

INTERNATIONAL JUSTICE MISSION KENYA

Baseline Report:

Justice System Response to Police Accountability

July 2025





Acknowledgements

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The analyses presented and views expressed in this report remain the responsibility of the author and do not necessarily reflect those of International Justice Mission.

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List of Acronyms

CJS	Criminal Justice System
CSO	Civil Society Organization
CTS	Case Tracking System
DCI	Directorate of Criminal Investigations
DPP	Director of Public Prosecution
EA	Enumeration Area
EACC	Ethics and Anti-Corruption Commission
ESRC	Ethics and Scientific Review Committee
FGD	Focus Group Discussion
GDP	Gross Domestic Product
GJLOS	Governance Justice Law and Order Sector
HRD	Human Rights Defender
IAU	Internal Affairs Unit
ICT	Information and communication technology
IG	Inspector General
IJM	International Justice Mission
ILED	Investigations, Law Enforcement and Development
IMLU	Independent Medico-Legal Unit
IOs	Investigating Officers
IPOA	Independent Policing Oversight Authority
KES	Kenya Shillings
KHRC	Kenya Human Rights Commission
KII	Key Informant Interviews
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission on Human Rights
MEL	Monitoring, Evaluation and Learning
MPI	Multidimensional Poverty Index
NCAJ	National Council on Administration of Justice
NGO	Non-Governmental Organization
NPS	National Police Service
NPSC	National Police Service Commission
OB	Occurrence Book
OCS	Officer Commanding Station
ODK	Open Data Kit
ODPP	Officer of the Director of Public Prosecution
PAP	Police Abuse of Power
SPSS	Statistical Package for Social Sciences
VPB	Victim Protection Board
WPA	Witness Protection Authority

Executive Summary

About International Justice Mission

International Justice Mission (IJM) is a global organization which protects vulnerable people from violence around the world. IJM partners with local authorities in 33 offices across 23 countries to combat slavery, violence against women and children, and other forms of abuse against people who are poor. IJM works to rescue and restore victims, hold perpetrators accountable, and help strengthen public justice systems. Established in 2001, IJM's Kenya office focuses on addressing police abuse of power against people who are living in poverty, as well as addressing sexual violence against children. IJM works to ensure accountability and protection of communities across the country through legal support for victims, advocacy for stronger laws, capacity-building for both government and civil society stakeholders and efforts to transform the justice system. IJM has implemented several impactful programs in Kenya, focusing on addressing issues such as child sex trafficking, police abuse of power, and sexual violence against children.

characterised by law enforcement officers who demonstrate considerable impunity engaging in bribery, misconduct, false accusations, unjust imprisonment and fatal violence against citizens, all with minimal apprehension of facing repercussions (IJM, 2019). Cases of PAP or misconduct have been widely documented, with various reports by both state and non-state actors reflecting a high prevalence of PAP in the country.

Study Purpose

This study intends to provide the current status of the monitoring and evaluation indicators for 4 domains of protection namely prevalence, reliance, confidence, and performance. It also explores the current major themes that inform PAP and the workings of the CJS. The quantitative and qualitative findings from this study provide a basis through which the PAP program will be monitored and evaluated over time to demonstrate progress and impact.

Introduction to Police Abuse of Power

The concept of police abuse of power (PAP) or police misconduct is understood in various ways by various actors in the criminal justice system (CJS) and among the public in Kenya. The Independent Policing Oversight Authority (IPOA) Act of 2011 defines it as: "...any action, or failure or refusal to act, which although it may not necessarily constitute a contravention of law, does not meet the requirements or norms of policing contained in any regulation or official document, charter, standing orders or policy providing for standards of discipline, behaviour or ethics, rules of engagement, rules on the use or abuse of power or rules and regulations on the use of equipment, applicable to members of the Service..." (National Council for Law Reporting, 2011). The National Police Service (NPS) Act of 2011 delineates guidelines for the use of force by the police, emphasising the necessity for its proportional and justified application (National Council for Law Reporting, 2012). As such, any acts outside these guidelines would be perceived to constitute abuse of power or misconduct.

In Kenya, the incidence of PAP remains alarmingly widespread and the scale at which police abuse legitimates state power is significant. In 2023, the country was ranked 114 out of 125 in the World Internal Security & Police Index (WISPI) depicting a worrying decline in public trust and effectiveness in law enforcement. The country context is



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Prevalence of Police Abuse of Power

The prevalence domain measures the proportion of vulnerable population who experienced PAP during a specified time in a specified geographical area. The study assessed prevalence of PAP between March 2022 and March 2024. The study utilised multistage cluster stratified random sampling to identify participants engaged through a quantitative household survey, and purposive sampling to identify participants engaged on the qualitative component of prevalence domain through Focus Group Discussions (FGDs). 5700 participants were engaged through a quantitative household survey covering nine counties, and 17 FGDs were conducted across these counties. The findings include:

High prevalence of PAP in the country: The study found a high prevalence of PAP in Kenya. 42.9% (2444 out of 5700) participants had been victimized through PAP during the period. However, when compared with the IPOA endline survey (2019), the results show a decline in prevalence from 46.2% to 42.9%. Additionally, 69.9% (3987 out of 5700) participants had witnessed police misconduct within the same period.

Most prevalent forms of PAP: Forms of police misconduct experienced were classified into low, medium and high severity categories based on the nature and gravity of harm, and the sentencing each

attracts according to Kenyan law.

PAP under medium severity category was the most prevalent at 85.2% (N=2082). Corruption/extortion and harassment were the most reported forms of PAP under this category at 55.8% and 54.7% respectively. The second most prevalent forms of PAP fall in the category of low severity at 31.3% (N=765). The least prevalent forms of PAP fall in the category of high severity at 27.7% (N=677).

Victims of PAP: More males (61.4%, 1501 out of 2444) compared to females (38.5%, 940 out of 2444) reported experiencing police misconduct. More residents of urban areas (75.9%, 1855 out of 2444) experienced PAP than rural residents (24.1%, 589 out of 2444). People who are highly educated (67.7%, 1655 out of 2444) were more likely to experience PAP than those with relatively low level of education. Residents of Kisumu County experienced the highest levels of PAP within all the three levels of severity (low at 20%, medium at 18.2% and high at 21.1%). Respondents aged 25-34 years reported the highest experience of police misconduct across the three levels of severity high=24.4%. Those reported as particularly vulnerable to police victimization include youths, informal workers (matatu touts, hawkers), certain ethnic communities and religions (Muslims and people of Cushitic background), those involved in illicit trade (sex workers) and individuals with eccentric body features like long beards, tattoos and/or long dreadlocks.



John Atelu and Collins Ouma were wrongfully accused of robbery with violence and later acquitted. In 2023, the government awarded each of them KSh 2 million in compensation for the injustice they endured

Vulnerable People's Reliance on the Justice System

The reliance domain measures the degree to which vulnerable people rely/depend on the justice system for protection through i) Willingness to report crime, ii) Willingness to participate in justice proceedings, iii) Crime reporting rate iv) Intermediary crime reporting rate, v) Crime reporting gap, vi) Survivor case participation rate and (vii) Survivor case participation gap. The key findings from both qualitative and quantitative data collection include:

Willingness to report crime: 63.7% (3632 out of 5700) of the participants were willing to report Police misconduct to formal CJS agencies

Willingness to participate in criminal proceedings: 88% (3,203 out of 3,632) of the participants indicated they were willing to participate in criminal proceedings.

Crime reporting gap: 62.6% (1529 out of 2444) of the participants that had recently been violated/victimised by the police had not reported the incidence with any relevant CJS agencies or non-CJS agencies

Crime reporting rate: 52.5% (481 out of 915) of reported PAP cases were directed to the relevant criminal justice institutions which included the IPOA, DCI, IAU and Police.

Intermediary crime reporting ratio: 45.6% (417 out of 915) cases were reported to non-CJS actors such as chiefs and community leaders.

Survivor case participation rate: 75.4% (690 out of 915) of the participants that had experienced PAP indicated that they had fully participated through scheduled justice processes with relevant CJS actors.

Survivor case participation gap: 23.6% (216 out of 915) of survivors did not participate through scheduled justice processes.

Trust deficit in justice institutions: Despite a willingness to engage with the justice system, a significant portion of the population reported that they do not report incidents of police misconduct due to a lack of trust in justice system institutions. This lack of trust was compounded by perceptions of corruption and ineffectiveness within institutions like the National Police Service, among others.

Prohibitive costs of accessing justice services: Financial constraints were a major factor limiting people's ability to report crimes and participate in legal proceedings. High costs associated with legal representation, transport, and court-related expenses, coupled with the lengthy nature of judicial processes, reportedly deterred many people from seeking justice.

Fear of retaliation: Fear of retaliation from police officers remains a strong deterrent to reporting police misconduct, especially for those who are vulnerable or reside in communities where police abuse is prevalent. Many citizens hesitate to report incidents due to concerns that doing so may lead to harassment, intimidation, or even violence by officers accused of misconduct.

Lack of effective witness protection mechanism: The absence of a robust witness protection mechanism further discourages individuals from participating in the criminal justice process, even when they are willing to report misconduct. Without adequate safeguards in place, witnesses and survivors are left exposed to threats, intimidation, or retaliation, both during and after court proceedings.

Perceived institutional inefficiency: The slow and inconsistent responses from oversight bodies like Independent Policing Oversight Authority (IPOA) and Internal Affairs Unit (IAU), and delays in the court system tended to frustrate citizens, leading many to abandon their pursuit of justice. Additionally, frequent staff transfers and poor coordination within institutions reportedly hindered the resolution of cases.

Key Stakeholders' Confidence in the Justice System

The stakeholders' confidence domain measures the confidence of key stakeholders in the effectiveness, efficiency and fairness of the CJS to protect vulnerable people from police abuse of power. Purposive sampling was employed to identify participants for assessing confidence in the CJS. As such, participants were selected based on their experience and expertise around the CJS in Kenya. Through this sampling technique, 49 key participants were interviewed. This included people who are in positions of leadership or influence in state and non-state spheres – those whose voices are likely to have an effect in transforming the CJS for better protection of people from violence. These were the findings:

Effectiveness: There is a severe lack of confidence in the effectiveness of the CJS in the country to address PAP. Overall, only 14.3% (7 out of 49) of key stakeholders reported confidence in the effectiveness of CJS institutions to protect people from PAP.

Efficiency: A majority of key stakeholders held the view that the CJS is grossly inefficient in its efforts to address PAP. On average, 7.8% of stakeholders were confident in the efficiency of the justice system institutions. 2% of the stakeholders indicated confidence in the overall level of efficiency of the NPS and the DCI, and 8.2% were confident in the overall level of efficiency of IPOA and Victim Protection Board (VPB). Stakeholders were more confident in the efficiency of the ODPP (16.3%) and Courts (10.2%).

Fairness: On average, 33.7% of stakeholders were confident in the fairness of the justice system institutions. More than half of stakeholders felt that the Courts 53.1% (26 out of 49) and IPOA 51.0% (25 out of 49) treated everyone equally without discrimination when handling PAP cases. On the other hand, the NPS (including DCI) recorded much less confidence from key stakeholders on the component of fairness (10.2% - NPS and 14.3% - DCI).



David Makara, who sustained injuries in a police shooting incident, was awarded compensation by the court for the harm suffered

Performance of the Justice System

The performance domain measures how well the CJS handles reported PAP cases in terms of case progression and application of desired practices. It assesses the real-life work of CJS staff on reported PAP cases and specifically focuses on three pillars of the CJS: (i) Investigations, Law Enforcement and Development (ILED); (ii) Legal; and (iii) Aftercare services. Through purposive sampling, 43 stakeholders who are knowledgeable about the CJS and those with mandates around criminal justice were engaged in Key Informant Interviews (KIs). Additionally, eight FGDs were conducted on the performance domain, each congregating 10 survivors of PAP. The findings include:

Effectiveness of investigations and quality of evidence: There is an overall view among most CJS stakeholders and the public that investigations on PAP are sub-optimal and the quality of evidence normally adduced before court remains low, adversely affecting determination and outcomes of PAP cases in court.

Timeliness of investigations: The average time taken for investigations of most PAP cases is considerably long, in most cases more than three years. Resource constraints affect the speed at which investigations are completed. Reliance of some investigative institutions, particularly IPOA, on DCI due to lack sufficient investigative officers and specialised forensic expertise limits timeliness of investigations. Whilst mechanisms for coordination exist, cooperation among relevant CJS institutions during investigation of PAP remains poor, undermining the overall effectiveness of investigations.

Witness safety/protection: The country lacks an adequate and effective victim and witness protection mechanism. The Witness Protection Agency remains encumbered by resource constraints that limit its ability to protect. It implements a very high standard and criterion for admissions of witnesses that locks out the majority of PAP witnesses who need their services. The VPB remains underdeveloped and without adequate resource empowerment to provide adequate care to PAP victims.

Case reviews and Decision to Charge:

The processes for review of case files after investigation can be long precipitating undue delays that frustrate timely adjudication of PAP cases. Whilst some actors believe that the Decision to Charge guidelines have strengthened prosecution - increasing sensitivity to public interest and enhancing reliability, credibility, admissibility, sufficiency and strength of rebuttal evidence, there are those who argue that centralisation of the decision to charge at the ODPP has slowed

down reviews and may be prone to abuse curtailing performance on addressing PAP.

Time taken to reach judgement: There are acute delays in adjudication of PAP cases with cases taking longer than three years to conclude. The lengthy period of adjudication in PAP cases is attributed systemic issues including resource constraints, backlogs (related to manpower limitations in the Judiciary, ODPP and IPOA), poor quality of evidence and handling of witnesses, inadequate court infrastructure and adjournments among others.

Convictions: Whilst several PAP cases go through the CJS annually, the rate of conviction of police officers on charges related to PAP remains very low giving the impression that police misconduct goes largely unabated. Tracking progression of PAP cases across CJS institutions to determine rate of convictions remains a challenge because court records do not necessarily document cases as PAP signalling the need for more coordination. Some CJS actors argue that conviction rates may not necessarily be a robust indicator for measuring performance.

Trauma-informed interactions: There are significant gaps with regards to capacity of CJS actors in terms of training to handle victims of PAP in a trauma-informed manner. Victims and witnesses in many PAP cases seldom receive adequate psychosocial support due to lack of adequate capacity.

Performance standardized indicators:

Whereas IJM's Justice System Performance Standardized Indicators were not collected due to the limitations mentioned in section 2.6, a qualitative estimation of the level of Justice System Performance for each of the three pillars was conducted. This estimation, based on the baseline qualitative results and detailed in the Performance SIs results attached in (Annex 8), indicates low performance in the Investigations, Law Enforcement and Development (ILED) and Legal pillars, and very low performance in the Aftercare pillar.



Section One:

Background

Background

1.0. About IJM

International Justice Mission (IJM) is a global organization which protects vulnerable people from violence around the world. IJM partners with local authorities in 33 offices across 23 countries to combat slavery, violence against women and children, and other forms of abuse against people who are poor. IJM works to rescue and restore victims, hold perpetrators accountable, and help strengthen public justice systems. Established in 2001, IJM's Kenya office focuses on addressing police abuse of power (PAP) against people who are living in poverty, as well as addressing sexual violence against children. IJM works to ensure accountability and protection of communities across the country through legal support for victims, advocacy for stronger laws, capacity-building for both government and civil society stakeholders and efforts to transform the justice system. IJM's Protection Model defines protection as an array of benefits that accrue to people in poverty through a transformed justice system. The PAP program, in alignment with the requirement for every justice system strengthening program, will measure the four domains of change – reliance of vulnerable persons on the justice system, confidence of key stakeholders in the justice system, performance of the justice system, and prevalence of crime, briefly defined below:

Prevalence: Prevalence measures the percentage of the target population that were victimised during a specified time in a specified geographical area. It measures the primary intended effect of strengthened justice systems – that fewer people are victimised by perpetrators as justice systems are strengthened (IJM, 2022). The current study assessed prevalence of PAP between March 2022 and March 2024.

Reliance: People's reliance is a measure of vulnerable people's dependence on the justice system to protect them from violence. Reliance implies that vulnerable people find usefulness in the system. It measures an essential link between the CJS and the people it is to protect – people's decision to depend on the CJS to resolve their experiences of violence. The domain allows measurement of knowledge, accessibility, 'customer experience', and perceived value – all of which are critical to increasing people's reliance on the CJS for protection (IJM, 2021).

Stakeholder Confidence: This measures the perception of key stakeholders regarding the CJS to protect people from the targeted

PAP. The domain measures a key factor – Confidence – that provides insight from stakeholders regarding the CJS's ability to offer protection to people (IJM, 2021).

Performance: This domain measures the justice system's demonstrated capacity and will to effectively protect people. Specifically, it measures how the CJS performs in terms of (a) case progression and (b) the application of desired behaviours and attitudes of justice system actors through 45 Performance Standardized Indicators (IJM, 2020).

1.1. Statement of the Problem

1.1.1. Context of Police Abuse of Power Globally

Police are tasked with maintaining law and order. However, police brutality remains a significant issue in many countries, with widespread killings often driven by factors such as inadequate laws, discrimination (including racial biases), insecurity or conflict, and engrained impunity across countries globally (Amnesty International, 2023). A 2023 report by the International Police Service Association highlighted the prevalence of police abuse in regions such as Sub-Saharan Africa, Central America, the Caribbean, and South America.

Statistics on police-related killings across different countries further illustrate these concerns. In Rio de Janeiro, Brazil, police killed 1,810 people in 2019, averaging five deaths per day (BBC, 2020). Between October 2019 and January 2020, police in Iraq killed approximately 600 protesters. Jamaica experienced over 500 fatal police shootings and 300 injuries between 2015 and 2018 (Amnesty International, 2020). Meanwhile, in the United States, statistics show that police kill around 1,000 people annually (Mapping Police Violence, 2024). These statistics underscore global issues regarding police accountability and excessive use of force.

Police brutality increased in Africa, especially during the Coronavirus pandemic (Okeowo & Mainga, 2020). Police forces employed brutal measures against civilians to enforce lock-down restrictions contributing to about 105 human rights violations and 18 extrajudicial killings (Mugabi, 2020). Moreover, occurrence of armed conflict in African countries has further exacerbated incidents of abuse against civilians by security forces (Human Rights Watch, 2023). In this case, civilians perceive security forces as major contributors to a cycle of violence and insecurity, endangering civilian lives (Human Rights Watch, 2023).

1.1.2.Context of Police Abuse of Power in Kenya

The problem of PAP in Kenya dates back to the colonial era. In the colonial period, the Kenyan Police had its identity defined by brutality and excessive use of force in urban settlements especially when the colonial government was fighting Mau Mau insurgents (Kivoi D. , 2020). Both the colonial government and successive post-independence governments used the police as a regime protection apparatus inclined more towards serving elites rather than protecting ordinary citizens (Kivoi D. L., 2020).

The concept of PAP or police misconduct is understood in various ways by various actors in the CJS and among the public in Kenya. The IPOA Act of 2011 provides a definition as: "...any action, or failure or refusal to act, which although it may not necessarily constitute a contravention of law, does not meet the requirements or norms of policing contained in any regulation or official document, charter, standing orders or policy providing for standards of discipline, behaviour or ethics, rules of engagement, rules on the use or abuse of power or rules and regulations on the use of equipment, applicable to members of the Service..." (Republic of Kenya, 2011). The National Police Service (NPS) Act of 2011 delineates guidelines for the use of force by the police, emphasising the necessity for its proportional and justified application (Republic of Kenya). As such, any acts outside these guidelines would be perceived to constitute abuse of power or misconduct.

In Kenya, the incidence of PAP remains widespread. In 2023, the country was ranked 114 out of 125 in the World Internal Security & Police Index depicting a worrying decline in public trust and effectiveness in law enforcement. The country context is characterised by law enforcement officers who demonstrate impunity engaging in bribery, misconduct, false accusations, unjust imprisonment and fatal violence against citizens, all with minimal apprehension of facing repercussions (IJM, 2019). Cases of police abuse of power or misconduct have been widely documented, with various reports by both State and non-state actors reflecting a high prevalence of PAP in the country. The National Taskforce on Police Reforms report (2023) highlighted many cases of abuse of firearms, use of force, arbitrary arrest by officers in the National Police Service (NPS) and in some instances, the failure to protect human life and property during public assemblies.

A 2022 Kenya Human Rights Report underscored credible accounts of security forces committing a litany of abuses, including unlawful killings, forced disappearances, torture, and cruel, inhuman, or degrading treatment, creating a dire situation within the government's purview (Bureau of Democracy,

Human Rights and Labour, 2022). The Internal Affairs Unit's (IAU) Annual Performance Report for 2022 reported 889 complaints registered against the police in several categories of misconduct, and in 2021, a report by Missing Voices Group indicated that there were 219 documented cases of police killings and enforced disappearance (Human Rights Watch, 2022). The 2018-2019 IPOA report, notes that the Authority received 13,618 complaints related to police misconduct since its inception in 2012. The 2019 IPOA endline Survey on policing standards and gaps in Kenya also established that there is an increasing trend in incidents of police misconduct against the public. The report noted a significant increase (from 30.4% in 2013 to 46.2% in 2019) in participants reporting to have been a victim of at least one form of police misconduct (IPOA, 2019).

This scale of PAP reflects the chronic failure of the country's criminal justice system to fulfil its mandates in assuring justice and protecting vulnerable individuals and other citizens. People living in poverty and the vulnerable in Kenya bear the greatest brunt of PAP. For instance, a study conducted by IPOA in 2020, highlighted that instances of PAP predominantly occur in low-income urban settlements areas of major cities such as Nakuru, Nairobi, Mombasa, and Kisumu, and are exacerbated by poor police-community relations (Probert, Kimari, & Ruteere, 2020). Low-income urban settlement areas are characterised by elevated poverty levels, making residents – especially youth – more vulnerable to political incitement and orchestrated violence. Subsequently, they become victims of extreme policing practices with no accountability (Wairuri, Chemlali, & Ruteere, 2018). The findings were also similar to those of an audit conducted by the National Council on Administration of Justice (NCAJ) on the CJS that also exposed a stark disparity in arrests and imprisonments between socio-economic classes, with more poor people being arrested and imprisoned (NCAJ, 2016). Specifically, youth residing in informal settlements emerge as particularly vulnerable to such brutality (Oniang'o, 2022).

The continuum of PAP in terms of forms and types experienced by the public range from inaction to fatal assaults leading to deaths. A study by IPOA found that one in three individuals experiences police malpractice including assault/brutality, falsification of evidence, bribery, and threat of imprisonment with the incidences being higher in rural areas (IPOA, 2013). Available data on the nature of complaints received by IPOA shows that the highest number of complaints received are on police inaction, followed by unethical practices, physical assault and harassment. This is shown in Table 1.

Table 1: Nature of Complaints received by IPOA

Nature of complaint	2019	2021	2022
Corruption/Extortion	87	119	195
Destruction/ Failure to return property	18	29	24
Sexual assault & Rape	34	17	38
Matters of personal nature	57	47	61
Administrative police issues	113	89	99
Police harassment	306	257	297
Police inaction	1,054	869	1,239
Physical assault causing serious injuries	360	262	196
Enforced disappearance	17	28	43
Death in Police custody	35	46	59
Shooting causing injuries	27	35	79
Unlawful arrest and detention/ Threats	154	93	123
Unethical Practices	578	439	443
Threats to life	104	79	123
Non mandate issues (Complaints against police officers involved in matters beyond their official mandate)	58	18	37
Malicious prosecution	37	38	57
Death from police action	128	123	117
Contempt of court order	49	36	31
Detention of exhibits/ Property by police	43	43	34
Refusal to refund cash bail	7	17	16
Unlawful discharge of firearm that does not cause injuries	2	5	6
Use of obscene, abusive, insulting language	1	2	6
Physical assault causing non-serious injuries	-	100	266
Other form of police notifications	1	7	1
Total	3,270	2,798	3,590

Source: Computation from IPOA Performance reports for 2019, 2021 & 2022

1.1.3. Addressing PAP in Kenya (Past and Current Initiatives)

There have been several initiatives aimed at instituting reforms to address police abuse of power, but their effectiveness has been inconsistent.

