | 4. | Ability of the public to enjoy freedom of movement | |
| Authority and Reach | 5. | Presence of political and legal frameworks that allow police to effectively combat the entire spectrum of crimes | |

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|---|---|---|---|
| | 6. | Presence of the police in all areas under its control | |
| Crime | 7. | Documented links between crime statistics and performance goals and measure outcomes | |
| | 8. | Presence of detailed crime statistics disaggregated by type of crime, region, gender, and ethnicity of victim and aggressor | |
| | 9. | Positive rates of change during reforms in each crime category | |
| Coordination | 10. | Increased level of collaboration with judicial and penal sectors on investigations, arrests, and transfers of suspects from courts and prisons | |
| | 11. | Enhanced cooperation and consultation with the penal sector on detention, interrogation, and imprisonment | |
| | 12. | Greater cooperation and consultation with the judicial sector on trials, witness testimonies, and sentencing | |
| Management, Supervision and monitoring | 13. | Improved supervision of officers | |
| | 14. | Mission statement, job descriptions, organizational hierarchy chart, handbook of standard operating procedures, and code of conduct have been distributed to, understood, and followed by all officers | |
| | 15. | Systematic procedures for how to process a criminal investigation, issue tickets, control riots, and other police functions have been adopted. | |
| | 16. | The police have adopted the use of a realistic and clearly defined strategic plan | |
| | 17. | The police use a system that monitors the achievement of the strategic plan's objectives at both the national and local level | |

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|---|---|---|---|
| | 18. | Use of data collection, such as crime statistics, in strategic planning efforts is adopted by the police | |
| | 19. | There exists a system that monitors police officersø performance and it is tied to consequences and incentives | |
| Oversight and Accountability | 20. | There exists an internal oversight mechanism that enforces discipline and investigates complaints of misconduct | |
| | 21. | There is an effective external mechanism that collects and investigates complaints of police misconduct | |
| | 22. | Descriptions/statistics of filed complaints and resulting disciplinary measures are taken by internal and external police oversight mechanisms | |
| Personnel | 23. | Recruitment process has a set of reasonable and transparent standards for vetting police recruits | |
| | 24. | There is merit-based promotion system for monitoring and rewarding the performance of individual officers | |
| | 25. | Low turnover and high retention rates, disaggregated by rank, region, ethnicity, and reasons for leaving the service | |
| Human Rights | 26. | Police training curricula currently incorporates international human rights norms throughout training in all subject matters | |
| | 27. | Public perceives police applying the law evenly and appropriately | |
| | 28. | There is decrease in number of complaints of human rights violations over time | |

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|---|---|---|---|
| Police-public cooperation | 29. | Community relations strategy has been developed and implementation resulting initiatives | |
| | 30. | Improved community policing efforts such as joint forums between police and community members | |
| | 31. | Available descriptions and statistics of public cooperation on police investigations of both low and high-profile crimes | |
| | 32. | There exists public security guarantees (e.g. witness protection program) for assisting the police with its investigations | |
| Corruptibility | 33. | Public perceives low police corruption and positive changes over time | |
| | 34. | Police perceives low corruption within the service | |
| | 35. | Public, police, and government perceives low corruption in other government institutions, especially those close to the police service such as the ministry of internal security | |
| | 36. | Officersø salaries are sufficient to support an average size family | |
| | 37. | Presence of merit-based promotion system and/or other rewards for good behavior | |
| | 38. | Presence and use of disciplinary mechanisms to publicly punish corrupt officers | |
| Public Acceptance | 39. | Positive public perceptions of the police, its role in the community, and the legitimacy of its authority and reach disaggregated by region, ethnicity, and gender | |
| | 40. | There is increase in crime reporting disaggregated by region, | |

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|---|---|---|---|
| | | ethnicity, and gender | |
| | 41. | There is public differentiation between police and other security actors, both formal and informal | |
| Police budget | 42. | Police annual budget is spent responsibly | |
| | 43. | Presence and use of a budget plan for the current year and future years that is realistically aligned with the goals of the police service's strategic plan | |
| | 44. | Percentage of national budget and GDP allocated to policing that is adequate for the service to effectively carry out its duties | |
| | 45. | Low or decreasing percentage of police budget paid by international donors | |
| | 46. | Acceptable percentages of police budget is used for officer salaries, maintenance, and purchase of equipment, and training | |
| | 47. | Police budget is flexible and adapts to changing needs of the police and the resources of the national government | |
| Training and Equipment | 48. | Sufficient length and high quality of trainings for new officers, including on-the-job training | |
| | 49. | Subject areas of training are relevant to needs of the service | |
| | 50. | Number, length, and quality of refresher courses offered to current officers | |
| | 51. | High quality of trainings of trainers | |