In 2003, the Kenyan Government initiated a police reform program under the government's Economic Recovery and Wealth Creation Strategy (2003) and the sector-wide Governance Justice Law and Order Sector (GJLOS) program. The goal was to transform the Kenya Police into an effective, efficient, human rights-compliant, people-oriented, and accountable institution (Ministry of State for Planning, 2003). The program noted improved police officers' welfare, including remuneration, terms of service, and housing but had little impact on their performance overall (ICJT, 2010).

Following the 2007/08 post-election violence, the Police Reforms Taskforce (commonly referred to as the Ransley Taskforce) proposed a wide range of recommendations which were adopted in the 2010 Constitution of Kenya under Article 244 (International Peace Institute, 2009). Currently, they mandate the police to uphold the highest standards of professionalism, comply with constitutional human

rights norms and ensure rigorous training to foster competence, integrity, and respect for human rights and dignity (Republic of Kenya, 2010). This initiative also led to the establishment of independent, civilian-led regulatory and law enforcement bodies – the Independent Police Oversight Authority (IPOA), the National Police Service Commission (NPSC), and IAU within the NPS. These entities represent a crucial step toward promoting police accountability, with each possessing robust statutory responsibilities and powers to investigate misconduct, support criminal prosecution, and impose internal discipline (International Peace Institute, 2009). A detailed description of the mandates of the different criminal justice actors is highlighted in Table 2.

Recently, the Maraga Taskforce was set up to identify the legal, policy, administrative, institutional, and operational constraints on effective service delivery by the NPS, the Kenya Prisons Service (KPS) and the National Youth Service (NYS) (the Services), and to review the welfare and the terms and conditions of service for members of the three Services (International Commission of Jurists, 2023). The Taskforce established that the three services are riddled with myriad challenges, including underfunding, endemic corruption, leadership in the three services, and poor handling of human capital management and development.

Table 2: Government CJS Actors

CJS Actor	Description
National Police Service (NPS)	Established under Article 243 of the Constitution of Kenya. One of its objectives is to strive for the highest standards of professionalism and discipline, preventing corruption, promoting and practicing transparency and accountability.
Directorate of Criminal Investigations (DCI)	The mandate of DCI is to investigate all serious criminal cases as guide by the law and buttressed by Article 247 of the Constitution of Kenya, 2010 and the National Police Service Act, 2011
Office of the Director of Public Prosecution (ODPP)	Mandate of the ODPP is derived from Article 157 of the Constitution of Kenya, 2010. Its mandate is to institute and undertake prosecution of Criminal matters and all other aspects incidental thereto
The Judiciary (Courts)	Judiciary is responsible for delivering justice to citizens, handling disputes in a just manner while protecting rights and liberties of all thus facilitating attainment of ideal rule of law. Its mandate is derived from Article 159 of the Constitution of Kenya, 2010.
Independent Policing Oversight Authority (IPOA)	IPOA's mandate indicated in Article 244 of the Constitution of Kenya, 2010 is to provide for civilian oversight over police work in Kenya, ensuring the police act with discipline and professionalism.
Internal Affairs Unit (IAU)	The IAU was established by the National Police Service Act, 2011 to receive and investigate complaints against police officers
Witness Protection Agency (WPA)	Established under the Witness Protection Act, 2006, the agency's mandate is to provide special protection, on behalf of the state to persons bearing important information and potentially face the risk of intimidation/compromise due to their cooperation with law enforcement agencies.
Victim Protection Board (VPB)	The VPB was established by Section 31 of the Victim Protection Act, 2014. The institution's mandate is to provide advice to the Cabinet Secretary responsible for matters relating to justice on activities aimed at protecting victims of crime. The board also implements preventive, protective, and rehabilitating program for victims of crime.

Beyond the efforts by government agencies, several non-state actors have over the years focused their efforts on addressing PAP by either creating awareness, reporting on PAP cases, providing capacity building to criminal justice actors handling PAP, or providing support services to victims among others. A description of these actors is provided in Annex 2.

IJM Kenya has been a prominent civil society actor advocating for and supporting efforts to address PAP. Through its casework, IJM has actively supported the successful prosecution of numerous PAP perpetrators leading to ground-breaking and high profile convictions, and the shaping jurisprudence, policy and legislative frameworks.

IJM Kenya has worked collaboratively with actors in the CJS to identify gaps and challenges within the system that underlie PAP. Through learning from casework, IJM has developed practical interventions focussing on capacity building, trainings, tooling and equipping of CJS actors including the police, prosecutors, IPOA officers, and judicial officers and other non-CJS stakeholders including, Civil Society Organizations (CSOs), the church and community organizations to deliver on their mandates. Prominent examples of IJM-led policy changes include the development of the Decision to Charge (DTC) guidelines that were adopted in 2019 and the DTC mobile phone application (launched in 2022) to provide prosecutors with convenient access to the DTC guidelines and forms directly from their smartphones. DTC and the DTC app have played a crucial role in contributing to the quality of prosecutorial decisions, as discussed further in section 3.4.2.2. IJM also supported the establishment of the Victim Protection Agency which seeks to promote the rights of victims as well as delivery of victim services by supporting public participation process and review of the Victim Protection (Amendment) Bill, 2024.

IJM together with other stakeholders have empowered the Kenya Social Justice Centres (JCs) as a key community-based actor documenting and advocating against police excesses in the marginalized communities and people living in informal settlements. Through these centres, survivors of police abuse have access to immediate legal advice, psychosocial support and are linked to relevant stakeholders and partners where they can access justice.

1.1.4. Outstanding Challenges in Addressing PAP

Despite the establishment of these oversight bodies, the incidence of PAP remains high in the country. Apprehension and reluctance among police officers hampers their willingness to foster the openness and transparency necessary for addressing police brutality issues within the policing system (Mazurova, 2022). Studies have highlighted the ineffectiveness of IPOA, IAU, and NPSC, citing their limited enforcement powers and inadequate political backing (Alai, 2019; Nassiuma, 2021). Additionally, the 'blue code of silence' has been cited as the most pertinent systemic challenge to IPOA as police officers refuse to cooperate in investigations (Fred, 2021). In the exercise of its mandate, IPOA makes recommendations to the NPS, aimed at professionalising the service (Kadida, 2024). However, IPOA faces constant challenges of non-cooperation on the part of NPS and a slow rate of implementation of recommendations (APCOF, 2022).

Inadequate budget allocations are cited variously as a continuing hindrance to the effectiveness of the different CJS institutions in addressing PAP in Kenya (Amnesty International, 2023; UNODC, 2024). Tables 3 and 4 highlight budgetary estimations versus actual allocations from the exchequer to the different CJS actors for both recurrent and development requirements. Insufficient budgetary allocations have hampered the operations and performance of these institutions, including the fulfilment of field-based activities for organisations such as IPOA and NPS. Notably, the NPS does not have an independent budgetary vote in the National Assembly as it receives its funding through the Ministry of Interior and Citizen Affairs. An analysis of available reports indicates that majority of these funds are spent on recurring expenses, like salaries and wages, with minimal investment directed

towards the development budget. As a result, critical development plans and programs, including the construction of new police stations, custody facilities and refurbishment of accommodation facilities, have been scaled back (IMLU, 2020). Such resource constraints have forced policing institutions to deprioritise essential elements of policing, in particular, providing ongoing training for officers, ensuring a supply of adequate fuel for police vehicles, and payment of allowances and other

incentives to police officers. Furthermore, it limits the ability to rehabilitate and improve police custody facilities, provide adequate housing for officers, acquire advanced communication systems and properly equip personnel to deliver policing services that meet legal obligations, including in the context of maintaining public order (IMLU, 2020).

Table 3: Sector Recurrent Requirement vs Allocations (KES billion)

Ministry/ Department	2021/22		2022/23		2023/24	
	Requirement	Allocation	Requirement	Allocation	Requirement	Allocation
State Department for Interior & Citizen Services	132.25	129.64	104.89	104.89	111.00	108.72
The Judiciary	15.97	15.71	19.23	18.93	21.02	20.63
ODPP	3.33	3.32	3.67	3.52	4.11	4.09
WPA	0.49	0.49	0.63	0.63	0.79	0.78
KNCHR	0.4	0.4	0.45	0.45	0.54	0.52
NPSC	0.86	0.81	1.01	0.94	1.18	1.17
IPOA	0.93	0.88	0.93	0.91	1.05	1.04

Source: Office of the Controller of Budgets (Office of the Controller of Budget, 2024)

Table 4: Sector Development Requirement vs Allocations (KES billion)

Ministry/ Department	2021/22		2022/23		2023/24	
	Requirement	Allocation	Requirement	Allocation	Requirement	Allocation
State Department for Interior & Citizen Services	7.27	6.34	3.90	3.70	2.29	1.15
The Judiciary	2.15	1.31	1.90	1.31	1.40	0.93
ODPP	0.15	0.12	0.01	0.01	0.06	0.05
WPA	0.00	0.00	0.00	0.00	0.00	0.00
KNCHR	0.00	0.00	0.00	0.00	0.00	0.00
NPSC	0.00	0.00	0.00	0.00	0.00	0.00
IPOA	0.00	0.00	0.00	0.00	0.00	0.00

Source: Office of the Controller of Budgets (Office of the Controller of Budget, 2024)

1.2. Study Scope

1.2.1. Purpose of the Baseline Study

This study forms part of the protection measurement efforts to effectively monitor progress towards IJM Kenya's target of protecting 35 million vulnerable people from police abuse of power. Protection measurement provides insights into how IJM's Protection Model works and is an accountability mechanism where protection claims are verified through data. The baseline study aims to establish the present level of monitoring and evaluation indicators across four domains: prevalence, reliance, confidence, and performance. Additionally, the study assesses the prevailing themes, under each protection domain, influencing PAP and the operational dynamics of the criminal justice system.

1.2.2. Objectives of the Baseline Study

1. To investigate the prevalence of PAP among the targeted regions in Kenya
2. To establish the extent of people's reliance on the criminal justice system for protection from PAP in Kenya.
3. To determine the stakeholders' confidence levels in the criminal justice system and gather their recommendations for enhancing the system to protect individuals from PAP in Kenya.
4. To assess the level of performance and identify factors influencing the performance of the criminal justice system and provide recommendations for areas needing improvement regarding response to PAP in Kenya.

5. To assess the level of importance and influence of stakeholders in the PAP program environment in Kenya (refer to annexes 1&2).

1.2.3. Study Research Questions

The study sought to generate evidence that answers the following research questions:

1. What is the prevalence of PAP among the targeted vulnerable population in Kenya?
2. To what extent does the vulnerable population rely on the criminal justice system for protection from PAP?
3. How confident are stakeholders in the CJS's ability to protect people from PAP in Kenya?
4. How does the CJS in Kenya perform in responding to PAP?
5. What is the level of importance and influence of stakeholders in the PAP program environment in Kenya?

1.3. Study Setting

The study was conducted across Kenya, with data collected from nine counties sampled from each of the country's eight regions between June and September 2024. From each of the eight administrative regions, a county that had the most representative demographic characteristics was purposively sampled except Rift Valley region which was represented by two counties due to its expansive nature. Households were then assigned in proportion to MPI ratio and population size of each county. Sub-counties were then selected in relation to household sample distribution.

Table 5: Locations targeted by the Study

Region	County	Sub County
Central	Kiambu	Thika, Ruiru, Kabete
Rift Valley	Nakuru	Nakuru Town East, Nakuru Town West,
	Uasin Gishu	Kapseret, Turbo, Ainabkoi
Eastern	Machakos	Machakos Town, Mavoko (Used Athi River Data), Kathiani
Nyanza	Kisumu	Kisumu East, Kisumu West, Muhoroni, Kisumu Central
Western	Kakamega	Kakamega Central, Kakamega East, Kakamega North
Nairobi	Nairobi	Kibra, Embakasi, Mathare
Coast	Mombasa	Kisauni, Likoni, Nyali
North Eastern	Garissa	Garissa Township; Balambala

1.4. Ethical Considerations

Study Authorization: The study obtained ethical approval from Amref Health Africa Ethics and Scientific Review Committee (ESRC) prior to data collection (approval number ESRC P1643/2024), and a scientific research approval from the National Commission for Science, Technology and Innovation (NACOSTI) - NACOSTI/P/24/35143. Additionally, administrative approvals were obtained from County Commissioners within the nine counties engaged in the study.

Informed Consent: The study developed a consent statement in English and Swahili detailing information about the study including the objectives, risks and benefits. Participants could withdraw from the study at any time without repercussions. The study team members conducting KIIs and FGDs read out the consent statement to research participants and recorded their consent before commencing data collection. Study participants were assured of confidentiality and were allowed to ask questions for clarifications before commencement of data collection. The consent process for KIIs, FGDs and the survey were documented through written consent forms or audio where appropriate. In cases where key informants declined to have their sessions recorded, the study team documented the discussions through detailed notetaking. Enumerators provided consent forms to all participants, ensuring they had sufficient time to review the study's purpose and provide informed consent before participating in the household survey. For participants who were uncomfortable signing the consent forms due to the sensitive nature of the study, they were offered the option of appending only their initials. If participants refused to sign altogether, verbal consent was requested and noted by the enumerators in the data collection tool.

Data Security and Privacy: The study team adhered to strict data security policies. The team stored all program documents from IJM and any other relevant documentation in password-protected electronic hard drives and backed up using similar means. The data was only accessible by the study team.

Data Safety: Members of the study team signed a data confidentiality agreement, confirming commitment to ensure that data and information collected would be used solely for the purpose of the study and not be disclosed to any third party. Additionally, the study team endeavoured to ensure that participants remained anonymous by concealing their identity during reporting and redacting personal identifiers from the text quotations. All information/data collected was



*Patrick Kabuchi of
a survivor wrongful
prosecution*

treated confidentially, limiting access to the principal investigator, co-investigators and research analysts.

Safeguarding: Considering that the protection study included consultations with vulnerable groups, PAP survivors, the study relied on the trauma management guidelines outlined in IJM's Safeguarding Policy and upheld the universal principles of safety, trust, transparency and Do No Harm. FGD sessions were conducted in secure locations. The study team also had contact details of IJM staff and other CSOs such as IMLU to facilitate referrals in the event of trauma triggered by the discussions. No instances of trauma triggering experiences were noted during the study.

Participant compensation: The FGD participants were compensated with KES 1000 to cater to their time and transport costs.

1.5. Quality Control Mechanisms

The study team adopted various quality control mechanisms during the phases of preparation for data collection, actual data collection and data management and analysis. The measures taken to ensure quality of the processes within the protection study include:

Review of data collection tools and guides developed: The data collection tools developed by the study team – including the KII and FGD guides, household survey questionnaire and stakeholder confidence questionnaire – were reviewed and validated by the IJM program team. IJM designed technical briefs that guided development of data collection tools.

Training of research assistants engaged in quantitative data collection: Research Assistants (enumerators and supervisors) who administered the quantitative household questionnaire were engaged in a two-day training. The training entailed various elements including induction into the PAP program, discussion of the sampling procedures and discussion of all questions in the household questionnaire. The trainings were conducted for the teams in all the nine counties and were guided by a standardized training manual/ presentation developed by the study team. A pilot test was conducted in each of the counties. The study team held debrief sessions after the pilot tests to discuss the data collection experience and address

issues noted from the exercise. The pilot tests informed decisions such as obtaining local authorisation, reworking skip patterns for certain questions and incorporating Swahili translation into some sections of the household survey.

Training of study team engaged in qualitative data collection: The study team members who were to conduct FGDs and KIIs were engaged in a one-day training. The team was composed of 6 members (4 males and 2 females). The training which was done on 27th May 2024 entailed discussion on questions curated in the KII and FGD guides which centred on the 4 protection domains.

Supervision: The study supervisors were responsible for coordinating the enumerators across the enumeration areas and ensuring data was collected within the required timelines. Supervisors conducted spot checks on the enumerators the survey data collection. They engaged the enumerators daily to address any necessary corrections. One of the co-investigators from the ACEPIS team took on the role of data manager, reviewing the questionnaires submitted by enumerators daily to ensure accuracy and completeness throughout the data collection period. Any anomalies detected, such as insufficient interviews within an enumeration area were communicated to the supervisors who followed up with the responsible enumerators. This supervision ensured ongoing quality and integrity during the data collection process.

Appropriate documentation and storage of data: Most of the data from participants was recorded using electronic data capture mechanisms – audio-recorders running on android devices. For KIIs and FGDs, the study team utilized audio recorders to capture accurate and high-quality audio recordings. The audio recordings were uploaded to a box folder account where they were securely stored, transcribed and analysed. Quantitative data was captured using the Android mobile operating system – Open Data Kit (ODK), allowing for secure submission of the data in real-time to the centralised secure server operated by the study team.

2

David Makara, who sustained injuries in a police shooting incident, was awarded compensation by the court for the harm suffered



Section Two: Methodology

Methodology

2.0. Introduction

This section details the guiding approaches utilized in sampling, collection and analysis of data across the four baseline study domains.

2.1. Prevalence

2.1.1. Study Variables and Themes

The quantitative variable for prevalence is the percentage of the target population who are victimized through PAP. For this study, prevalence was assessed for the period between March 2022 and March 2024. Qualitative themes for the prevalence domain include: Who – the proportion of the population that is victimized by PAP and the characteristics of those victimized; Which – the type/form of police abuse of power experienced; Where – location/point at which the incident of PAP occurred; and When – season or time at which the incident of PAP occurred.

2.1.2. Sampling Approach

Since the primary target of the PAP program includes vulnerable populations, the study targeted the proportion of Kenya's vulnerable population, estimated to be 73.26% (34,845,603) of entire Kenya's population as per Kenya Population and Housing Census Report (2019) (Oxford Poverty and Human Development Initiative, 2023). Using these statistics, the RaoSoft standard formula was utilised to calculate the sample size as shown below:

$$n = \frac{N * \left(\frac{z * s}{e}\right)^2}{N - 1 + \left(\frac{z * s}{e}\right)^2}$$

Where

n = sample size in terms of number of households to be included in the sample

z = is the statistic that defines the level of confidence (1.96 for 95% confidence level)

s = 0.5 for standard deviation

e = 0.013 for the margin of error

N = 34,845,603

Substituting the recommended values:

$$n = \frac{34,845,603 * \left(\frac{1.96 * 0.5}{0.013}\right)^2}{34,845,603 - 1 + \left(\frac{1.96 * 0.5}{0.013}\right)^2} = 5,681.92 \approx 5,700$$

The study was conducted within the nine counties, and adopted multistage cluster stratified random sampling technique. The sample of 5700 households was further distributed across counties and sub counties to the smallest survey strata known as enumeration areas. Upon distributing the sample across the counties and enumeration areas, the study utilized random sampling technique to determine participants to be engaged on the prevalence domain through the quantitative household survey.

The study utilized purposive sampling to determine the qualitative sample to be engaged on the prevalence domain. Participants included citizens who had experienced PAP, and those who had interacted with the police service and other criminal justice system institutions. Human Rights Defenders (HRDs), survivors of PAP, and community members (men, women and youth) were interviewed on the prevalence domain. The composition and size of the qualitative sample for the prevalence domain is illustrated in table 6.

Table 6: Qualitative sample engaged on prevalence disaggregated by county and stakeholder category

County	Achieved
Nairobi	2 (survivors & HRDs)
Kiambu	1 (HRDs)
Uasin Gishu	2 (survivors and community members)
Nakuru	2 (survivors and community members)
Kakamega	2 (survivors and community members)
Kisumu	2 (survivors and community members)
Mombasa	2 (survivors and community members)
Machakos	2 (survivors and community members)
Garissa	2 (survivors and community members)
Total	17

2.1.3. Participants Recruitment

For the quantitative data, the study targeted vulnerable participants aged 18 years and above and residing within the nine sampled counties. To ensure the inclusion of only the vulnerable population in the household survey, a screening process was implemented as part of the eligibility criteria. The screening involved assessing monetary poverty (one of the parameters for measuring Multidimensional Poverty Index (MPI)) by determining the average daily consumption/ expenditure of the household. Only those reporting living below KES 300 per day were engaged through the quantitative household survey.

2.1.4. Study Tools Development

The tools for collection of data along the prevalence domain were structured and informed by the IJM Prevalence Measurement Guidance

(IJM, 2022). This provide examples of questions to be incorporated into the sections of data collection tools having questions on prevalence domain (quantitative household survey and FGD guides). The quantitative household questionnaire and FGD guides were developed by the principal investigator, co-investigators and research analysts.

2.1.5. Preparation for Data Collection

The field team (enumerators in each of the nine counties) that administered the household survey for collection of data along the prevalence domain were taken through a two-day training. The training had different modules including content covering the rationale for the PAP program, sampling approach, screening procedure, survey questions on prevalence, and research ethics such as confidentiality and informed consent. Additionally, the questionnaire was formatted into ODK, and a pilot exercise conducted in all



A police officer patrols the streets in Nairobi

the nine counties targeted by the study. Insights gained from each pilot exercise were used to refine and finalise the household questionnaire for each county.

The study team responsible for collection of qualitative data (ACEPIS staff – principal investigator, co-investigators and research analysts)

underwent a one-day training that focused on expounding on themes of the prevalence domain, interviewing techniques and questions within the FGD guides for community members and HRDs.

2.1.6. Data Processing and Analysis

Data collected using ODK was transmitted to the server and downloaded as an SPSS data file. The data was cleaned and analysed using SPSS 18. The quantitative data analysis followed a structured data analysis plan, which outlined the formulas used to compute indicators within the prevalence domain. These standardized formulas were derived from IJM Prevalence Measurement Guidance. Descriptive analysis highlighted the demographic characteristics of participants in the household survey. Multivariate analysis captured the effect of variables such as age, location, gender, occupation and level of education on experiencing PAP.

Qualitative data was analysed manually on Microsoft Word 2019 by three coders. The analysis was informed by a predefined codebook. Relevant coded excerpts were consolidated, where similar or related information was grouped. From these grouped excerpts, the study team identified the recurring information along variables identified on prevalence domain which were then used to develop study findings. Field notes captured during FGDs were also reviewed and integrated with the grouped excerpts, contributing additional insights to the domain findings.

2.2. Reliance on the Justice System

2.2.1. Variables and Themes

The quantitative variables for the reliance domain include:

- i. **Willingness to report crime** – Percentage of the vulnerable target population who say they would report incidents of crime to relevant criminal justice agencies if they experienced the violation in the future.
- ii. **Willingness to participate in criminal proceedings** – Percentage of the vulnerable target population who say they would participate through the entire criminal proceedings in pursuit of justice against police abuse of power, if the violence happened to them and, if they were provided with necessary support
- iii. **Survivor case participation rate** – Percentage of survivors who fully participate through scheduled justice processes as required either directly or through legal representation
- iv. **Crime reporting rate** – Percentage of incidents of specific crime type reported to relevant CJS agencies during review period
- v. **Intermediary crime reporting ratio** – Percentage of incidents of crime reported to non-CJS agencies during the reporting period
- vi. **Crime reporting gap** – Percentage of crime type that were not reported anywhere during the period under review
- vii. **Survivor case participation gap** – Percentage of survivors who did not participate through scheduled justice processes as required, neither directly nor through legal representation

Qualitative variables for the reliance domain include the degree of engagement with CJS actors and experiences during engagement with the CJS actors.

2.2.2. Sampling Approach

The study utilised Kenya's vulnerable population, estimated to be 73.26% of Kenya's population (34,845,603) and the RaoSoft standard formula to calculate the sample size as shown below;

$$n = \frac{N * \left(\frac{z * s}{e}\right)^2}{N - 1 + \left(\frac{z * s}{e}\right)^2}$$

Where

n = sample size in terms of number of households to be included in the sample

z = is the statistic that defines the level of confidence (1.96 for 95% confidence level)

s = 0.5 for standard deviation

e = 0.013 for the margin of error

N = 34,845,603

$$n = \frac{34,845,603 * \left(\frac{1.96 * 0.5}{0.013}\right)^2}{34,845,603 - 1 + \left(\frac{1.96 * 0.5}{0.013}\right)^2} = 5,681.92 \approx 5,700$$

Thus, a total sample of 5,700 households was drawn to be included in the protection study. The study was conducted within the nine counties, and adopted multistage cluster stratified random sampling technique. This sample was further distributed across counties and sub counties to the smallest survey strata known as enumeration areas. Upon distributing the sample across the counties and enumeration areas, the study utilized probability sampling technique to determine participants to be engaged on the reliance domain through the quantitative household survey.

To determine the qualitative sample, the study utilized purposive sampling. This included selection of participants who had interacted with the police and other criminal justice system actors. Using these criteria, the study engaged HRDs, survivors of PAP, and community members (men, women and youth). The composition and size of the qualitative sample is illustrated in table 7.

Table 7: Qualitative sample engaged on reliance disaggregated by county and stakeholder category

County	Achieved
Nairobi	2 (survivors & HRDs)
Kiambu	1 (HRDs)
Uasin Gishu	2 (survivors and community members)
Nakuru	2 (survivors and community members)
Kakamega	2 (survivors and community members)
Kisumu	2 (survivors and community members)
Mombasa	2 (survivors and community members)
Machakos	2 (survivors and community members)
Garissa	2 (survivors and community members)
Total	17

2.2.3. Participants recruitment

To ensure the inclusion of only the vulnerable population in the household survey, a screening process was implemented as part of the eligibility criteria. The screening involved assessing monetary poverty (one of the parameters for measuring Multidimensional Poverty Index (MPI)) by determining the average daily consumption/ expenditure of the household. Only those reporting living below KES 300 per day were engaged through the quantitative household survey.

2.2.4. Study tools development

The tools for collection of data along the reliance domain were structured and informed by the IJM technical guidance brief on measuring people's reliance (IJM, 2021). The brief outlines the target group to engaged in the domain and provide examples of questions to be incorporated into the data collection tools (quantitative household survey and FGD guides). The quantitative household questionnaire and FGD guides on reliance domain were developed by the principal investigator, co-investigators and research analysts.

2.2.5. Preparation for Data Collection

The field team (enumerators in each of the nine counties) that administered the household survey for collection of data along the reliance domain were taken through a two-day training. The training had different modules including content covering the rationale for the PAP program, sampling approach, screening procedure, survey questions, and research ethics such as confidentiality and informed consent. Additionally, the questionnaire was formatted into ODK, pre-tested in all the nine counties targeted by the study and feedback from pilot exercise incorporated into the final household questionnaire.

The study team responsible for collection of qualitative data (ACEPIS staff – principal investigator, co-investigators and research analysts) underwent a one-day training that focused on expounding on themes/variables within the two domains, interviewing techniques and questions within the FGD guides for community members and HRDs.

2.2.6. Data Processing and Analysis

Data collected using ODK was transmitted to the server and downloaded as an SPSS data file. The data was cleaned and analysed using SPSS owing to the software's ability to handle large datasets, and its utility in descriptive and inferential analysis. Analysis of the quantitative data was guided by the data analysis plan that provided standardized formulae derived from the IJM technical guidance brief on measuring people's reliance. These facilitated the computation of indicators on the reliance domain. Descriptive analysis highlighted the demographic characteristics of participants in the household survey. Multivariate analysis captured the effect of variables such as age, location, gender, occupation and level of education on reporting of PAP and participating in criminal justice system processes.

Audio recordings of FGDs were transcribed and the transcripts were reviewed for accuracy against the audio recordings. Thematic analysis was performed by three coders on qualitative data with manual coding based on the predefined codebook. Relevant coded excerpts were consolidated, where similar or related information was grouped. From these grouped excerpts, the study team identified the recurring information along reliance domain, which was then used to develop study findings. Field notes captured during FGDs were also reviewed and integrated with the grouped excerpts, contributing additional insights to the domain findings.

2.3. Stakeholder Confidence in the Justice System

2.3.1. Variables and Themes

The quantitative indicators for confidence include:

- i. **Stakeholders' Confidence in Overall Justice System Effectiveness** – Percentage of key stakeholders who are confident in the overall effectiveness of the justice system in protecting vulnerable people from PAP and deterring PAP. Areas of assessment includes system coordination, respect for rule of law, public support and effectiveness in PAP deterrence.
- ii. **Stakeholders' Confidence in Justice System Efficiency** – Percentage of stakeholders who are confident in the efficiency of justice system institutions to implement their mandates with regards to addressing PAP. Areas of assessment includes mandate independence, timeliness of service delivery, public access and political support.
- iii. **Stakeholders' Confidence in Justice System Fairness** – Percentage of stakeholders who are confident in the fairness of justice

system institutions to treat people without discrimination. Areas of assessment includes non-discrimination and respect for dignity of persons.

2.3.2. Sampling Approach

The study utilized purposive sampling to determine stakeholders to be engaged on the confidence domain. That is, stakeholder categories with knowledge and mandates around the criminal justice system were identified for engagement. These were to be drawn from the nine counties targeted by the study. The study collected both qualitative and quantitative data on the confidence domain through KIs involving the sampled stakeholders. The number of participants engaged is illustrated in table 8.

Table 8: Number of stakeholders engaged through confidence domain disaggregated by county

County	Achieved
Nairobi	34
Kiambu	0
Nakuru	2
Uasin Gishu	1
Kakamega	0
Kisumu	5
Machakos	0
Mombasa	6
Garissa	1
Total	49

2.3.3. Participant Recruitment

The study targeted “key stakeholders” to assess confidence on the criminal justice systems’ effectiveness, efficiency and fairness in addressing police abuse of power. This included stakeholders who are in positions of leadership or influence, that is, individuals whose voices are likely to have an influence in transforming the CJS. The selection focused on individuals with understanding of the roles and responsibilities of CJS institutions and processes in Kenya. Participants were chosen based on their ability to provide informed insights into the functioning, strengths, and gaps within the justice the justice system. Some participants were

reluctant or unwilling to engage following the Gen Z protests which meant fewer participants than originally planned – see 2.6 for further explanation.

2.3.4. Study Tools Development

The tools for collection of data along the confidence domain were structured and informed by IJM’s Guidance on Global Standardized Indicators for Stakeholders’ Confidence (IJM, 2024). The measurement guidance provides criteria for selecting participants, and sample questions to be incorporated into the stakeholder confidence questionnaire. The stakeholder confidence questionnaire was adapted by the

research team from the tools that IJM already developed earlier.

2.3.5. Preparation for Data Collection

IJM's Stakeholder confidence questionnaire was administered by ACEPIS staff. This team underwent a one-day training that focused on stakeholder confidence domain and the questions on the dimensions of effectiveness, efficiency and fairness. The questionnaire was formatted into ODK.

2.3.6. Data Processing and Analysis

The completed questionnaires were downloaded as an SPSS data file. Descriptive analysis was done to highlight the demographic characteristics of stakeholders engaged through stakeholder confidence questionnaire, as well as to present the distribution of stakeholder perspectives around the various sub dimensions of confidence measurement highlighted in section 2.3.1. Audio recordings of the stakeholder confidence interviews were transcribed and the transcripts reviewed for accuracy against the audio recordings. The transcripts were analysed manually by one coder and informed by a predefined codebook. Qualitative analysis entailed identifying and extracting relevant text excerpts with information on the components of effectiveness, efficiency and fairness of the criminal justice system. Additionally, data captured as notes in the stakeholder confidence questionnaire was examined. These excerpts and data captured as notes from the stakeholder confidence questionnaire were consolidated, where similar or related information was grouped together in MS Word. From these, the study team identified the recurring information around themes on the confidence domain, which were then used to develop study findings.

2.4. Performance

2.4.1. Qualitative Themes

The themes the study sought to assess across the verticals of ILED, Legal and Aftercare include:

- i. **ILED** – Registration and processing of cases/complaints; relief of victims; nature of investigations- collection of evidence and forensic analysis; filing of completed investigations; time to complete investigations; coordination in investigation
- ii. **Legal** – Duration of case reviews; Convictions; overturned convictions in appeal; time taken to reach judgement; coordination in prosecution/ adjudication
- iii. **Aftercare** – Trauma-informed interactions, effectiveness of witness/victim support; Restoration; case management provision

2.4.2. Sampling Approach Qualitative Data Collection

Through purposive sampling, stakeholders who are knowledgeable about the CJS and those with mandates around criminal justice were targeted for KIs. The study planned to engage 45 participants (five from each county) including participants that can provide information along the verticals within the performance domain (ILED, Legal and Aftercare). 43 participants were consulted on the performance domain through KIs. The stakeholder categories were defined as investigations, oversight, prosecution, judiciary and aftercare service providers. In addition, one FGD congregating 10 survivors was conducted in each of the targeted counties except Kiambu County ¹. As such, eight FGDs congregating survivors of PAP were conducted. Tables 9 and 10 highlight the number of stakeholders who participated in the qualitative data collection for the performance domain.



Jacinta Mumbi is a survivor of wrongful accusation of robbery with violence and later acquitted

1. Saturation level had been achieved from the Survivor FGDs already done in 8 other counties and so there was no need for further FGDs.

Table 9: Number and category of stakeholders engaged through KIs on performance domain disaggregated by county

County	Stakeholder category	No. of participants
Nairobi/National	CSOs (5); investigations (3); Oversight (2); Prosecution (2); Aftercare service providers (5) Judiciary (2) ; oversight (2)	19
Kiambu	Prosecution	1
Uasin Gishu	Judiciary (1); Investigation (1); Oversight (1)	3
Nakuru	Investigation (1); Oversight (1); Prosecution (1)	3
Kakamega	Judiciary (1); Investigation (1); Oversight (1)	3
Kisumu	CSO (1); Investigation (1); Oversight (1); Judiciary (1); Prosecution (1)	5
Mombasa	CSO (1); Investigation (3); Oversight (1); Prosecution (1)	6
Machakos	Judiciary (1)	1
Garissa	Investigation (1); Oversight (1)	2
Total		43

Table 10: Number of FGDs conducted on performance domain disaggregated by county

County	FGD per stakeholder category
Nairobi	1 (survivor)
Kiambu	0
Uasin Gishu	1 (survivor)
Nakuru	1 (survivor)
Kakamega	1 (survivor)
Kisumu	1 (survivor)
Mombasa	1 (survivor)
Machakos	1 (survivor)
Garissa	1 (survivor)
Total	8

2.4.3. Quantitative Data Collection - Performance Standardized Indicators

To complement the qualitative data gathered under performance domain using KIs and FGDs, IJM's justice system performance standardized data collection tools were used to routinely collect quantitative data on some of IJM's Standardized Indicators (SIs) to track performance over time. The SIs represent IJM's best thinking for demonstrating measurable changes in justice system-related institutions and supporting actors/environments as IJM and partners work to strengthen the Justice System. The task of collecting SIs data was solely executed by IJM

Kenya staff as per the Global Metrics Working Group guidance. Out of 11 tools designed for tracking the performance domain, the program team used five during the period of the baseline study. The five tools were (1) Casework Tool (2) Training Tracking Tool (3) Trauma-informed Care (TIC) Victim Interview Tool (4) Assessment of Survivor Outcomes (ASO) Tool, and (5) Government data tool. Through these tools, data to inform the study was collected for the period between 2023 and 2024. A summary of the tools and the SIs collected by each tool is provided in Table 11 below.

Table 11: Brief description of Performance SIs tools, SIs collected and frequency of data collection

Data Collection Tool	Description of Tool	Performance Standardized Indicator	Frequency
Casework Tool	Measures casework outputs, focusing on victim relief, legal actions, and perpetrator accountability. It tracks essential casework indicators such as victims relieved, suspects charged, and perpetrators restrained or convicted	IC2-- Total Victims Relieved LC2 --Total Suspects Charged LC4--Total suspects Restrained LC6 --Total Perpetrators Convicted	Ongoing, as close to the event as possible; Quarterly analysis and reporting
Training Tracking Tool	Collects output data of trainings that have been conducted to improve performance of the JS.	OC1 --Total Trained	Ongoing, as trainings occur; Quarterly analysis and reporting
Trauma-Informed Care -Victim Interview Tool	Collects data from survivors about their last interaction with justice system actors in the last three months.	AC4a-- Trauma-informed Interactions (Interviews):	Ongoing, as IJM survivor service providers meet with victims
Assessment of Survivor Outcomes Tool	Measures progress toward restoration and outcomes for survivors who are recovering from various forms of violence and exploitation.	AC1--Total Restored AC2-- Restoration	Ongoing, during case closures
Government Data Tool	Captures justice system performance-related data tracked by government systems including registration of incidents; referred law enforcement cases resulting in legal cases; investigators having a manageable caseload; and properly resourced investigative units.	IC1 -- Registered Incidents IHR6 -- Cases per investigator IHR7-- Investigative Unit Budget LC1 -- Referred Cases Resulting in Legal Cases	Quarterly (January, April, July, and October) for IC1 and IHR6. Semi-annually (January and July) for LC1. Annually (January) for IHR7.

2.4.4.Participant Recruitment

The study targeted participants with knowledge and mandates around criminal justice in Kenya. The study mapped the relevant stakeholder categories that were to be interviewed in each of the domains. Through the help of IJM, the study identified stakeholder within these categories, that is, stakeholders in oversight of police officers, stakeholders in investigations, those in prosecution, actors engaged in adjudication and stakeholders responsible for provision of aftercare services, and citizens who had experienced PAP. IJM availed to the ACEPIS study team contact information of individuals across these stakeholder categories to facilitate scheduling of KIs and FGDs for data collection.

2.4.4.Data Processing and Analysis

The transcripts were analysed manually by the study team, guided by the predefined codebook. The analysis entailed identifying and extracting relevant text excerpts with information along the codes for the performance domain. The codes summarize the various themes along the performance verticals of ILED, Legal and Aftercare. These excerpts and field notes captured during KIs and FGDs were consolidated, where similar or related information was grouped together. From these, the study team identified the recurring information around themes on the performance domain, which were then used to develop study findings.

2.5.Limitations of the Study: All Protection Domains

Challenge in mobilising participants from government - affiliated criminal justice institutions: The timing of the Key Informant Interviews coincided with the so-called “Gen Z protests” of June-July 2024, where youth-led demonstrations, initially against proposed tax increases, were met with a forceful government response, including violent clashes and alleged extrajudicial killings. This created considerable challenges in securing KII participation from government officials, human rights organizations and other key stakeholders whose attentions were diverted to addressing urgent needs arising from the unrest. This led to KIIs taking three months longer than initially expected and would likely have influenced KII responses compared with earlier phases of data collection which took place prior to the Gen Z protests.

Low response rates in the confidence domain:

The target of 100 participants for KIIs used to measure the confidence domain proved challenging due to the busy schedules of key stakeholders, a situation which was exacerbated by the above-mentioned Gen Z protests. Such challenges were mitigated through adoption of an online self-administered tool enabling a response rate of 49 participants. Although this is fewer than originally targeted, it is sufficient to produce meaningful findings, especially as respondents were distributed across all 8 regions and all key CJS agencies.

Limited performance standardized indicator

data: While the findings of the performance domain were intended to be supported by both qualitative and quantitative data, there was limited quantitative data on the standardized indicators. Out of 36 core and highly recommended standardized indicators prioritized by the program, only 10 were reported. Most of the indicators not reported were related to casefile reviews which the program has not undertaken due to legal restrictions on access. This limitation affects the robustness of the findings presented in the performance section.

Limited information on certain themes within the performance domain:

Although the study engaged stakeholders with mandates around the Aftercare vertical of the performance domain, they provided limited insights on specific themes such as restoration and case management. Interviews with CJS stakeholders indicated that some themes within the Aftercare vertical – particularly (i) trauma-informed interactions (ii) restoration and (iii) case management – were new concepts they were working to integrate with partners. Consequently, responses on these themes were sparse, limiting the ability to conduct an elaborate analysis and include more detailed results in this report regarding the performance of the Aftercare pillar.



Results

3.0. Introduction

This section presents the findings of the study with regard to prevalence of PAP, reliance of survivors on the justice system for receiving justice, confidence of stakeholders in the system's ability to deliver timely justice, and performance of the justice system.

3.1. Prevalence of PAP in Kenya

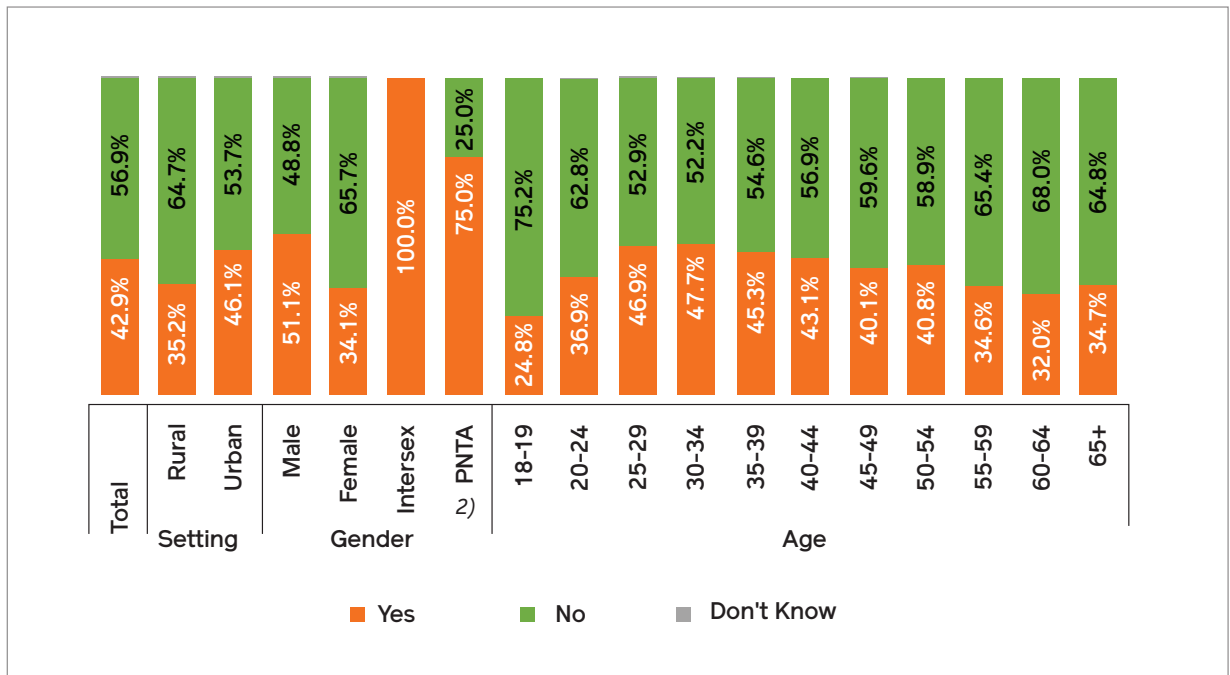
This section reflects on five major issues on PAP prevalence: (i) the extent to which the targeted population experienced police misconduct, (ii) the specific forms or types of police misconduct that were experienced,

(iii) location and time when the misconduct occurred (iv) the frequency of such incidents and (v) the victim characteristics and factors that predispose individuals to police misconduct.

3.1.1. Overall Prevalence of PAP in Kenya

Prevalence Indicator 1: Percentage of the target population who have experienced PAP. The study noted that 42.9% of participants (2444 out of 5700) had been victims of police misconduct between March 2022 and March 2024. Figure 1 highlights some of the demographic details of study participants.

Figure 1: Degree to which the surveyed participants have experienced police misconduct

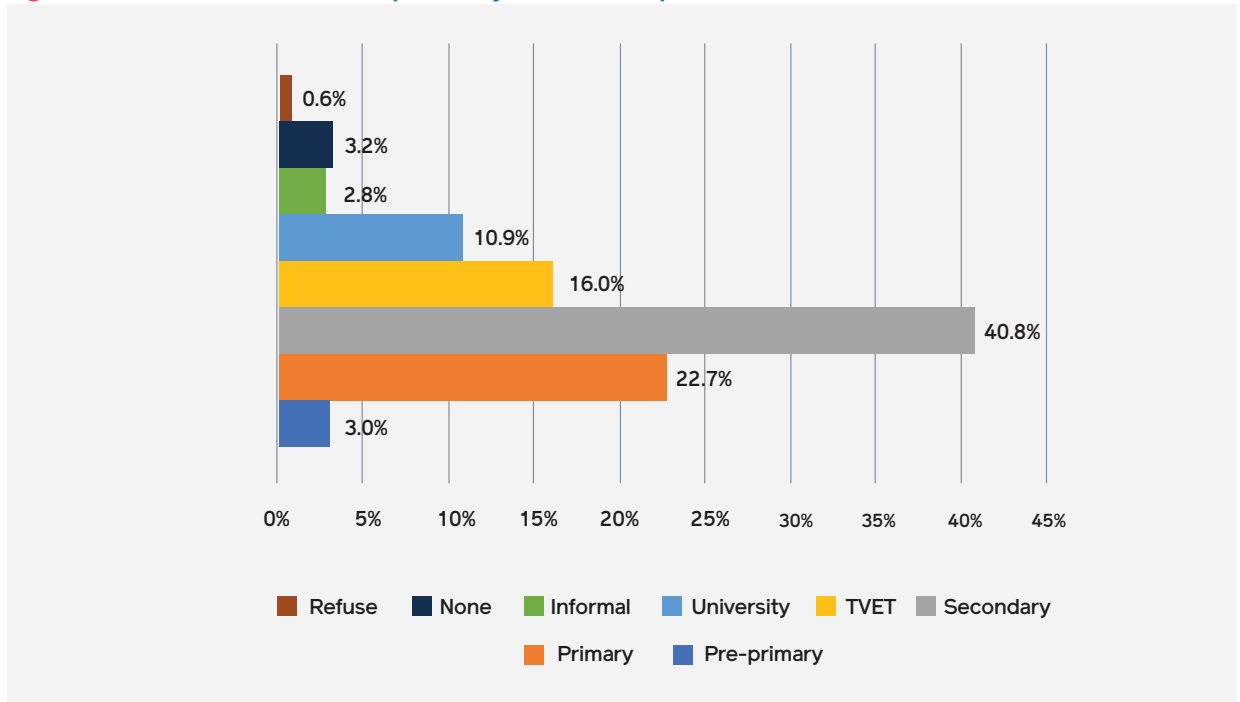


More male participants (61.4%, 1501 out of 2444) compared to females (38.5%, 940 out of 2444) reported experiencing police misconduct during this period. Further, more residents of urban areas (75.9%, 1855 out of 2444) experienced PAP than rural residents (24.1%, 589 out of 2444). A chi-square test³ of independence was conducted to examine the relationship between setting and extent of experiencing PAP. The results indicated a statistically significant association between setting and the extent to which study participants experienced PAP ($p < 0.001$).