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|---|---|---|---|
| | 52. | Adequate number of qualified local trainers trained disaggregated by area of expertise | |
| | 53. | High retention rate of indigenous trainers | |
| | 54. | High ratio of vehicles purchased to vehicles used. | |
| | 55. | Presence of officers specifically trained in vehicle and equipment maintenance and repair | |
| Political Independence | 56. | Independence of the police clearly defined in the constitution and/or other laws | |
| | 57. | Police is able to prosecute politically motivated crime evenhandedly, especially those involving local politicians or their support bases | |
| | 58. | The police are able to maintain adequate degree of control over their budget and resources | |
| | 59. | Low threat to the continuity of officersø jobs in the event of political changes and upheavals | |
| Compensation | 60. | Police salary broken down by rank and region compares to those of other professionals (e.g. soldiers, teachers, doctors, private security guards) and to the national median salary | |
| | 61. | Police salary is adequate to support an average sized family | |

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|---|---|---|
| 62. | Existence of compensation other than wages (e.g. health care, housing, pensions) | |
| 63. | Low percentage of officers who hold a second job  or have other businesses | |
| 64. | Appropriate increases in officersøsalaries as they rise in rank | |
| 65. | Salaries are paid in time | |

Please, feel free to add your comments regarding reforms í  ...................................................................

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## Appendix II Summary of Responses to Questionnaires

**a) Perception of respondents on Police in Kenya**

Positive 37.5%          Negative 62.5%

**b) Response to question "Have you ever heard of police reforms?"**

Yes  72%                No  28%

**c) Respondents' perception of the impacts of the Constitution of Kenya 2010 on Policing**

i.  The Constitution transformed the police from Police Forces to National Police Service under the National Police Service Act which repealed the Kenya Police and Administration Police Acts Chapter 84 and 85 respectively. The National Police Service is to constitute both the Kenya Police and the Administration Police Services among other services that may be established.

ii.  It has created Police Oversight Authority and subsequent Police Oversight Authority Act which was non-existent before August, 2010; a body that ensures oversight of police work and that complaint are competently addressed.

iii.  The National Police Service Commission enabled by the National Police Service Commission Act is to handle matters of policing including management, remuneration among others.

iv.  The Constitution 2010 emphasizes on Human Rights adherence and has made the police be keen in ensuring that Human Rights are not violated.

v.  The police services are now gearing towards service orientation to the citizens.

vi.  These impacts are as per the provisions of Article 243- 247 of the Constitution 2010 and the subsequent legislations.

**d) Respondents' understanding of Police Reform**

i.  An attempt to give the police a human face, make it more customer friendly and ensure that they discharge their mandate in line with a strong legal framework.

ii.  It is about changing the image of police and perception by the public, acquiring modern equipment for police, building houses and improving police welfare.

iii.  Police reform is a way of transforming the image, attitude and understanding of police officers and the police institution.

iv. Police reform implies independence from interference by politicians, alignment of functions as per the constitution; people focused policing.

v. It is a government programme expected to bring about change in service delivery and efficient operations of the police and to change perception of police by the public.

vi. Police reform means that corrections of past mistakes of the police are being made and there is assurance that their conduct conforms to the existing laws.

vii. It is gradual and entails reforming other sectors in the Criminal Justice System like the judiciary and prisons, which jointly and directly deal with police.

viii. Police reform means offering free and fair policing services to members of the public; it is geared towards improvement of the tainted image of the police and improving service delivery

ix. Police reform is making police work better, improve their training and equipment, client relationship, living and working environment.

x. Police reform means improving management, coordination and accountability within the National Police Service.

### e) Issues that have contributed to the state of police today:

i. The colonial culture of high-handedness.

ii. Poor/weak legislation that prevent the police from manipulation.

iii. Poor pay, hence low morale, and hence corruption.

iv. Lack of good-will and law-abidingness from stakeholders including the public.

v. Attitude within the police service and that of the public.

vi. Inadequate training; present training not aimed at transformation.

vii. Ethnic favoritism.

viii. Poor structures within the police service.

ix. Political interference.

x. Inadequate funding.

xi. Resistance to reforms and new management concepts.

xii. Lack of change management and transformation on strategy in the Police Service.

xiii. Poor leadership including intimidation junior police officers by their seniors.

**f) Major factors identified by expert respondents that are likely to hinder the realization of police reform in Kenya.**

i. Resistance to change within the police service.

ii. Lack of will to implement police reform.

iii. Much is being talked of police reforms than being done.

iv. Poor conception of the reform process.

v. Lack of financial support to gear reforms.

vi. Lack of clear policy of vetting and filtering out anti-reformists.

vii. Poor coordination between the two police services.

viii. Prevailing poor public perception.

ix. Political interferences.

x. The fear of change by the police officers and the government in place including the Ministry of Internal of Provincial Administration and Internal Security.

xi. Delays in establishing the necessary structures for reforms in the police services.

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