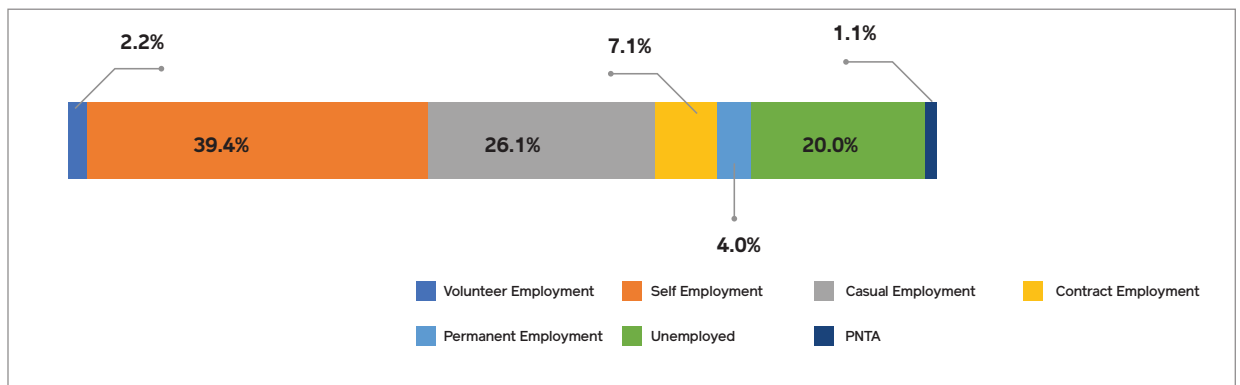
Most of the participants (2444) that indicated having experienced some form of police misconduct are educated, that is, more than half (67.7%) had attained more than secondary level of education. As illustrated on Figure 2, 22.7% had studied up to primary school, 40.8% had studied up to secondary school, 16.0% had completed vocational training and 10.9% had completed university.

2. PNTA – Prefer not to answer

3. Some Chi-Square results in Annex 4 have not been included in the report because they were invalid.

Figure 2: Level of education completed by survivors of police misconduct

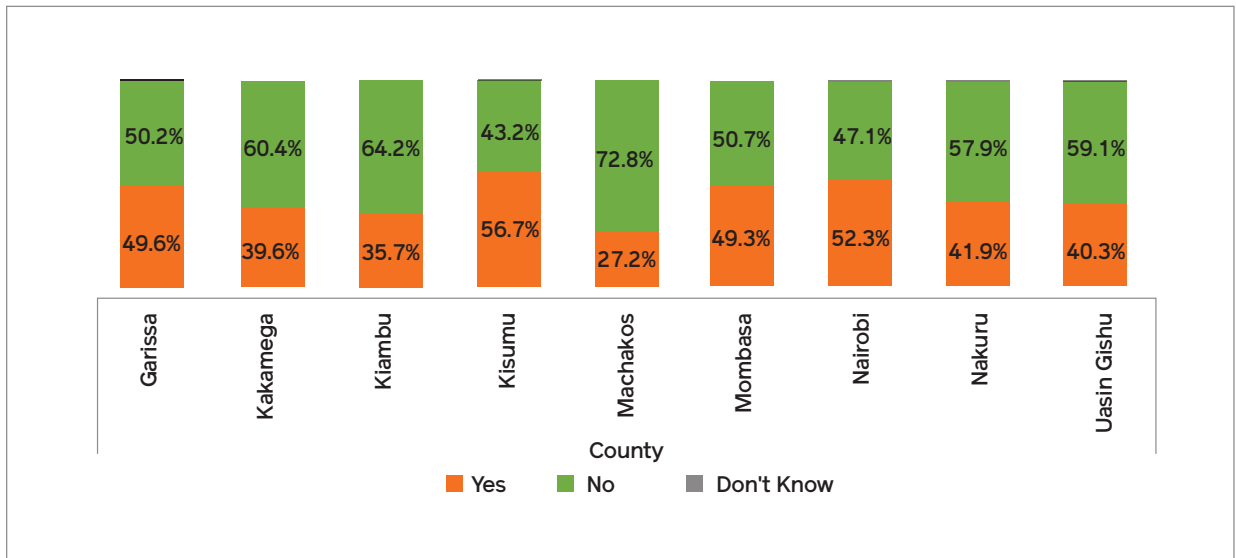
Out of the 2444 participants who indicated to have experienced police misconduct, 39.4% were self-employed, 26.1% in casual employment, 20.0% unemployed. (See Figure 3).

Figure 3: Employment status of survivors of police misconduct

For the 3246 participants who indicated to not have experienced police misconduct, 37.3% were self-employed, 22.6% in casual employment, 28.3% unemployed.

Across the sampled counties, Kisumu County reported the highest number of participants who indicated to have experienced police misconduct while Machakos recorded the lowest. As illustrated on Figure 4, 56.7% (468 out of 825) participants in Kisumu county reported having been victims of

PAP, followed by 52.3% (183 out of 350) in Nairobi (although not significantly different at $p=0.16452$), 49.6% (273 out of 550) in Garissa, 49.3% (308 out of 625) in Mombasa, 41.9% (199 out of 475) in Nakuru, 40.3% (262 out of 650) in Uasin Gishu, 39.6% (297 out of 750) in Kakamega, 35.7% (223 out of 625) in Kiambu and 27.2% (231 out of 850) in Machakos.

Figure 4: Percentage of participants who have experienced PAP disaggregated by county

3.1.2. Forms/Types of Police Misconduct Experienced

Among the participants who indicated to have experienced police misconduct, corruption/extortion (55.8%) and harassment (54.7%) were identified as the most prevalent forms of police misconduct. Other frequently experienced forms of misconduct included police inaction/negligence of duty (15.5%) and wrongful detention (15.1%). Additionally, physical assault causing non-serious injury (13.9%) and the use of obscene or insulting language (12.7%) were significant concerns. There is a raft of other forms of misconduct, outlined in the IPOA definition, that are rarely experienced. These were reported by less than 10% of participants across the nine counties. Table 12 further highlights the forms of police misconduct experienced by surveyed participants:

Table 12: Forms of police misconduct experienced most recently by participants

Type of police misconduct experienced	N	Proportion
Corruption/extortion	1363	55.8%
Harassment	1338	54.7%
Police inaction/negligence of duty	378	15.5%
Wrongful detention (arbitrary arrest, violation of rights of persons)	369	15.1%
Physical assault occasioning non-serious injury	340	13.9%
Use of obscene, abusive, insulting language	311	12.7%
Police unethical practices/ abuse of office	245	10.0%
Threats to life	148	6.1%
Physical assault occasioning serious injury	93	3.8%
Destruction of property by police officers	78	3.2%
Malicious prosecution	75	3.1%
Matters of a personal nature (civil in nature, debts, family disputes)	64	2.6%
Refusal to refund cash bail	63	2.6%
Sexual offences	62	2.5%
Non-mandate issues (complaints against police officers involved in matters beyond their official mandate)	44	1.8%
Detention of exhibits/property by police officers	40	1.6%
Unlawful discharge of a firearm that does not cause injuries	34	1.4%
Shooting causing injuries	30	1.2%

Administrative issues: compliments, transfers, promotions, and dismissals	25	1.0%
Enforced disappearance	23	0.9%
Contempt of court order	20	0.8%

Forms of PAP reported during the study were classified into low, medium and high severity to facilitate report readability, intervention selection, and future project monitoring and analysis. Key factors considered in the classification were as follows:

- the nature and gravity of harm (harm to life, liberty, bodily, integrity, and dignity)
- the associated sentencing under the Penal Code and related laws (e.g. the Firearms Act and Anti-Corruption Act).

The most prevalent forms of police misconduct fall in the category of medium severity at 85.2% (N=2082). Corruption/extortion and harassment were the most reported forms of PAP under this category at 55.8% and 54.7% respectively. The second most prevalent forms of PAP fall in the low severity category at 31.3% (N=765). Police inaction or negligence of duty was reported the most frequently under the low severity category at 15.5%. The least prevalent forms of PAP fall in the high severity category at 27.7% (N=677). Wrongful detention (which included arbitrary arrest or violation of rights of persons) was the most common form of PAP under high severity category reported at 15.1%. More details on the categories of forms of PAP by level of severity is as shown in tables 13 and 14.

Table 13: Forms of police misconduct reported categorized by level of severity

Type of police misconduct experienced	N	Proportion	Level of severity
Police inaction/negligence of duty	378	15.5%	Low
Use of obscene, abusive, insulting language	311	12.7%	Low
Matters of a personal nature (civil in nature, debts, family disputes)	64	2.6%	Low
Non-mandate issues (complaints against police officers involved in matters beyond their official mandate)	44	1.8%	Low
Detention of exhibits/ property by police officers	40	1.6%	Low
Administrative issues: compliments, transfers, promotions, and dismissals	25	1.0%	Low
Refusal to refund cash bail	63	2.6%	Low
Corruption/extortion	1363	55.8%	Medium
Harassment	1338	54.7%	Medium
Physical assault occasioning non-serious injury	340	13.9%	Medium
Police unethical practices/ abuse of office	245	10.0%	Medium
Destruction of property by police officers	78	3.2%	Medium
Contempt of court order	20	0.8%	Medium
Wrongful detention (arbitrary arrest, violation of rights of persons)	369	15.1%	High
Threats to life	148	6.1%	High
Physical assault occasioning serious injury	93	3.8%	High
Malicious prosecution	75	3.1%	High
Sexual offences	62	2.5%	High
Unlawful discharge of a firearm that does not cause injuries	34	1.4%	High
Shooting causing injuries	30	1.2%	High
Enforced disappearance	23	0.9%	High

Table 14: Summarized classification of forms of police misconduct by level of severity

Classification of PAP	N	Proportion
Low Severity	765	31.3%
Medium Severity	2082	85.2%
High Severity	677	27.7%

Kisumu county had the highest experience of PAP within all the three levels of severity (low at 20%, medium at 18.2% and high at 21.1%), and the same was true for Kisumu County when the levels of severity were not considered. Chi-square test of independence results indicated a statistically significant association between levels of severity of PAP experienced and county at $p=0.00$ (low), $p=0.025$ (medium) and $p=0.00$ (high). A similar

analysis for respondents who witnessed PAP showed Kisumu county leading at all the three levels of severity (low at 19.9%, medium at 16.9% and high at 17.8%). Chi-square test results indicated a statistically significant association between levels of severity of PAP witnessed and county at $p=0.00$ (low), $p=0.003$ (medium) and $p=0.00$ (high). Find more details in Table 15 below and Annex 10.

Table 15: Level of severity of PAP experienced disaggregated by county

Level of Severity		County									
		Garissa	Kakamega	Kiambu	Kisumu	Machakos	Mombasa	Nairobi	Nakuru	Uasin Gishu	Total
Low	N	76	71	40	153	92	86	74	73	100	765
	Proportion	9.9%	9.3%	5.2%	20.0%	12.0%	11.2%	9.7%	9.5%	13.1%	100.0%
Medium	N	233	267	186	379	193	270	157	165	232	2082
	Proportion	11.2%	12.8%	8.9%	18.2%	9.3%	13.0%	7.5%	7.9%	11.1%	100.0%
High	N	58	77	90	143	76	52	65	52	64	677
	Proportion	8.6%	11.4%	13.3%	21.1%	11.2%	7.7%	9.6%	7.7%	9.5%	100.0%

Respondents within the age category of 25-29 years reported the highest experience of police misconduct across the three levels of severity at low=27.5%, medium=25.6% and high=24.4%. Chi-square test showed significant association between age and low severity at $p=0.00$ and no association between age and medium severity at $p=0.969$, and age and high severity ($p=0.210$). These results are similar to those who witnessed

police misconduct, with the age category of 25-29 years being reported the highest across the three levels of severity at low=24.6%, medium=24.6% and high=24.2%. Chi-square test showed significant association between age and low severity at $p=0.00$ and no association between age and medium severity at $p=0.836$, and age and high severity ($p=0.592$). More details on Table 16 below.

Table 16: Level of severity of PAP experienced disaggregated by age

Level of severity		18-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+	Total
Low	N	11	55	210	123	136	73	58	48	14	18	19	765
	Proportion	1.4%	7.2%	27.5%	16.1%	17.8%	9.5%	7.6%	6.3%	1.8%	2.4%	2.5%	100.0%
Medium	N	22	218	534	415	313	194	142	105	44	40	55	2082
	Proportion	1.1%	10.5%	25.6%	19.9%	15.0%	9.3%	6.8%	5.0%	2.1%	1.9%	2.6%	100.0%
High	N	7	92	165	129	108	60	42	28	17	10	19	677
	Proportion	1.0%	13.6%	24.4%	19.1%	16.0%	8.9%	6.2%	4.1%	2.5%	1.5%	2.8%	100.0%

More males than females were reported to have experienced PAP at all the three levels of low, medium and high severity. A similar trend was also noted for the respondents who had witnessed PAP at all the three levels of low, medium and high severity as shown in Table 17 below.

Table 17: Level of severity of PAP experienced disaggregated by gender

Level of Severity		Gender			
		Male	Female	PNTA	Total
Low	N	466	297	2	765
	Proportion	60.9%	38.8%	0.3%	100.0%
Medium	N	1299	780	3	2082
	Proportion	62.4%	37.5%	0.1%	100.0%
High	N	457	219	1	677
	Proportion	67.5%	32.3%	0.1%	100.0%

Participants engaged through FGDs also narrated instances of being harassed/abused by police officers as illustrated below:

“Recently, we were seated just beside the road with everyone minding their own business. Police officers came and arrested us. They took us around in their car against our will to a place called ... and finally released us” – **community member**

“The other thing is police ask for bribes. If you refuse to give them, you can even be assaulted. We have many cases like that, especially in the town” – **community member**

3.1.3. Location and Time of Police Misconduct

PAP was experienced more in public spaces (Figure 5). A higher number of participants reported that incidents of PAP occurred in public spaces compared to private areas or government premises. For instance, 33.1% (808 out of 2444) of participants indicated they experienced police misconduct in public spaces away from their homes and 23.9% (584 out of 2444) indicated experiencing police misconduct within public spaces in their neighbourhood. Fewer participants indicated experiencing police misconduct in private spaces; 6.8% (167 out of 2444) indicated experiencing police misconduct within private spaces in their neighbourhood and 6.5% (808 out of 2444) experiencing police misconduct in private spaces away from their neighbourhoods. Additionally, 5.1% (124 out of 2444) indicated to have experienced police misconduct within government premises.

In terms of seasonality, the study noted that police misconduct tends to spike towards the end of the month (See Figure 6). 30.9% (754 out of 2444) of participants reported being victimized during pay periods or at the end of the month. The other periods when police misconduct was reported include seasons which coincide with elections (23.5%, 575 out of 2444), during droughts (22.3%, 546 out of 2444) and periods such as rainy season (22.2%, 542 out of 2444), harvesting season (10.8%, 265 out of 2444) and planting season (9.8%, 239 out of 2444).

There are occasions when participants indicated a higher likelihood of experiencing PAP (See Figure 7). Notably, incidents of police misconduct are common during market days and when police conduct operations to nab criminals or offenders of the law, commonly referred to as ‘crackdowns’. 31.7% (775 out of 2444) of participants indicated experiencing police misconduct during police crackdowns and 25.2% (615 out of 2444) were victimized during market days. Other occasions when participants indicated to have experienced police misconduct include during political demonstrations (23.2%), social events (16.6%), during inspections by county government officials (15.1%), during strikes (13.9%) and during demolition of illegal buildings or structures (11.5%).

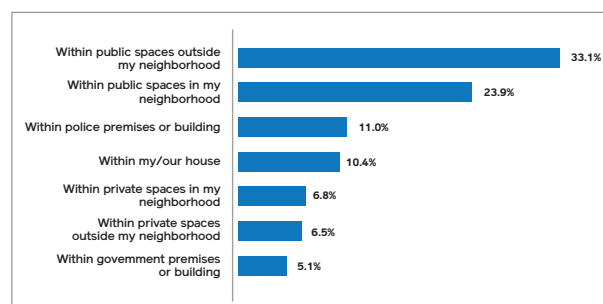
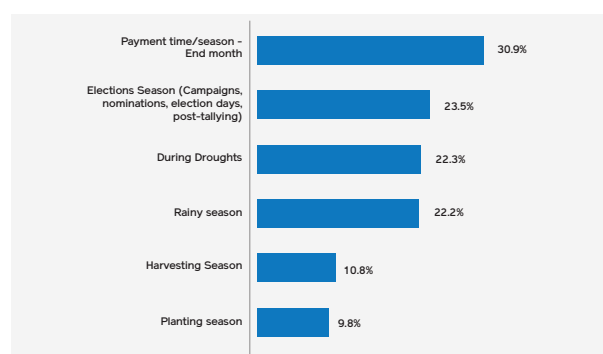
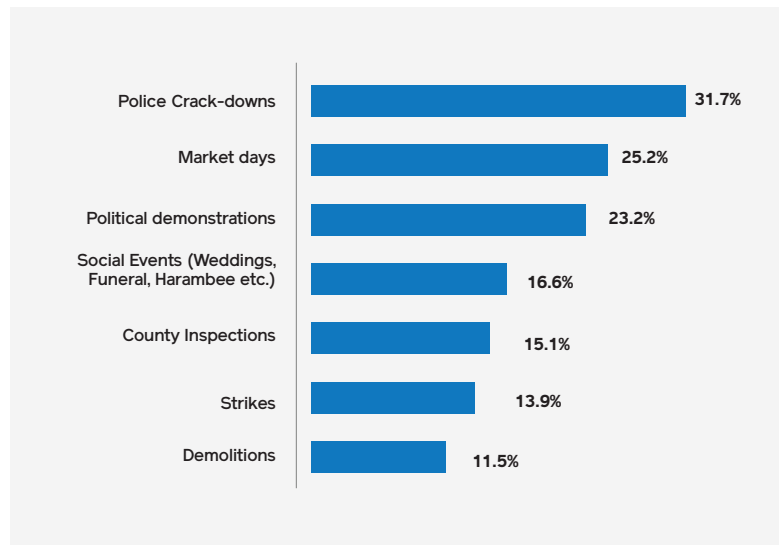
Figure 5: Locations where police misconduct took place**Figure 6: Seasons when police misconduct took place**

Figure 7: Events during which police misconduct took place

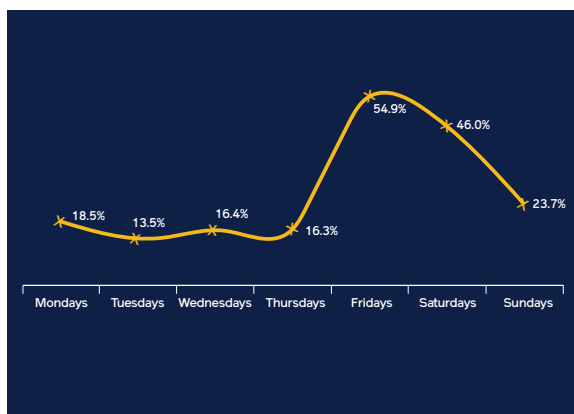
3.1.4. Frequency of Police Misconduct

The study found that participants experienced police misconduct an average of two times between March 2022 and March 2024. This is illustrated in Table 13.

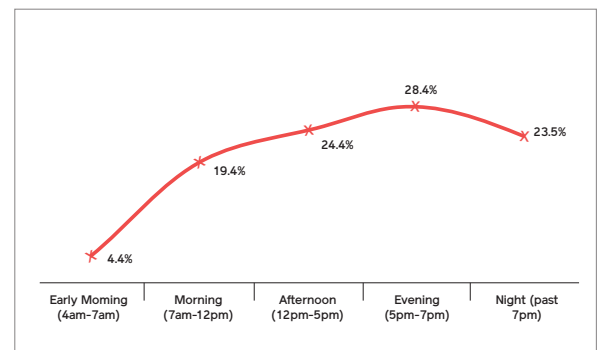
Table 18: Median and mode time participants experienced police misconduct disaggregated by county

Statistic	Total	Garissa	Kakamega	Kiambu	Kisumu	Machakos	Mombasa	Nairobi	Nakuru	Uasin Gishu
Median	2	2	2	2	1	2	2	2	2	2
Mode	1	1	1	1	1	1	1	1	1	1

Surveyed participants mostly experienced police misconduct towards the end of the week (particularly on Friday and Saturdays). More participants indicated to have been victimised by police misconduct on Fridays (54.9%), Saturdays (46.0%) and Sundays (23.7%) as compared to the other days of the week. Participants indicated lower likelihood of experiencing PAP during the earlier days of the week – Mondays (18.5%), Tuesdays (13.5%), Wednesdays (16.4%). This is illustrated in Figure 8:

Figure 8: Participants responses on days during which police misconduct took place

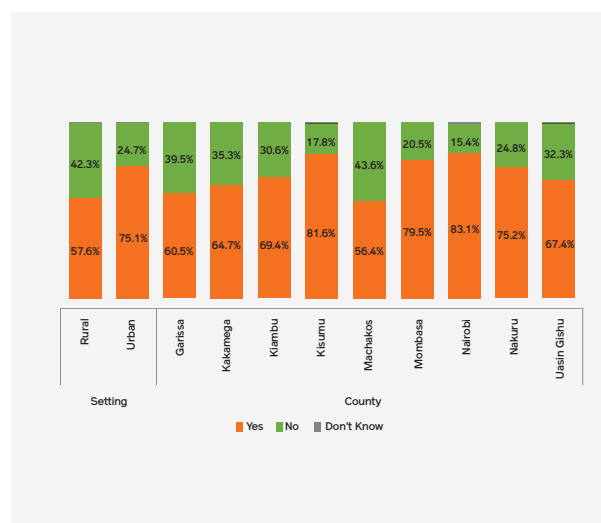
Further, it emerged that more participants experience police misconduct as the day progresses. More participants (28.4%) indicated to have experienced police misconduct during the evening hours (particularly between 5 pm and 7 pm) as compared to the other hours of the day. Few participants (4.4%) indicated to have experienced PAP during the morning hours. This is presented in Figure 9.

Figure 9: Participants responses on the time when police misconduct took place

3.1.5. Witnessing of Police Misconduct

The study also assessed the extent to which participants had witnessed police misconduct between March 2022 and March 2024. Notably, 69.9% of participants (3987 out of 5700) reported having witnessed instances of police abuse of power during this period. A higher percentage of participants in urban areas (75.1%, 3023 out of 4025) reported witnessing police misconduct compared to those in rural areas (57.6%, 964 out of 1675). This is illustrated on Figure 10. Notably, participants in major cities reported witnessing police misconduct at significantly higher rates, with 83.1% (291 out of 350) in Nairobi, 81.6% (673 out of 825) in Kisumu, and 79.5% (497 out of 625) in Mombasa. Although fewer participants in locations such as Kakamega, Kiambu, and Machakos reported being direct victims of police misconduct, a comparatively higher number from these areas had witnessed police misconduct. Overall, the high proportion of participants who have witnessed police misconduct highlights the widespread reality of PAP.

Figure 10: Degree to which surveyed participants have witnessed police misconduct



Among individuals surveyed who witnessed police misconduct, harassment (28.4%) and police inaction (25.6%) were identified as the most prevalent forms of police misconduct. Table 19 further highlights the frequency and forms of police misconduct witnessed by surveyed participants:

Table 19: Forms of police misconduct witnessed most recently by participants surveyed by the study

Type of police misconduct witnessed	N	Proportion
Harassment	1134	28.4%
Police inaction/negligence of duty	1020	25.6%
Physical assault occasioning non-serious injury	989	24.8%
Police unethical practices/ abuse of office	912	22.9%
Use of obscene, abusive, insulting language	880	22.1%
Wrongful detention (arbitrary arrest/wrongful detention, violation of rights of persons deprived of liberty)	856	21.5%
Corruption/extortion	823	20.6%
Threats to life	604	15.1%
Physical assault occasioning serious injury	590	14.8%
Destruction of property by police officers	451	11.3%
Malicious prosecution	395	9.9%
Shooting causing injuries	380	9.5%
Death from police action (shooting and physical assault, traffic accidents)	326	8.2%
Enforced disappearance	303	7.6%
Detention of exhibits/ property by police officers	276	6.9%
Sexual offences	275	6.9%
Matters of a personal nature (civil in nature, debts, family disputes)	253	6.3%
Unlawful discharge of a firearm that does not cause injuries	220	5.5%
Refusal to refund cash bail	217	5.4%
Non-mandate issues (complaints against police officers involved in matters beyond their official mandate)	205	5.1%

Death in police premises/custody	189	4.7%
Contempt of court order	187	4.7%
Administrative issues including compliments, transfers, promotions, and dismissals	185	4.6%

3.1.6. Factors Predisposing Individuals to Police Misconduct

FGDs with participants from the sampled counties facilitated exploration into their experiences around police abuse of power, including some of the facts that predispose citizens to police abuse of power.

Age: Participants noted that youth are frequently targeted by police officers, often being mistreated or wrongfully handled:

“They often beat up young people a lot. They arrest them and beat them up to the point of having them down with serious injuries. As we speak there are some young boys and men who have been held in remand just because they do not have 400,000 Kenya Shillings asked for by the police.” – **Community member**

“I have experienced, witnessed and even participated particularly in matters involving rights of the youth. One night, there was an incident that occurred where police officers around [Location Removed] arrested some young men for no reason.” – **Community member**

“The police over here view the youth as criminals. That is their first perception when they see us. They also look at your dress code and presentation.” – **Community member**

Occupation: Participants highlighted that individuals in certain professions are prone to victimization by police. This includes bar owners/tenders, human rights defenders, those involved in illicit trade (sex workers) and workers in the informal sector including hawkers, Matatu (public service vehicles) touts, and public service vehicle operators:

“I used to own a wines and spirit business here at [Location Removed]. I have a business license that allows me to operate from 7:00AM in the morning to 11:00PM in the evening. I have also installed CCTV cameras because I know these guys (police) would come at any time. There is a deputy OCS who was stationed at [Location Removed] who came into the business premise demanding to be showed the business license. The license was shown to him by the wines and spirits attendant who I had employed but the OCS did not care about that he demanded to be given 5000 Kenya Shillings.” – **Community member**

“What I have witnessed is that the police target ‘turn-boys’ who work with vehicle drivers. You find that the main driver is in full driver’s uniform while the ‘turn-boy’ has no uniform. Obviously they will target the ‘turn-

boy’ knowing that he will have money to bribe them. Those who work in Matatu stages are also arrested and extorted of their money even if they have uniforms with badges of Matatu SACCOS they work for.” – **Community member**

“Human Right Defenders (HRDs) are also targeted by police officers. There was a day I was arrested and locked at the police station. In that case, HRDs are at risk because we stand up against instances of police abuse of power.” – **HRD**

“For the extortion, I would say sex workers suffer very much on the hands of the police. The police often come to specific spots where sex workers operate and extort money from them. They always come to these spots and extort money from them informing them that the work they are engaged in is illegal and if they do not part with some money they will be arrested and locked up in cells. One can be held in the cells even for a week without anyone coming to free them. Once in the cell, the police often ask for a sum of 2500 or 5000 Kenya Shillings so as to free the arrested sex workers. These women have really suffered because of the police.” – **Community member**

“When I make an addition according to what I have witnessed in [Location Removed], arbitrary arrests are directed towards young men who work as Kamageras (Touts). They often work to ensure that passengers get into respective public service vehicles at bus stations. They are frequently arrested especially by plain cloth police officers.” – **Community member**

Religion/ethnicity: Participants observed that Muslims, or individuals with Cushitic features, are often wrongfully victimized by police officers, being labelled as terrorists:

“I am not a Muslim but Christian, what is worse is that our children from the Muslim religion are always targeted as criminals, labelled as Al Shabab. I am saying this because three of my brothers have now converted to Islam from Christianity. They no longer have peace where they reside since they are targeted and labelled as bad people or radicalized.” – **Community member**

“What I have experienced is that police see us like criminals of some sort. I was with my friends and we were being carried on a Bodaboda (motor cycle). When they see at least three youths of a Somali origin on a Bodaboda (motor cycle) they make a conclusion that all these people are thieves.” – **Community member**

Physical appearance: Participants indicated that police officers often discriminate based on appearance, with individuals possessing characteristics such as long dreadlocks, tattoos, or specific styles of dressing experience mistreatment by police officers:

“You are just criminalized because you have dreadlocks. Even when you try to defend yourself, they will insist that you use bhang, and you will be taken to the police station. At that stage, they already have made up a charge for you.” – **Community member**

“Here in [Location Removed] police officers are like enemies to citizens. First, even if you have gone to report any incident to the police, and for instance you have long hair or not properly groomed as a young man, or you appear suspicious to them, they will harass you.” – **Community member**

“The police over here view the youth as criminals. That is their first perception when they see us. They also look at your dress code and presentation. Particularly, all police officers who are posted and work in North Eastern, especially in Garissa, Wajir, and Mandera, all assume and view us as criminals.” – **Community member**

Ethnicity: Participants noted that citizens from certain ethnic communities were more susceptible to facing police abuse of power:

“When I went to report the issue, it was not taken seriously. Another thing that complicates matters is tribalism. When they find out which tribe you belong to. I live here in [Location Removed], and I come from [Location Removed]. When I reported this issue to the chief and even brought a letter, they just suppressed it and threatened me. I went as far as [Location Removed], and I even had an Occurrence Book (OB) number, but I never got justice. In fact, what I got were threats.” – **Community member.**

“Community members who are of Burji, Borana, and Somali reside in regions that border the North Eastern part of Kenya. Now it is challenge differentiating members of these communities who are Kenyan and those who come from Ethiopia or Somalia. In this case, police officers often arrest them, both the young and the old.” – **Community member**

3.2. Reliance of Vulnerable People on the CJS

This section details the extent of reliance of vulnerable people on the justice system to protect them from violence related to PAP in Kenya. The assessment was guided by the following indicators. i) Willingness to report crime, ii) Willingness to participate in criminal proceedings, iii) Crime reporting rate iv) Intermediary crime reporting ratio, v) Crime reporting gap, vi) Survivor case participation rate and (vii) Survivor case participation gap.

3.2.1. Willingness to Report Crime

This indicator measured the percentage of the vulnerable target population who say they would report incidents of crime to relevant criminal justice agencies if they experienced the violation.

The study revealed that 63.7% (3632 out of 5700 ⁴) of vulnerable people consulted would report incidents of PAP/police misconduct if they experienced them in the future, while 33.3% (1897 out of 5700) stated otherwise. Regarding gender disaggregation 63.5% (1867 out of 2938 ⁵) of men indicated they would report PAP incidents if they experienced it in future while 63.9% (1762 out of 2757 ⁶) of women indicated the same. This pattern of response was found across the different counties and among men and women. This is shown in Figure 11. Among those who stated they would report the cases, most of the participants – 37.8% (1371 out of 3632) indicated that their first/primary reporting would be to a police station, followed by 19.9% (791 out of 3632 ⁷) who would report to a community leader, and 16.1% (583 out of 3632) who would approach the Independent Policing Oversight Authority (IPOA).

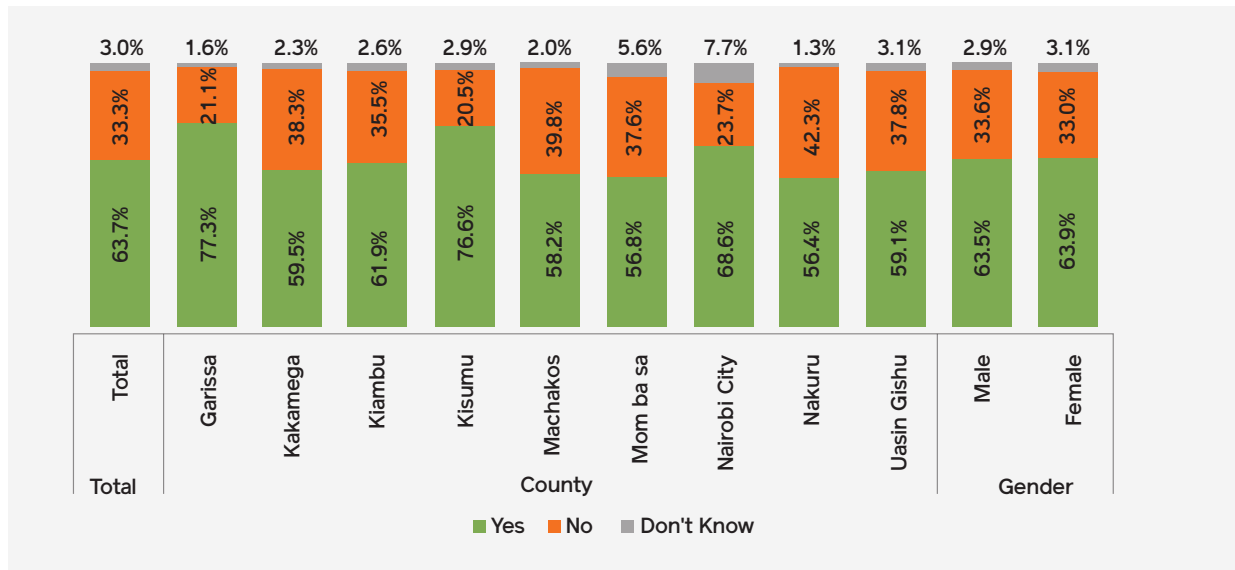
4. 5700 is the total number of surveyed participants

5. 2938 is the total number of men surveyed

6. 2757 is the total number of women surveyed

7. 3632 is the total number of participants who indicated they would report incidents of PAP if they experienced it in future

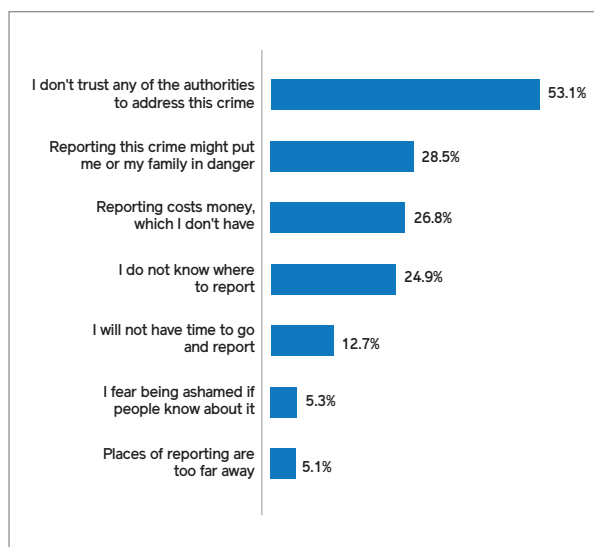
Figure 11: Percentage of vulnerable population that would report police misconduct for appropriate action to be taken, disaggregated by county and gender



Whilst a higher proportion of female participants (63.9%) than male participants (63.5%) indicated that they would report police misconduct for appropriate action to be taken, chi-square tests established that there is no association between gender and willingness to report crime ($p=0.955$). The variation in the proportion of participants across different counties who indicated they would report police misconduct in the future was found to be statistically significant as chi-square tests established a relationship between county and the willingness to report crime ($p<0.001$).

The baseline further probed for the reasons why vulnerable people would not report incidents of police misconduct. Majority of the participants (53.1%, 1008 out of 1897) reported that they did not have trust in any of the justice system institutions to address cases of misconduct. Twenty-eight point five (28.5%, 541 out of 1897) indicated that reporting the incidents might put them or their family in danger. 26.8% (508 out of 1897⁸) indicated that reporting costs much money which did not have while 24.9% (472 out of 1897) indicated they did not know where to report these incidents (See Figure 12).

Figure 12: Reasons why vulnerable people would not report incidents of police misconduct



Findings from FGDs corroborated the survey and identified further reasons why vulnerable people would not report incidences of PAP/ police misconduct. Similar to the survey findings, participants reported that corruption, cost constraints, distrust in the police and fear of retaliation from police were among the barriers that prevent them from reporting cases of police misconduct.

“Before someone reports a case, they have to think, ‘Will what I’m going to go through benefit me?’ You may be a poor person trying to report police brutality or someone who has hurt your child. You have to think, ‘If I do not have money, why am I even going there? I will just suffer more.’ Even just writing the OB number, they want money. You have to pay for that. For your case to move to the next stage, you have to bribe someone to accelerate your file.” – **Community Member**

“You find that young men and boys find it a challenge going to report. This is because they do not trust the police at all.” – **HRD**

8. 1897 is the total number of participants who indicated they would not report PAP incidents if they experienced it in future

“What we’ve seen is that when many people go to report a police officer at a police station, the case will not be booked, and they will not take any action because it is their colleague, and they share the same character. You will find someone else telling you, ‘This is the person in charge here, go to another station.’” – HRD

“When we look at community going to report, it is hard because of fear. Basing on what my brother said earlier, when police officers come and find four or five boys, they would be seriously beat up these boys. It will be a beating so intense that even people fear to go to report since they believe they will undergo the same treatment.” – HRD

3.2.2. Willingness to Participate in Criminal Proceedings

Most of surveyed participants who indicated they would report an incident of PAP/police misconduct – 88% (3,203 out of 3,632⁹) – also indicated willingness to participate through the entire criminal justice process if they were provided with necessary support. The willingness to participate was expressed uniformly across the different counties (Garissa – 91.1%, Kakamega – 88.1%, Kiambu – 84.2%, Kisumu – 90.7%, Machakos – 89.7%, Mombasa – 87.6%, Nairobi 85.4%, Nakuru – 89.6% and Uasin Gishu – 84.4%) as well as among women (86.7%) and men (89.6%). Findings from focus group discussions highlighted several reasons that prevent people from participating in the criminal justice system. First, there was the lack of financial resources, which makes it difficult for individuals to afford legal representation, cover transportation costs, and manage the logistical burdens of attending court sessions. The judicial process was also described as tedious and complex, leaving common citizens feeling marginalised and disempowered. Further, delays in court proceedings discourage participation, as cases often drag on, and people may forget or abandon their efforts due to time and resource constraints. Finally, the absence of a proper witness protection mechanism contributes to delays and reduces the likelihood of individuals coming forward to support cases.

“Resources, along with the fear that you cannot do much in a case, like without legal representation” ... “Maybe you’ve gone to court, and there’s a delay. After the delay, you just go on a certain day, and sometimes you even forget. Another thing is that you know the court is not nearby. We also do not have the money, maybe to take someone to court, covering their transport and lunch. Should I stop selling my vegetables to go there?” ... “The judicial system as a whole is very tedious and often pushes the common citizen very far because they do not have a footing there. Even if you want to defend yourself, you are told, ‘Sit there and find a lawyer; you will not understand this, which is very expensive. ... I can also add that the lack of a proper witness protection mechanism also causes delays.’” – Community Member

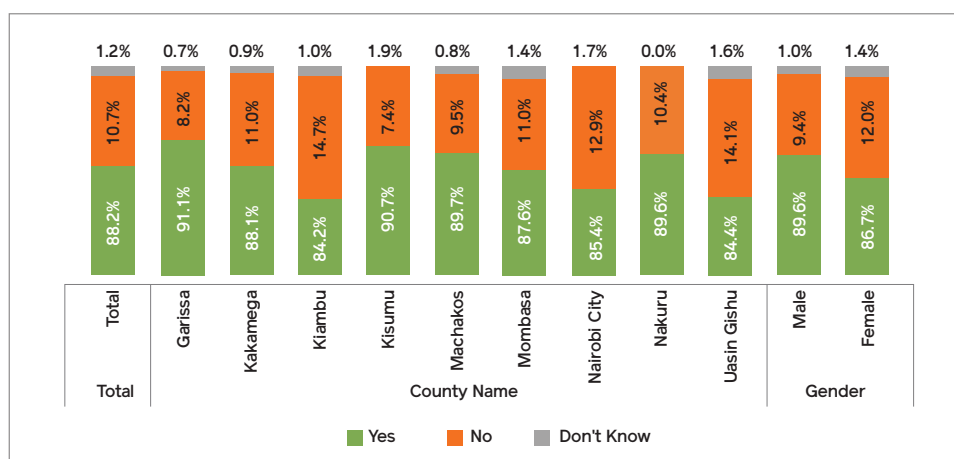
“From the police to the court, if you are poor and unable to support yourself financially, and you have a case against someone who has money, we know that you will be imprisoned. We see that money is what determines whether you get justice or not. If you do not have money, it’s very hard to get your rights. That’s how we see it.”

– Community Member

“A common citizen or even a human right defender lives in fear of being marked after reporting. When you come out of court and back into the community with killer cops, you are always under constant worry. It gets to a point where a certain time of the day you make sure you are not outside the house.” – HRD

“I ask myself what would make a witness to distance him or herself from a case and yet they are seeking justice? This implies that there is no proper witness protection mechanism. Even with the partners that we work with on this, there is a consensus that there is need to ensure a key witness has high confidence that he will be protected from the beginning to the end of the case.” – Community Member

Figure 13: Percentage of vulnerable people willing to participate in the relevant justice processes to get violation resolved, disaggregated by county and gender



9. 3632 is the total number of participants who indicated they would report incidents of PAP if they experienced it in future

3.2.3. Crime Reporting Gap

This indicator measured the percentage of incidents of PAP that were not reported anywhere during the period under review

Participants who reported being violated/victimised by the police were asked whether they had reported the most recent incident they experienced. 62.6% (1529 out of 2444¹⁰), indicated they did not report the incident anywhere, while 37.4% (915 out of 2444) stated they had reported it somewhere. Across eight of the counties, few participants indicated that they did not report the incident anywhere while in Garissa, a higher percentage of participants, 67.8% indicated that they had reported the

cases of police misconduct. This is highlighted in Figure 14.

The reasons for not reporting, as outlined in Figure 15, were primarily a lack of trust in criminal justice institutions (29.2%, 447 out of 1529¹¹) and a lack of awareness about where to report such cases (28.9%, 442 out of 1529). Additional factors included the long duration of cases, reported by 18.4% of participants (282 out of 1529). Fear of retaliation was highlighted by 16.4% of participants (222 out of 1529). Perceived ineffectiveness and corruption in the system accounted for 26.2% (400 out of 1529). Additionally, 17.3% of participants (262 out of 1529) cited the costs associated with seeking justice as a significant factor.

Figure 14: Percentage of vulnerable people who reported the last incidence of police misconduct, disaggregated by county and gender

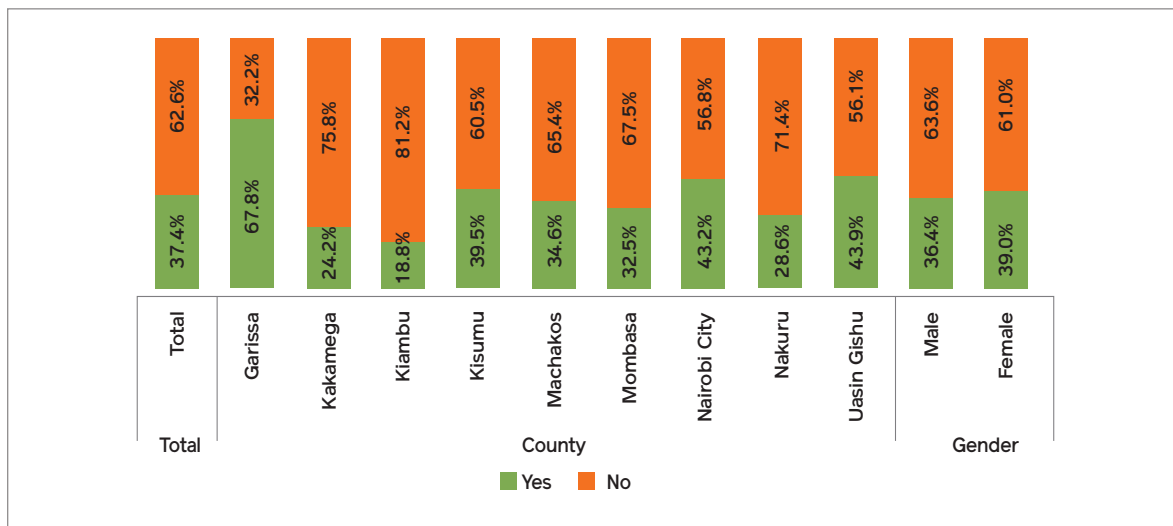
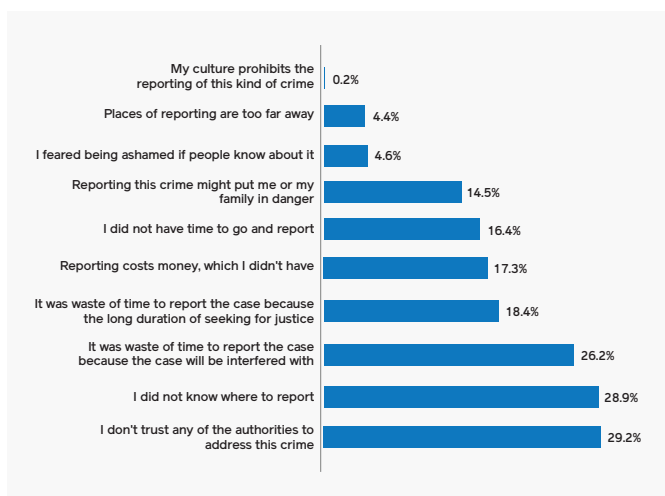


Figure 15: Reasons for not reporting the incident of police misconduct



Findings from FGDs corroborated the survey findings and identified similar challenges in accessing justice in cases involving police misconduct. Participants expressed frustration over systemic failures, where police officers perpetrate violence and hinder victims from seeking justice. The process of obtaining necessary documentation, such as the P3 form (which is an essential tool for victims of assault that facilitates legal and medical documentation of injuries sustained) is obstructed, and senior officers protect their juniors, ensuring no accountability. Reporting incidents to oversight bodies like IPOA often leads to stalled investigations with little to no follow-up. Additionally, there are reports of police dismissing complaints, refusing to issue Occurrence Book (OB) numbers, and engaging in intimidation tactics. A lack of financial resources exacerbates the situation, as participants

10. 2444 is the total number of participants who indicated that they had been victims of PAP

11. 1529 is the total number of people who indicated that they did not report the last incidence of PAP they experienced

feel that justice is accessible only to those with money, further underscoring the role of corruption. Tribalism and personal influence also complicate access to justice, with participants experiencing discrimination and threats based on their ethnicity. This is reflected hereunder.

“As you asked, in most of these cases, yes, you get beaten by the police, and you are supposed to go and get a P3 form. But you see now, even when you go to the police station to get the P3 form, it becomes a problem because the senior officers are protecting these juniors. Even if you go to the County Commissioner to intervene, most of the time, it does not go far. We do not see the officer being arrested or anything happening to them. When we tell the people at IPOA – like I mentioned earlier – they are supposed to assist by investigating these police crimes. You go there, you are given a reference number, but when you follow up, you are told that they are still working on it. It’s as if the system has failed.... Yes, I have picked up the P3 and pushing the matter forward, but even getting the P3 form sometimes leads to being threatened or compromised.” – **Community Member**

“So even when you go to report at that moment, they can’t take any action, and they won’t even give you an OB number. They tell you, ‘You, woman or you, young man, come back tomorrow. Basically, they dismiss you; they don’t listen to your issue.’” – **Community Member**

“When I went to report the issue, it was not taken seriously. Another thing that complicates matters is tribalism. When they find out which tribe you belong to... I live here in Maili Nne, and I come from Kisii. When I reported this issue to the chief and even brought a letter, they just suppressed it and threatened me. I went as far as Baharini, and I even had an OB number, but I never got justice. In fact, what I got were threats.” – **Survivor**

“Another thing is the lack of faith in the police. Even if you go to report a case, you will not get justice.” – **Community Member**

“The other thing is fear. A very good example is the former OCS’s case. There are some threats that were issued before he got sentenced and he was still serving in his position as the OCS. There is a time police officers came in their lorry and started threatening human right defenders.” – **Community Member**

“There are no safe reporting channels over here. You may go to report and the police turn on you. Some people have reported through other means such as protests or demonstrations.” – **HRD**

3.2.4. Crime Reporting Rate

This indicator measured the percentage of PAP incidents reported to relevant CJS Agencies during review period.

The study established that 52.5% (481 out of 915¹²) of reported cases were directed to the relevant criminal justice institutions as shown in Figure 16. CJS actors considered in this study for crime reporting included the IPOA, DCI, IAU and Police. Majority of the incidents reported – 39% (357 out of 915) were reported to the police. IAU and IPOA received a minimal proportion of reported cases at 1.4% (13 out of 915) & 7.2% (66 out of 915) respectively.

Figure 16: Cases reported to Relevant CJS Institutions during the period under review

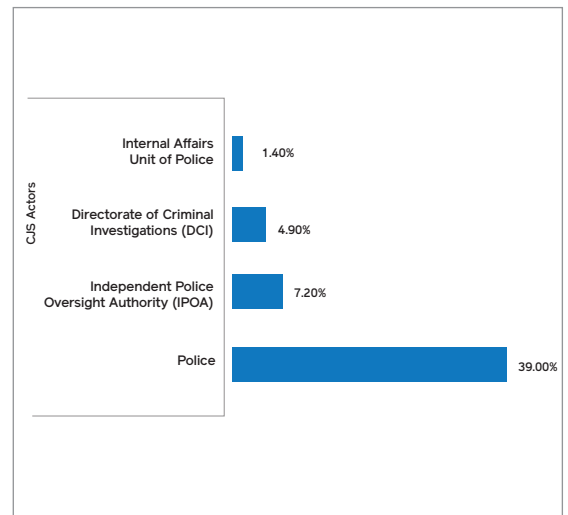
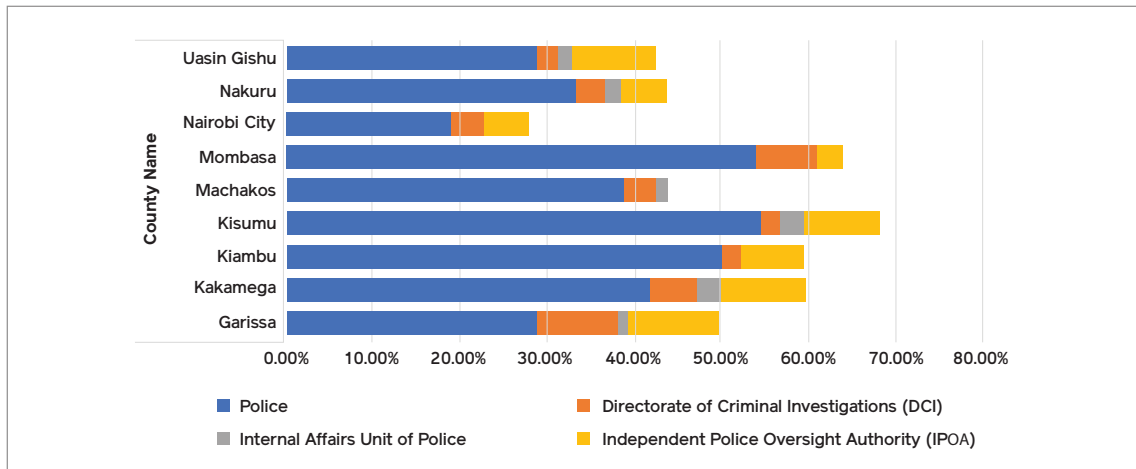
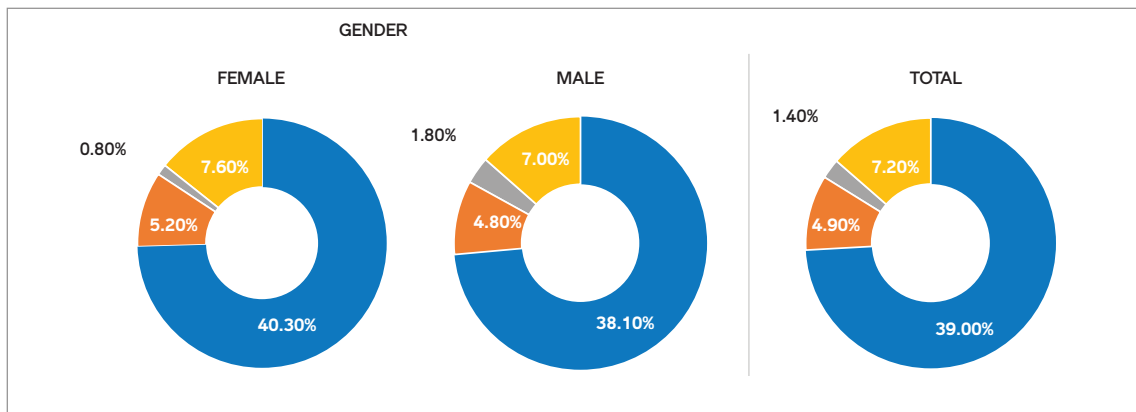


Figure 17 further shows the percentage of cases reported to CJS agencies disaggregated by county and Figure 18 by sex. More cases in Mombasa and Kisumu were reported to relevant CJS institutions compared to the other counties.

Regarding reporting to the relevant CJS institution at county level, most of surveyed participants reported cases of police misconduct to police stations. Cases reported to police stations were however, lowest in Nairobi County, where most participants preferred going to the chief. There were no cases reported to IPOA in Machakos county, as there is currently no IPOA regional office in the county.

12. 915 is the total number of survey participants who indicated that they reported the last incident of PAP they experienced

Figure 17: Percentage of cases reported to relevant CJS Institutions disaggregated by county**Figure 18: Percentage of cases reported to relevant CJS actors disaggregated by sex**

3.2.5. Intermediary Crime Reporting Ratio

This indicator measured the percentage of PAP incidents reported to Non CJS agencies during the reporting period.

Participants also indicated reporting cases to non-CJS actors which included Chief/Assistant Chief, religious leaders, media, NGO, CBO and community leaders.¹³ Cases reported to non-CJS actors constituted 45.6% (417 out of 915) as shown in Figure 19. Most of the cases (20.8%, 190 out of 915) were reported to the Chief/Assistant Chief, followed by community leaders (16%, 155 out of 915). Figure 20 shows the percentage of cases reported to non-

CJS agencies disaggregated by county while Figure 21 shows the disaggregation by gender. In most counties, cases were reported to community leaders apart from Kisumu where most participants indicated reporting cases to NGOs. Regarding gender disaggregation, more males than females preferred reporting cases to the community leader at 19.9% against 13.6% women. Conversely, more females (22.1%) than males (19.8%) reported cases to Chief/Assistant Chief.

13. Community leaders are pivotal change agents who serve as positive role models in their communities

Figure 19: PAP Cases reported to non-CJS actors during the period under review

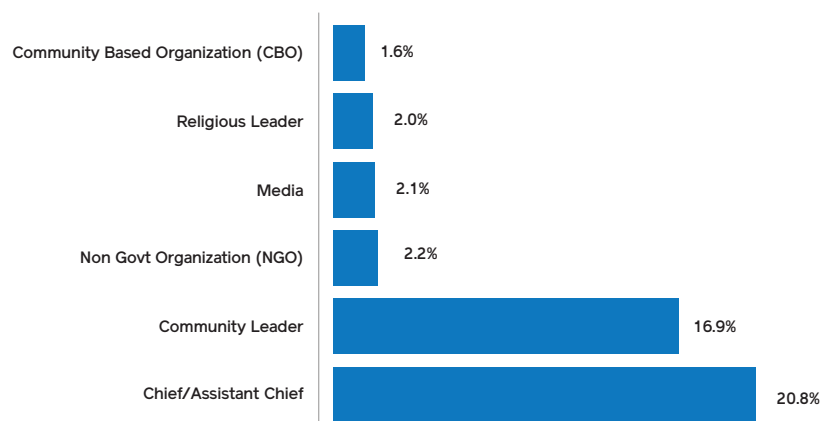


Figure 20: Percentage of cases reported to non CJS actors disaggregated by county

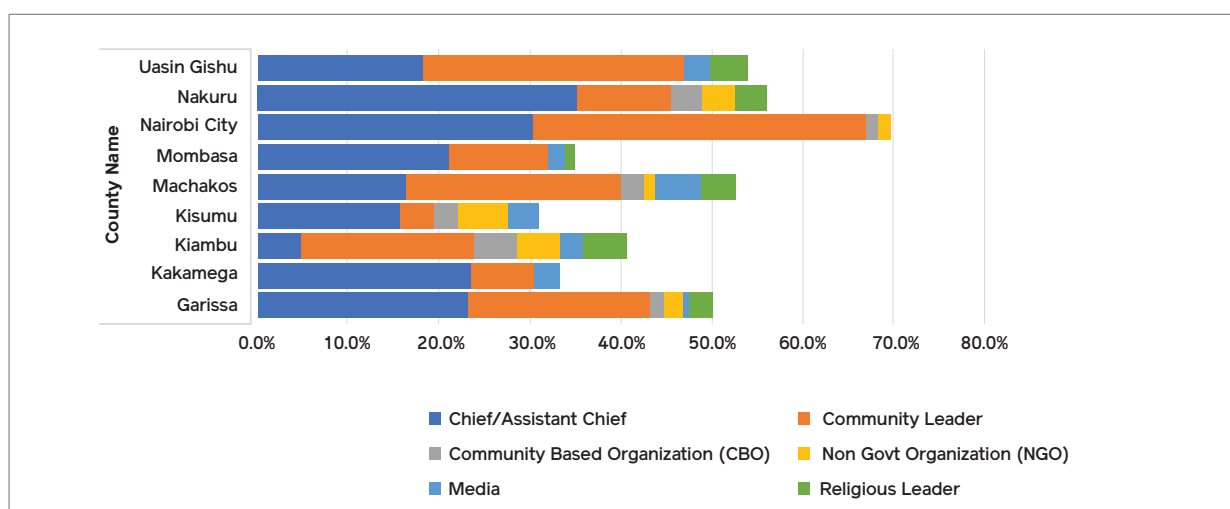
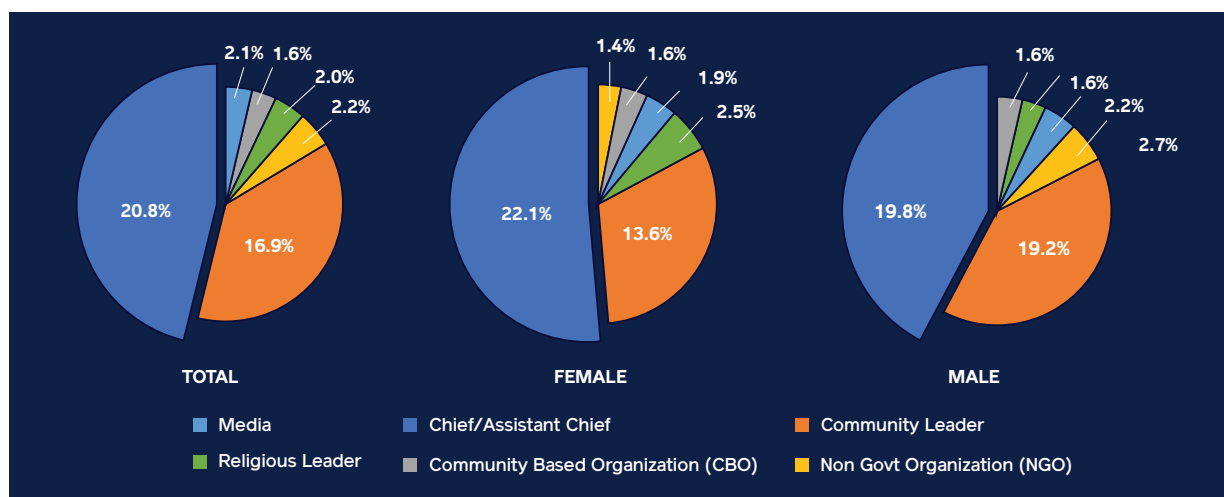


Figure 21: Percentage of cases reported to relevant non CJS actors disaggregated by gender



3.2.6. Survivor Case Participation Rate

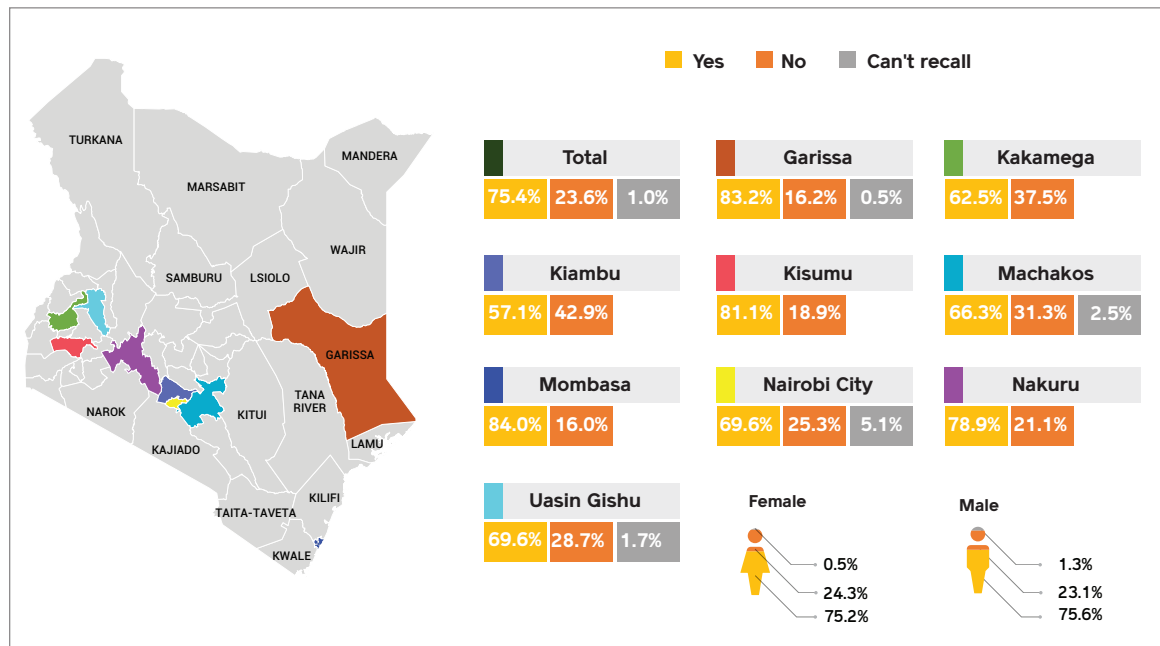
This indicator measured the percentage of survivors who fully participate through scheduled justice processes as required either directly or through legal representation.

75.4% (690 out of 915) of those who have survived police misconduct indicated that they fully participated through scheduled justice processes. However, 70.4% (486 out of 690)¹⁴

stated that they were not satisfied with how the case was or is being handled. Findings from the FGDs corroborated

with the survey findings and identified cases of dissatisfaction among participants in how their cases were/are being handled.

Figure 22: Degree to which surveyed participants fully participated in justice process disaggregated by county and gender



"I was just arrested near the police canteen. From there, Kajiado, Kilimani, Capitol Hill, before you're brought to court, it is a struggle. Now, let me explain the problem with the police. You have been charged with malicious damage, but is not the day of mention supposed to be a pre-trial, where you're given the documents to prepare your defence? To date, as I sit here with you, they have not provided a single document to charge us." – **Survivor**

"There is no one to help you. In court, the only time you receive support from them is when you are making an enquiry about your files. You will be shown where you case file is but beyond that there is no help." – **Survivor**

Participants in the FGDs also indicated that they were able to participate in the justice process as a result of support received such as legal representation.

"In court I was not provided with a lawyer. IJM came with their lawyer and offered legal support to me. The court case itself was not an easy thing to participate in since the judge was changed but IJM provided necessary support to me with their lawyer to the very end of the case." – **Survivor**

3.2.7. Survivor Case Participation Gap

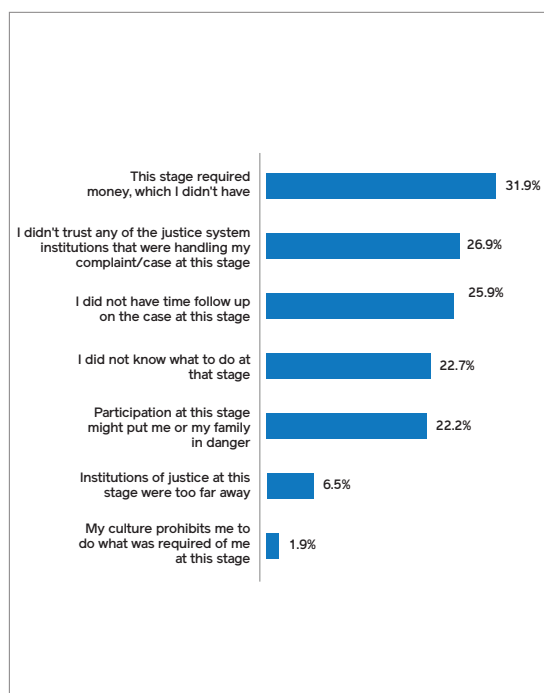
This indicator measured the percentage of survivors who did not participate through scheduled justice processes as required, neither directly nor through legal representation.

A total of 23.6% of survivors did not participate through scheduled justice processes as shown in Figure 22 above. The major reason cited for not participating was that the justice process at that stage required money which the participant did not have – 31.9% (69 out of 216¹⁵), followed by a lack of trust in the justice institutions handling the cases at 26.9% (58 out of 216¹⁵). Figure 23 highlights reasons stated.

14. 690 is the total number of participants who indicated that they participated through the scheduled justice process

15. 216 is the total number of participants who indicated that they did not participate through the scheduled justice process

Figure 23: Reasons cited for not participating through scheduled justice processes



Survivors of PAP who participated in FGDs expressed frustration with the lengthy wait times in the justice system, with cases often being delayed or dismissed when they finally reach the stage of litigation.

“....and even when your case reaches at the court stage, it could be thrown out. Also, there are a lot of delays in the court.” – **Survivor**

“The process is long and tiring. In an institution, there is no consistency especially where you find that the personnel following up your case has been transferred.” – **Survivor**

IPOA, which is supposed to investigate police misconduct, was also criticised for its slow response and lack of communication.

“For IPOA, I don't trust them as much. They are inactive, slow in terms of taking action, they also transfer investigators and they do not even communicate that they have transferred an investigator and brought in another one to handle your case.” – **Survivor**

“IPOA came to my house, took my statement and up to date since 2023, they have been sorting out my case but I have not seen any outcome of this.” – **Survivor**

“IPOA will record your case and inform you that they will reach out to you via a phone call. But you will wait for a long time. They

will ask for your phone number and even write it down on a piece of paper. It will be known that you reported your case to IPOA but no action will be taken. There was my neighbour who got killed by the police. IPOA came in recorded the statement made follow ups but in the end, I feel like there is nothing significant they did.” – **Survivor**

“IPOA is supposed to assist with investigation of these crimes committed by police officers. We report to them and we are given a certain number, but when we later enquire about progress of investigation, they inform you that they are still making follow ups.” – **Survivor**

3.3. Confidence

This section presents findings of the Protection Study on Stakeholder Confidence in the Criminal Justice System. Analyses and conclusions in this section relied on quantitative and qualitative data obtained from in-depth key informant interviews with 49 key – private stakeholders, community representatives, business/corporate sector stakeholders, national and local NGOs, international organizations, faith based organizations, non-Justice System affiliate government institutions/agency and Justice System affiliate government institutions) to gauge their level of confidence in CJS actors addressing PAP. Figures 24 & 25 highlight the various stakeholder categories engaged through the confidence domain across the sampled counties.

Figure 24: Distribution of stakeholder categories engaged through the confidence domain

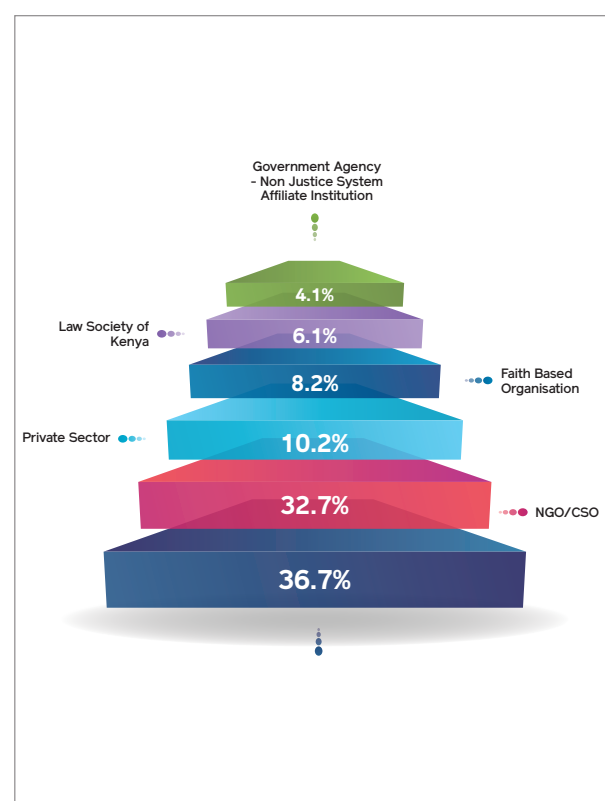
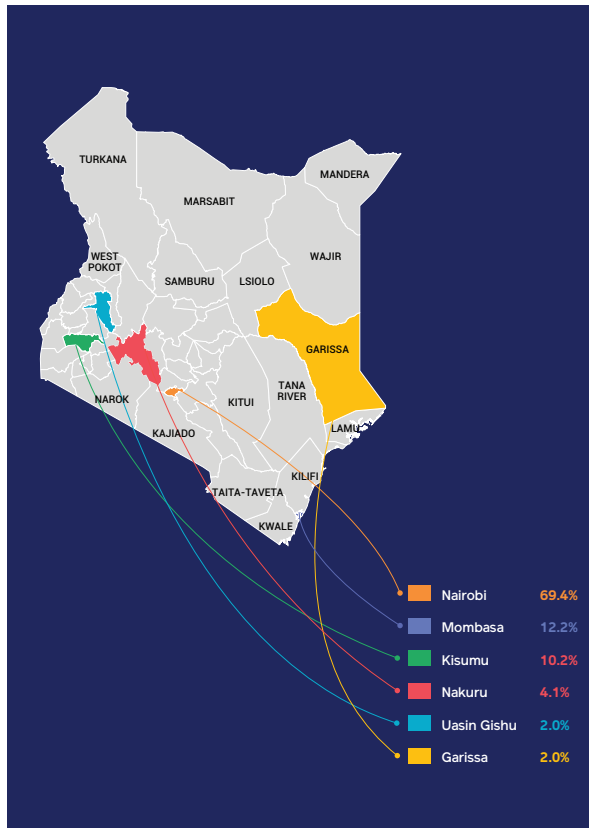


Figure 25: Stakeholders engaged through the confidence domain disaggregated by county¹⁶



This was augmented by qualitative data from FGDs conducted with survivors of PAP, human right defenders, and community members. The findings are presented along specified indicators guided by IJM's Global Standardized Indicators for Stakeholders' Confidence Guidance and Tool.¹⁷ The findings reflect on stakeholder confidence along three key themes - effectiveness, efficiency and fairness of the CJS is tackling PAP in Kenya.

3.3.1. Findings on Stakeholder Perceptions regarding Justice System Effectiveness

Measurement Indicator: Stakeholders' Confidence in Overall Justice System Effectiveness:
Indicator Definition: % of key stakeholders who are confident in the overall effectiveness of the justice system in protecting vulnerable people from PAP and deterring PAP.

Findings indicate a severe lack of confidence in the effectiveness of the Criminal Justice System in Kenya to protect vulnerable people and deter police officers from abusing their power. Stakeholder confidence on the overall effectiveness of the justice system measured perceptions or beliefs held by influential stakeholders on coordination, respect for rule of law, and public support for various CJS actors to protect vulnerable people from PAP. The data revealed that only 14.3% (7 out of 49) of the stakeholders are confident in the overall effectiveness of the justice system. Table 20 highlights results for overall effectiveness of the criminal justice system obtained along four components.

Table 20: Stakeholder confidence in the overall effectiveness of the justice system

To what extent are you confident in the overall Effectiveness of justice system in Kenya with respect to the statements:	N	% of stakeholders
System Coordination: The justice system coordinates effectively to secure justice for vulnerable people who face Police Abuse of Power/Misconduct.	16	32.7%
Respect for Rule of Law: The justice system upholds rule of law at all times, for persons who interact with the justice system regarding Police Abuse of Power/Misconduct.	17	34.7%
Public Support: The justice system overall enjoys great public support in tackling Power/Misconduct forms of violence.	13	26.5%
Effectiveness in deterrence of Police Abuse of Power/Misconduct: The justice system overall is effectively deterring Police Abuse of Power/Misconduct, hence reducing the prevalence of this violence, based on the success of its work.	17	34.7%
Overall level of confidence in the effectiveness of the justice system	7	14.3% ¹⁸

16. The study contacted stakeholders from Kakamega, Kiambu and Machakos for participation but they were unresponsive.

17. IJM. (2024). Global Standardized Indicators for Stakeholders' Confidence: Guidance and Tool.

Results presented in the table above show that less than half of the key stakeholders engaged were confident on each of the four components of effectiveness. 32.7% of stakeholders were confident that the justice system coordinates effectively to secure justice for vulnerable people who experience PAP/ police misconduct. 34.7% of stakeholders were confident that the justice system upholds rule of law at all times for persons who interact with the justice system regarding PAP. 26.5% of participants asserted that the justice system overall enjoys public support in tackling PAP, while 34.7% of stakeholders noted that the justice system overall is effectively deterring PAP hence reducing its prevalence. Regarding overall effectiveness, only 14.3% (7 out of 49) of key stakeholders expressed confidence in the overall effectiveness of the justice system in protecting vulnerable people from PAP and deterring PAP.

Distribution of stakeholder per county who were confident in the effectiveness of CJS in addressing PAP was noted as follows: Nairobi – 11.8% (4 out of 34); Kiambu – 0.0%; Mombasa – 33.3% (2 out of 6); Kakamega – 0.0%; Machakos – 0.0%; Kisumu – 20.0% (1 out of 5); Nakuru 0.0% (0 out of 2); Uasin Gishu 0.0% (0 out of 1); and Garissa 0.0% (0 out of 1).

System coordination: Perceptions of various participants were gathered and documented on the extent to which criminal justice institutions work in a complementary manner to deliver justice to PAP victims. It emerged that there were coordination challenges among criminal justice system institutions that undermined delivery of justice to PAP victims. Particularly, there were challenges with flow of information and evidence among criminal justice system institutions. Also, there were instances of non-cooperation/compliance from some CJS institutions, and notable rivalry/competition among the institutions especially the investigative and quasi investigative agencies (like IPOA, IAU and DCI).

“IPOA deals with so many stakeholders. We have non-compliance by police officers where they do not want to cooperate with us, that is, to give us documents and all that. That is one of the challenges that we go through.” – **Government Justice System Affiliate**¹⁹

“We also meet non-cooperation from the side of the police. Sometimes the in-charge is fearful that they might expose one of their own. They dilly-dally, they don’t want to give the documents in good time but we’ve always been able to surmount such kinds of challenges at the police by opening what we call a non-cooperation file; a non-compliance file.” – **Government Justice System Affiliate**

“You have a sibling type of rivalry, where you have an external observer, that is, IPOA, more

like the black sheep, trying to do their best because they know what is at stake, and you have the big brother, DCI, taking the role of protection, protecting their own, what we call the blue code of silence.” – **Non-government Justice System Affiliate**²⁰

“The two institutions (IAU and IPOA) should work together because one is internal oversight of police and the other one is civilian oversight, which is external, so we should complement one another on how we work. But it seems the other one is seeing the other as a competitor rather than a team player because, at the end of the day, it’s a member of the public or the complainant who has complained that needs help.” – **Government Justice System Affiliate**

Despite the inherent challenges on inter-agency coordination, perspectives from study participants engaged pointed towards these agencies making efforts to devise better ways of improving

coordination. For instance, collaboration with DCI for ballistics evidence, referral of cases to DCI by IPOA and IAU for specialised investigations and engagements with WPA on protection of witnesses. The study was informed that leadership of the respective institutions are working together to find solutions to some of these bottlenecks. This is evidenced by sentiments from KIIs indicating notable examples of improving coordination and collaboration between criminal justice system institutions.

“Most of the stakeholders, we have had very cordial relationship with them. They really support our work and we appreciate this, because there is good collaboration between them and ensuring that we navigate through the journey of the criminal system.” – **Government Justice System Affiliate**

“We have also had the DCI helping us in getting the ballistics report. Once the firearms and any other pieces of evidence are forwarded we follow through and we get the report in time. They have also been handy sometimes where it’s an investigation that we require a documents examiner. They have always been very cooperative and helped us in getting all those things most of the time.” – **Government Justice System Affiliate**

“[...] If we see that this is a very serious case, we have now to interlink with the Witness Protection Agency so that they can come in and help us protect the witnesses. If it is relocating them or just protective measures that can be put in place.” – **Government Justice System Affiliate**

18. Overall level of confidence in effectiveness of the justice system has been computed following guidance provide in the Updated Stakeholders’ Confidence SI Guidance. This is not an average rating from the components of this indicator.

19. Government Justice System Affiliate – representatives of government agencies/institutions with mandates in the criminal justice system

20. Non-government Justice System Affiliate – representative from CSOs with interest in criminal justice matters

“On the side of collaboration with other agencies, specifically on forensic analysis, we normally work with the DCI on matters of forensic analysis and it all goes back to their boss. Because the current boss we have at DCI worked with us at the Internal Affairs Unit for around two to three years, we don’t have difficulty getting data or any requirement on analysis that we need.” – **Government Justice System Affiliate**

Respect for rule of law: It is expected that criminal justice institutions operate in adherence to existing legal frameworks. The study however learnt that several CJS stakeholders still grapple with complying to dictates of rule of law in their service delivery. The NPS was numerously called out as one of the notorious agencies that often operates against principles of rule of law particularly when during recording PAP cases, and complying with court orders.

“Instead of making arrested citizens go through the justice systems, they are illegally detained, tortured, and then returned to the community if they are not found with any evidence. They do this and later on offer no apology or compensation, and the victim will end up being mentally disturbed in the community for as long as he lives.” – **Non-Justice System Affiliate** ²¹

“[...] the police service is created to protect the citizens and their property. The person who’s been given a lot of resources to protect us and our property should not be the person violating us. The fact that there’s the police brutality itself, gives them a low score; it should not happen.” – **Government Justice System Affiliate**

“They also do it under Article 49, which allows an investigative officer to arraign a suspect in court, then before preferring a formal charge, to explain to the court why they need to detain him as they do the investigation. They also use under that Article 49, which allows them to come to court. Where it is being misused is this. Everybody is being arrested, and then after you’ve detained somebody you come and say, there was nothing.” – **Government Justice System Affiliate**

“[...] You will find a citizen has been accused of committing a crime, but the time it gets for the case to be investigated; so that they do not spend a lot of time in the police station, for example, currently, our law sometimes allows for a citizen to be detained while police conduct further investigations. A court can allow a citizen to be detained for further investigations, which if you look at the right to access to justice, and of course, we are presumed innocent until found guilty, it does not make sense for an individual to be arrested, accused of an alleged crime.– **Government Justice System Affiliate**

Public support: In principle, the justice system operates with authority granted by the people. As such, public support for their work is critical for ensuring their effectiveness in addressing PAP. Participants strongly felt that CJS in the country enjoys minimal support from the public. Many stakeholders expressed the view that the CJS is ineffective, lacks operational independence and in many cases does.



not work in the best interest of the public. It is in the area of public support that the CJS scored least evidenced by perspectives from study participants. Below are some of the excerpts collected from the KIIs and FGDs that convey such sentiments. Below are some quotations demonstrating the lack of public support.

“Members of the public do not even feel like the judicial system is giving them the justice that they deserve. They do not even want to be involved in the process again, so witness apathy towards the judicial process.” – **Government Justice System Affiliate**

“Police use their power in the wrong

21. Non-Justice System Affiliate – These are study participants engaged that have no direct or indirect mandate in the criminal justice system



direction sometimes. Last time we had a dialogue with the police where members of the public shared some concerns. Instead, the police turned against us and diverted the cases and issues we had shared with them. Instead of trying to figure out the issues or matter, we ended up answering a lot of questions from the police without finding a solution in the end.” **–Non-Justice System Affiliate**

“I If the public witnesses someone who illegally owns gun and we go to report to the police, instead of the police taking necessary action against the person owning the gun, the police come and beat up community members.” **Non-Justice System Affiliate**

Effectiveness in crime deterrence: Sentiments from participants engaged via KIs indicated that the public perceives the criminal justice system as not effective

in deterring PAP. Particularly, participants felt that the criminal justice system is not effective in deterrence of PAP considering that police who are perpetrators of PAP are largely relied upon to protect them - receive reports, investigate and take necessary action. Many argued that PAP cases rarely end up in prosecution and conviction of accused police officers and also take too long within the CJS to conclude hence giving the impression that PAP cases go undeterred. Others also argued that, so far, convictions have not been strong/harsh enough as to deter other police officers from committing PAP-related crimes. This is also because many cases are handled as administrative or disciplinary matters (addressed through interdictions, suspensions, transfers) that members of the public consider a slap on the wrist of accused police officers. Below are excerpts from participants engaged evidencing these arguments.

“One thing we know is that even if a police officer does anything wrong to you and you end up reporting no action will be taken.” **– Non-Justice System Affiliate**

“There is no way a case you will report shall progress. When you report they will just jot down whatever you report and put that aside. Ideally, when you report the police officer should address your concerns and then get back with progress. But what they do is that they record your incidence and shelve it. In that case, your case will never progress.” **– Non-Justice System Affiliate**

“They have also lost hope in how courts handle their cases. The relaxed nature in which you see even judges try to move these cases, despite the fact that you have advocates who push and request for dates that are reasonable, and the excuse of, “we are subject to the courts diary and we have a backlog” and this exhausts a person who has gone through the criminal justice system.” **– Non-government Justice System Affiliate**

“[...] In most cases, when the police are involved, they do not charge them (police officers involved in PAP); they come with an inquest to cover.” **– Government Justice System Affiliate**

“There is an instance where police officers [involved in PAP] are transferred to other stations. There was one police officer who was transferred from [Location Removed] police station to [Location Removed] police station. There are mothers whose children have been killed in both [Location Removed] and in [Location Removed] by the same police officer. So what that police officer has been doing in [Location Removed], he will continue to do the same where has been transferred to.” **– Non-Justice System Affiliate**

3.3.2. Findings on Stakeholder Perceptions regarding Efficiency of Justice System Institutions

Measurement Indicator: Stakeholders' SC2 - Stakeholders' Confidence in Justice System Efficiency:

Indicator Definition: Percentage of stakeholders who are confident in the efficiency of justice system institutions to implement their mandates with regards to addressing PAP.

Measurement on this indicator considered stakeholders' perceptions or beliefs on the degree to which institutions in the justice system (NPS, IPOA, DCI, ODPP, VPB, and Courts) are efficient in carrying out their responsibilities when addressing PAP. The components considered under efficiency included: mandate independence; timeliness of service

delivery; public access; and political support.

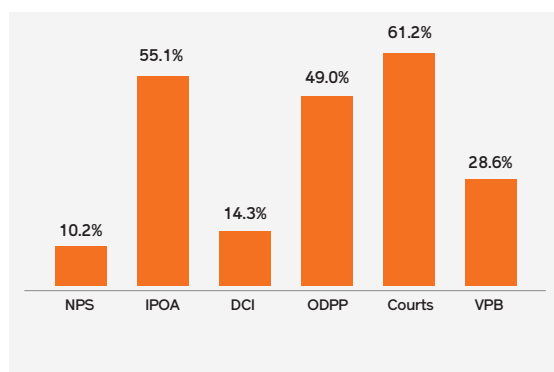
The overall outlook reflects a general lack of confidence in the efficiency of CJS operations towards tackling PAP in the country. This was evidenced by only 2% of the stakeholders indicating that they were confident in the overall level of efficiency of the NPS and the DCI, 8.2% confident in the overall level of efficiency of IPOA and VPB. Stakeholders were most confident in the overall level of efficiency of the ODPP (16.3%) and Courts (10.2%). Notably, the average level of confidence was significantly low. On average, 7.8% of stakeholders engaged were confident in the overall efficiency of criminal justice system institutions. Table 21 highlights the level of stakeholder confidence in the efficiency of CJS institutions.

Table 21: Stakeholder confidence in the efficiency of justice system institutions

To what extent are you confident in the Efficiency of justice system institutions (NPS, IPOA, DCI, ODPP, VPB, and Courts) in Kenya with respect to the statements:							
Component/Actor	NPS	IPOA	DCI	ODPP	Courts	VPB	Overall (Average)
Mandate Independence: The justice system institution is independent in doing its work related to justice on matters of Police Abuse of Power/Misconduct.	10.2% (5)	55.1% (27)	14.3% (7)	49.0% (24)	61.2% (30)	28.6% (14)	36.4%
Timeliness of Service Delivery: The justice system institution provides timely services in the pursuit of justice on matters of Police Abuse of Power/Misconduct.	8.2% (4)	26.5% (13)	10.2% (5)	40.8% (20)	24.5% (12)	24.5% (12)	22.5%
Public Access: The justice system institution is accessible to members of the public and anyone who wants to engage with it on matters of Police Abuse of Power/Misconduct can reach it easily.	16.3% (8)	65.3% (32)	22.4% (11)	51.0% (25)	44.9% (22)	20.4% (10)	36.7%
Political Support: The justice system institution enjoys good political support from government and from politicians [mainly members of the executive and parliamentarians] in addressing Police Abuse of Power/Misconduct).	14.3% (7)	24.5% (12)	14.3% (7)	32.7% (16)	22.4% (11)	22.4% (11)	21.8%
Overall level of confidence in the efficiency of the justice system institutions	2.0% (1)	8.2% (4)	2.0% (1)	16.3% (8)	10.2% (5)	8.2% (4)	7.8%

Mandate Independence: Quantitative and qualitative data along this component sought to establish the confidence of stakeholders in CJS institutions performing their mandates without external interference within and outside government. The judiciary (courts) emerged as the most trusted (61.2%), followed by IPOA (55.1%) and ODPP (49.0%). Much fewer stakeholders expressed confidence in the NPS (10.2%) in the ability to independently discharge its mandate with regards to PAP (See Figure 26).

Figure 26: Stakeholder confidence in the independence of CJS institutions in addressing PAP



Many of participants indicated that most of the criminal justice system institutions do not operate independently when addressing cases of PAP. They argued that criminal justice system institutions remain influenced by the political class and elites. They pointed out that fiscal instruments such as budgets have been used to capture and control criminal justice system institutions, negatively impacting their independence in handling cases of PAP. It also emerged that some institutions (like IPOA and IAU) appear to be reliant on each other to execute some of their mandates such as investigations and witness protection thus weakening their independence when seeking to address PAP.

“For example, in the situation we are in right now; the state is using the police to violate citizens. It shouldn’t be the case. They should stick to protecting the property and persons, not them being the violator. Look at what happens when police officers are the violator.” – **Government Justice System Affiliate**

“Then independence in terms of the institution (ODPP) itself, so that it is not marred by political directions or directives as well as state directives or even being used to settle political scores and you’ve been hearing about that. You’ll see some prosecution proceeding very fast, not because it warrants that kind of attention, but because there’s some political links to it.” – **Government Justice System Affiliate**

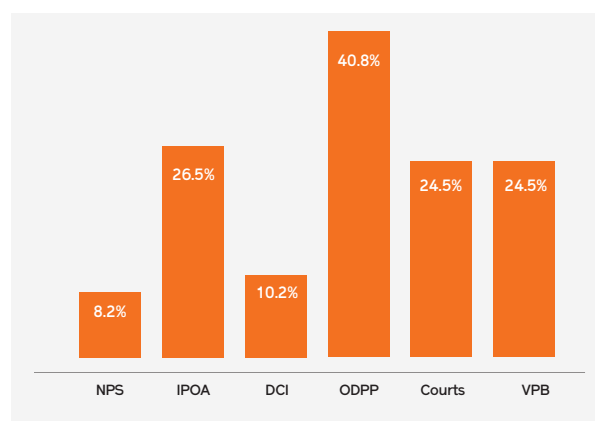
“We have the independence of the judiciary in terms of our money and everything which is being given, but still, this money is held by the treasury. The problem in Kenya is independence on paper but practically, there’s nothing. Even if you have it and you still don’t have the goodwill from the ruling class, we will not move forward because still, you are allocated on paper but practically it’s being held by the Executive who will determine when and how, and at times they go and chop it depending on the circumstances. It might be there on paper

but it boils down on the goodwill of the ruling class.” – **Government Justice System Affiliate**

“From my observation, what I see is a problem at IPOA perhaps is personnel, manpower. I still think they depend on police investigators to investigate their cases. If they can get independent investigators on their own, that would help. Because as long as they are depending on the police, once it comes to the point where they are investigating one of their own, there’s always that bias that is carried along. At the end of the day, a case will be compromised because of that. IPOA can be strengthened in terms of their investigative arm should be a bit independent and a bit free from the internal processes of the police.” – **Government Justice System Affiliate**

Timeliness of service delivery: The study also assessed stakeholders’ perspectives on the ability of CJS institutions to deliver justice in a timely manner to victims of PAP. As illustrated on Figure 27, general stakeholder confidence in timely delivery of services towards achieving justice for PAP victims remains low. Overall, less than half of the participants were confident in timeliness of justice services delivery among CJS institutions. The ODPP emerged as the institution which most of the participants (40.8%) had confidence in followed, by IPOA (26.5%), Judiciary (24.5%) and VPB (24.5%). Stakeholders remained least confident in the NPS and DCI (Constituent of NPS) on the service delivery related to addressing PAP.

Figure 27: Stakeholder confidence in timely delivery of justice services by CJS institutions when addressing PAP



Qualitative findings indicated a general consensus that criminal justice system institutions were slow in delivery of their respective services. This was attributed especially to the backlog of cases in courts, limitations in existing human resources, malfeasance among staff of key institutions, complexity of PAP cases that require more time for investigation.

“To the Judiciary, sometimes we conduct our investigations within the shortest time possible, but once the matter gets to court it drags and it takes time for it to be concluded.” – **Government Justice System Affiliate**

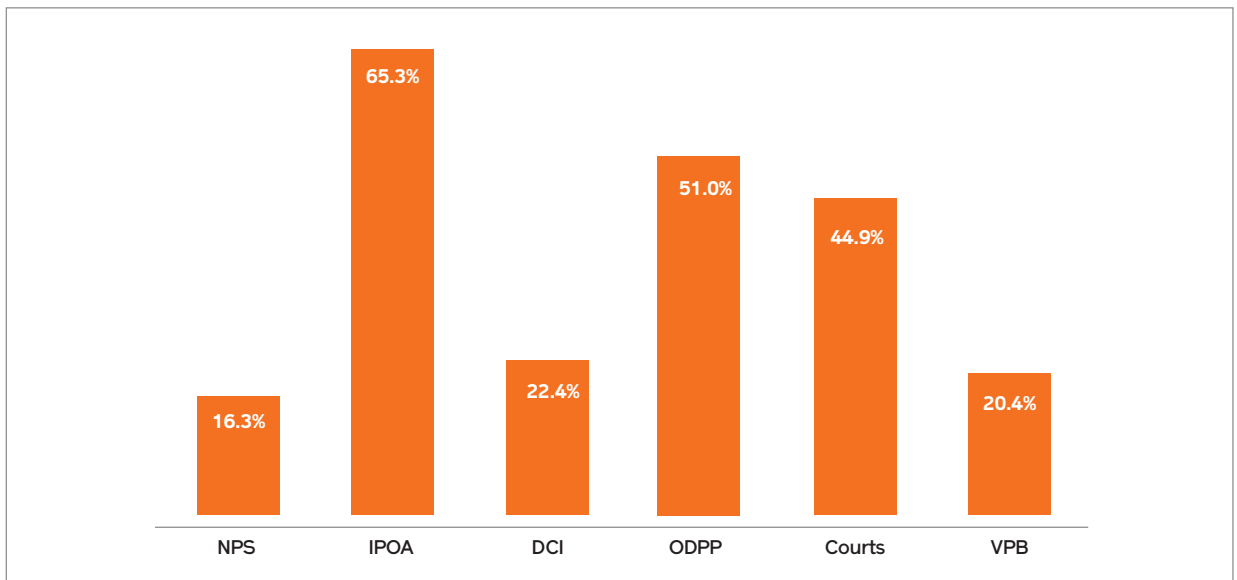
“There is [a] judicial backlog. You see a case; the hearing was today. That’s not the only hearing in that cause list. If it’s a murder file, you have like four others, so you will not hear all the witnesses on that day. The next date given to you will be three months down the line, and any of the judicial actors may not be in a position to attend court. This inordinate judicial backlog causes inordinate delays. Those are some of the challenges I’ve seen and experienced.” – **Government Justice System Affiliate**

“Here, criminal cases like the ones we are talking about, because they include simple, the ones which are complex, and economic. If you go to the simple ones, it is easy to finish depending on the number of witnesses being availed, depending also with the speed with which the parties are conducting the trial. I must say, here, all the

players are to be blamed. We have one share of the blame at each stage.” – **Government Justice System Affiliate**

Public access: Accessibility of criminal justice system institutions by the public denotes the availability of channels for interaction between citizens and these institutions. IPOA emerged as the CJS institution considered the most accessible to the public by most of the participants consulted in the study. This was followed by 51.0%, and 44.9% of stakeholders who were confident that the ODPP and Courts respectively were accessible to the public to handle matters of PAP. Only 16.3% of stakeholders indicated confidence in the NPS on public access. This however did not align with the finding under reliance that found most of cases reported to the NPS.

Figure 28: Stakeholder confidence in access of CJS institutions by the public to address PAP



Qualitative findings provided mixed perceptions among stakeholders on access of criminal justice system institutions by the public. It was noted that some criminal justice system institutions such as IPOA were easily accessible to the public with an array of mechanisms, both virtual and physical for interacting with citizens on matters involving PAP. However, some participants indicated that IPOA still remains inaccessible to members of the public in some counties such as Garissa. It was also noted that the NPS remains inaccessible to the public particularly when they seek justice for PAP cases. Participants highlighted that the VPB is not well-known to the public hence posing accessibility challenges to the public.

“At IPOA, first and foremost, complaints are received in various forms. We have complainants who can email us and we have

their complaints recorded. We have those who walk into our offices and lodge their complaints. We also have those complaints that we take on our motion as mandated by the IPOA Act. We take complaints through the social media. We don’t have to have someone come to IPOA to lodge a complaint. There are those that we take on our motion. There are also those that we receive through notifications from the police stations.” – **Government Justice System Affiliate**

“There are also those others who do letters and receive authority for a complaint to be registered. There are also those who make calls through our toll-free line, 1559, and their complaints are also recorded.” – **Government Justice System Affiliate**

“Independent Policing Oversight Authority is yet to get to all counties hence not reachable to everyone. Outreach should be done through Social Media to build public confidence.” – **Government Justice System Affiliate**

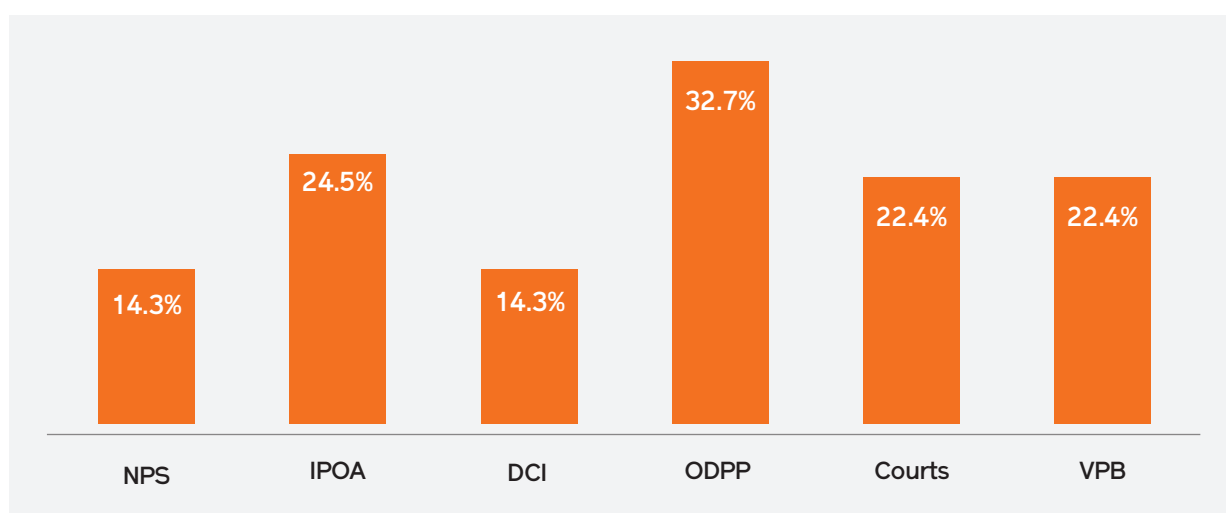
“The National police service is accessible by members of public to address other issues but when it is time to address Police abuse of Power even the officers you thought they were your friend will be hostile, so members of public resort to use IPOA to assist them follow up on such cases.” – **Non-government Justice System Institution**

“Although police premises are accessible to members of public, services in line with reports of police abuse of power are poorly rendered to the public. In most cases, police decline to record such complaints and in cases they do it is after long and unwarranted delays disguised in the name of waiting the superior command to issue orders to allow recording of such

complaints.” – **Government Justice System Affiliate**

Political support: Political support extended to criminal justice system institutions from the executive, parliament and policy makers ensures stability of these institutions to operate sustainably without political interference. Across the board, less than half of the stakeholders engaged were confident that CJS institutions receive and enjoy political support. 32.7% of stakeholders were confident the ODPP enjoy political support when addressing cases of PAP. This was followed by 24.5% of participants who felt confident that IPOA enjoys political support to address PAP. 22.4% of participants were confident that Courts and VPB receive and enjoy political support critical for addressing PAP. The least proportion of stakeholders (14.3%) were confident that the NPS and DCI receive and enjoy political support when addressing cases of PAP.

Figure 29: Stakeholder confidence in CJS institutions enjoying political support to address PAP



Experiences and views from participants indicated low confidence in the extent to which criminal justice institutions receive political support to address PAP cases. Overall, it was noted that there is little to no political good will extended to criminal justice institutions, as evidenced for instance in the inadequate budgetary allocations that these institutions receive from the government. The following quotes further convey these perceptions,

“The first challenge is what a police officer will tell you, that ‘an officer is an officer’s greatest enemy’. The current challenge at my level is that there is no goodwill from the police leadership. I’ve been at this institution long enough to know that it’s like those at the top currently were waiting for this time; “this is my time to now flex my muscles. This is the time now to make sure I benefit the most.” The goodwill from the leadership is not 100%.” – **Government Justice System Affiliate**

“The independent oversight lacks political support from both the executive and parliamentarian in terms of budgeting making it very difficult to hire sufficient staff.” – **Non-government Justice System Affiliate.**

“Courts are doing well but still there is political interference and lack of resources.” – **Non-government Justice System Affiliate**

“That’s the problem and there’s nothing you can do. Even now, I know each and every institution, we budget, each court we budget, then we consolidate it under judiciary, and then we go to the parliament to lobby for it. Even that lobbying, we always get a quarter of what we’ve asked for. Then even that quarter, if something happens, they get it back. They say, “This one was diverted.” It is there on paper but practically it’s something which is not easy. We can just have it there maybe for the sake

of it, looking nice but I can assure you nothing is happening.” – **Government Justice System Affiliate**

“Political support extended to us is wanting because if it were not for the partners that we work with, we would have been so badly off. We always get our resources from the Inspector General, who we are answerable to, and therefore sometimes it becomes a challenge when you request some finances, maybe to attend training and so on, and you are told there are no finances and so on. That’s why we usually put a plus, but in terms of getting support from the government entities, it is 30 to 40%. It’s wanting.” – **Government Justice System Affiliate**

3.3.3. Findings on Stakeholder Perceptions regarding Fairness of Criminal Justice Institutions

Measurement Indicator: SC3 - Stakeholders’ Confidence in Justice System Fairness:
Indicator Definition: Percentage of stakeholders who are confident in the fairness of justice system institutions to treat people without discrimination. Stakeholder’s confidence in the fairness of the justice system refers to perceptions or beliefs held by stakeholders on the extent to which JS

institutions treat individuals equally and without discrimination when handling issues of PAP. The two main components under fairness considered in this study are: non-discrimination and respect for dignity of persons.

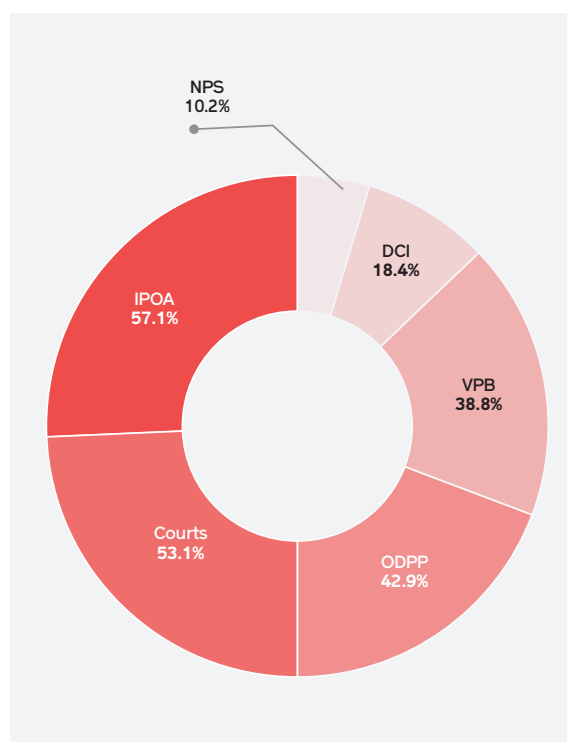
Among the six CJS institutions considered in the study, most participants expressed confidence in the judiciary in ensuring fairness while discharging their mandate in addressing PAP. As illustrated on Table 22, 53.1% of stakeholders indicated confidence in the fairness of the Courts to treat people without discrimination. This was followed by 51.0% of stakeholders affirming that they were confident in the overall level of fairness of IPOA. There was notable low confidence among stakeholders on the overall level of fairness of the DCI and NPS. This was represented by 14.3% and 10.2% of participants indicating that they were confident in the overall level of fairness of the DCI and the NPS respectively in treating people without discrimination. On average, 33.7% of stakeholders engaged were confident in the fairness of justice system institutions.

Table 22: Stakeholder confidence in the fairness of justice system institutions

To what extent are you confident in the Fairness of justice system institutions (NPS, IPOA, DCI, ODPP, VPB, and Courts) in Kenya with respect to the statements:							
Item/Actor	NPS	IPOA	DCI	ODPP	Courts	VPB	Overall (Average)
Non-discrimination: The justice system institution treats everyone equally and without any forms of discrimination when people interact with the institution on matters of Police Abuse of Power/ Misconduct.	10.2% (5)	57.1% (28)	18.4% (9)	42.9% (21)	53.1% (26)	38.8% (19)	36.3%
Respect for Dignity of persons: The justice system institution treats everyone with dignity when people interact with the institution on matters of Police Abuse of Power/Misconduct.	16.3% (8)	55.1% (27)	18.4% (9)	38.8% (19)	61.2% (30)	36.7% (18)	37.8%
Overall level of confidence in Fairness of the justice system institutions	10.2% (5)	51.0% (25)	14.3% (7)	38.8% (19)	53.1% (26)	34.7% (17)	33.7%

Non-discrimination: This component requires that everyone is treated equally and without any forms of discrimination. Figure 30 highlights the proportion of stakeholders who felt confident that CJS institutions were non-discriminatory in handling matters of PAP. More than half of the participants were confident that IPOA and Courts (57.1% and 53.1% respectively) were non-discriminatory on matters involving PAP. 10.2% of stakeholders were confident that the NPS treats everyone equally without any forms of discrimination when people interact with the institution on matters involving PAP.

Figure 30: Stakeholder confidence in CJS institutions being non-discriminatory when addressing cases of PAP



Qualitative findings indicated low confidence of stakeholders in CJS institutions to operate within the principle of non-discrimination. It emerged that those perceived to be of high socio-economic status would be often favoured unlike those of a lower social economic status by criminal justice system institutions. There were also sentiments about the NPS tending to victimise/stigmatise members of the public from certain ethnicities (viewed as habitual participants in violence and in confrontation with police), certain religions (especially Muslims and people of Cushitic background) residents of low income areas, participants in the informal sector (jua kali), young women engaged in sex work and young people with eccentric physical appearance (like tattoos, dreadlocks and heavy beards). Sentiments especially from FGDs with Human Rights Defenders (HRDs) and community members in Kisumu, Nairobi and Mombasa indicated that such kinds of individuals tend to face unfair treatment – unlawful arrests, excessive application of force (especially during arrests), verbal abuse, demands for bribes for release from police custody, denial of bail among other forms of unfair treatment.

“We have seen, generally, cases that are of interest being dropped. We don’t know why. I would give them time to pick up but currently, on a personal level, I would not say that I have full confidence that a case would go full circle, depending on who is involved, the officer in

question and their level of influence, or wealth.” – **Government Justice System Affiliate**

“Sometime the National Police Service is not fair. Especially to the less advantaged.” – **Government Justice System Affiliate**

“The NPS seems to large extent to be serving the needs of the political and business class better.” – **Government Justice System Affiliate**

“Community members who are of Burji, Borana, and Somali ethnicity reside in regions that border the North Eastern part of Kenya. Now it is [a] challenge differentiating members of these communities who are Kenyan and those who come from Ethiopia or Somalia. In this case, police officers often arrest them, both the young and the old.” – **Non Justice System Affiliate**

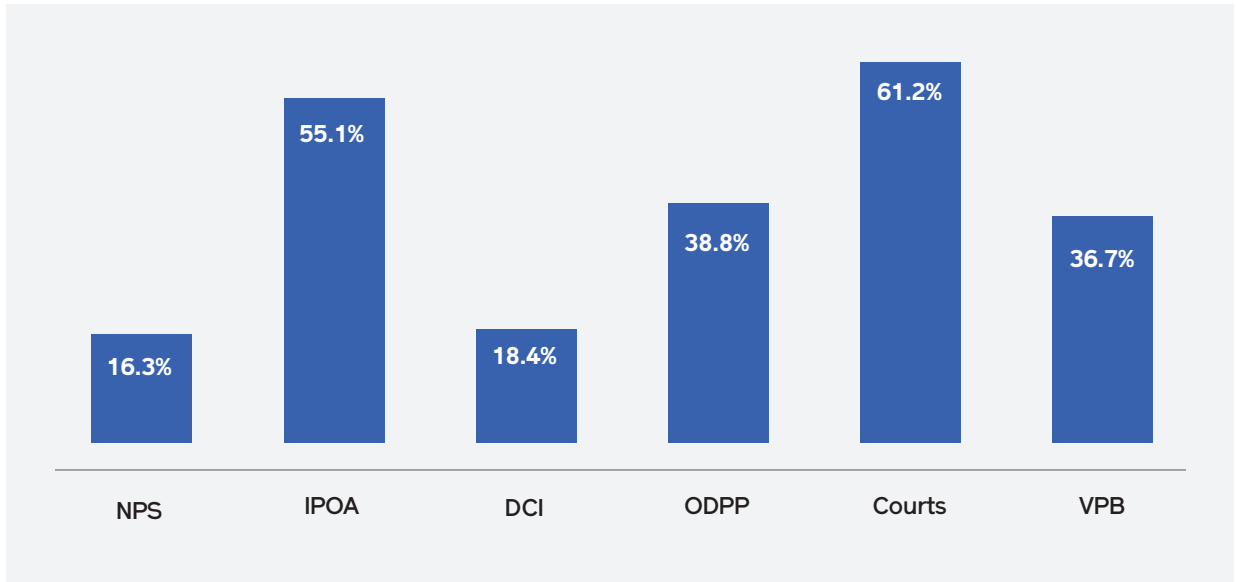
“For the extortion, I would say sex workers suffer very much on the hands of the police. The police often come to specific spots where sex workers operate and extort money from them. They always come to these spots and extort money from them informing them that the work they are engaged in is illegal and if they do not part with some money they will be arrested and locked up in cells. One can be held in the cells even for a week without anyone coming to free them. Once in the cell, the police often ask for a sum of Two Thousand and Five Hundred or Five Thousand Kenya Shillings so as to free the arrested sex workers. These women have really suffered because of the police.”

“The DCI gives priority to matters touching on high-ranking member of society especially politicians as compared to complaints of the common citizens.” – **Government Justice System Affiliate**

“The Courts has been seen to be discriminatory especially when it comes to issuance of bond and bails to accused of high-profile cases vis a vis petty offence.” – **Government Justice System Affiliate**

Respect for dignity of persons: CJS institutions are further expected to uphold dignity of persons who approach them for remedies or those who are processed through these institutions. More than half of the stakeholders engaged (61.2% and 55.1%) were confident that the Courts and IPOA respectively observed dignity of persons who approach them to seek remedies or those processed through these institutions on matters relevant to PAP. There was relatively low confidence in the DCI and NPS. 18.4% and 16.3% of stakeholders reported being confident that DCI and NPS respectively respect the dignity of persons processed or seeking remedy for PAP in these institutions. This is highlighted in Figure 31.

Figure 31: Stakeholder confidence in CJS institutions' ability to uphold respect & dignity of persons when handling cases of PAP



Experiences and perceptions from participants indicated that some criminal justice system institutions such as the NPS in their interactions with the public, have demonstrated disregard for human rights, conducted unlawful arrests, and treated arrested individuals unfairly.

“When you go to report to the police no action is taken, not even an Occurrence Book (OB) is issued. The police instruct you to come back later. Or they accuse you of being perpetrators in creating chaos with the police officers. They will not hear a word from you and end up chasing you away from the police station.” – **FGD Participant**

“For refugees, when they go to report a case to the police station, there are literally cells in the police station to detain these refugees. They are not taken to court; they experience language barrier since you may find that they are from Somalia or Ethiopia. They are held in these cells at the police station and not given food.” – **Non Justice System Affiliate**

“There is a day I went to a police station and found a young man who had been detained. He had no shoes on and I think they were taking him to withdraw some cash. He made an attempt to run away in the process but since

he was weak and hungry he could not escape. They took him back to the police station. People are being brutalised in these cells and detained without being given food.” – **Non Justice System Affiliate**

“Our first interaction with the police at [Location Removed] police station was not very pleasant. How they treated us was not how we expect to be treated when we go to report to the police.” – **Non Justice System Affiliate**

3.4. Performance

According to IJM's Protection Measurement Framework (outlined in the Protection Summary brief) the Performance domain seeks to explore and measure the extent to which the CJS disposes of reported PAP cases in terms of case progression and application of desired behaviours and attitudes. It measures the real-life work of CJS staff on reported PAP cases and specifically focuses on assessing three vertical/pillars of the justice system: (i) Investigations, Law Enforcement and Development (ILED); (ii) Legal/prosecutions; and (iii) Aftercare/survivor services (IJM, 2020).

This section reflects on this study's findings on the performance of the CJS on PAP cases. Analysis under this domain relied on 43 KIs of an array of CJS stakeholders across the country (see Table

9 on page 16). The CJS stakeholders include government institutions under investigations (IPOA, IAU and DCI), prosecution (ODPP), judiciary (judges, magistrates and members of court users' committees), aftercare services CJS institutions (Victims Protection Board and Witness Protection Agency) and other non-state actors majorly CSOs. The data was analysed through thematic content analysis and presents reflections on performance of the CJS along three pillars – **ILED, Legal and Aftercare**.

3.4.1. Performance under Investigations, Law Enforcement and Development (ILED)

3.4.1.1. Registration and processing of complaints

Registration of complaints: The protection study noted (through monitoring data provided by IAU and IPOA) several cases of PAP reported by affected persons to relevant CJS institutions. IAU registered at least 1,591 PAP related cases between 2021 and 2024 while IPOA registered at least 8,851 cases in over the same period.²² There are several channels available to the public for registration of PAP-related incidences/complaints and members of the public largely demonstrated knowledge of such channels and how to report cases. This is also reflected in section five on prevalence of PAP indicating a significant proportion of participants surveyed who reported complaints/incidences. Besides physically reported cases, some members of the public have utilised digital mechanisms provided by IPOA and ODPP to report and record complaints/incidences. Participants in the quantitative survey indicated that most of the cases were reportedly registered at police stations, with ODPP, IPOA, IAU, public administration (chiefs) and to non-state actors, particularly NGOs working in the criminal justice sector. Here are some excerpts from KIs with CJS actors that reflect this finding.

“Right now, we have the Malalamishi App, and hopefully, in the near future, because we are reconstructing our website, it will be on the website. It's an app that allows any Kenyan from anywhere to put in their complaint or file their complaint anonymously and then it is picked up in that system and acted upon.”
– **CJS Actor - Investigation**

“Currently, they write letters through our email address or to our Internal Quality Assurance (IQA) Unit, that is the unit of the ODPP that handles complaints from members of the public.”– **CJS Actor - Prosecution**

There remain challenges in reporting, recording and obtaining data on PAP cases. Foremost, data published on registered PAP cases is not often adequately disaggregated limiting better appreciation of scope and characteristics of PAP incidences and victims/survivors. Further, accuracy and authority of registered data on PAP remains a conundrum, with a lack of clarity as to which CJS institution has the right/correct data. Occurrence and experience of PAP may not always tally with recorded number of cases. Members of the public tend to believe incidences are higher than published reports by relevant CJS institutions. Different CJS institutions have differing records of PAP and there is no centralised recording of cases to facilitate accurate computation (limit double counting and documentation of all reported cases). Data quality on PAP can be improved through enhancing data curation capacities of the data sources – like police (OB records), IPOA, ODDP and IAU. Some of the challenges that limit effective reporting of PAP cases include: information limitations (inadequate awareness of available reporting channels), witness/victim intimidation, interference by police, lack of a centralised portal/mechanism for registering PAP complaints/incidents.

Processing of complaints: CJS institutions responsible for investigating PAP rely on, and follow, regulations and procedures in processing of complaints. Generally, once cases are reported, officers acknowledge receipt and conduct assessment to determine whether reported incidents/complaints merit investigation or can be handled at complaints department level. For instance, at IAU complaints processing involves the Director and legal team that review cases. Where they determine that reported complaints/incidences don't fall within IAU mandate, they are referred to respective institutions for action. At IPOA, a case inter-committee (CIC) is set up which involves officers from various departments – complaints, investigations, inspections and monitoring and preventive services that review and evaluate the merits of a case. Notably, there are cases that involve serious crimes (category one incidences like shooting resulting in a death, a fatal shooting and robbery with violence) with substantive public interest that go straight to investigations. There are procedures for processing cases once certified for

22. This data relates to one of the SIs: IC1-Registered incidents

investigations that include allocation of investigative officers, development of terms of reference and determination of timelines within which investigations should be carried out. Whilst there exist robust complaints processing mechanisms within the relevant CJS institutions that receive reports, the system may be prone to abuse. Some CJS stakeholders consulted for the PAP study believe that sometimes the internal complaints processing mechanisms have been utilised to curtail investigation of incidences that warrant investigation. The text excerpt below supports this claim.

“The internal administrative processes sometimes get abused [...] Those internal structures are overwhelmed because these cases happen more rampantly than we would want to imagine. I can say, the police systems are inadequate. At the same time, they are used for the benefit of protecting the police more than the victim.” –CJS Actor - Judiciary

3.4.1.2. Investigation

Effectiveness of investigations and quality of evidence: Processes of investigation and setting up of case files have considerable bearing on success rate in prosecution of PAP cases. Investigation is construed to mean processes around taking of witness statements, collection and consideration of non-testimonial evidence, forensic analysis, and pursuit of various lines of inquiry. There is an overall view amongst most CJS stakeholders and the public that investigations on PAP are sub-optimal and the quality of evidence normally adduced before court remains low, adversely affecting determination and outcomes of PAP cases in court. Inadequacies during investigation affect outcome of cases. Among key CJS actors consulted in the study, many believe that PAP cases often collapse (at investigation stage) due to inefficient investigative processes, poor coordination among relevant CJS institutions, poor implementation of SOPs to ensure integrity of evidence and lack of adequate investigative officers with strong capacity and acumen to deal with the complexity of PAP cases. Cases take long during investigation with negative implications on subsequent stages of the CJS (prosecution and adjudication) and on the perception of justice. Also, the scope of cases investigated seems to still exclude the vast majority of PAP incidences. The proportion of complaints investigated compared to all reported PAP incidences remains low since IPOA investigates the high severity complaints

with the low and medium severity complaints, which are the norm, inadequately tackled. Some investigative CJS institutions like IPOA and IAU nonetheless contend that despite challenges, they have invested in improving technical capacity, SOPs and quality assurance to improve the investigations and evidence. Some excerpts of KIs reflecting this finding are outlined below.

“These cases are pending investigation for quite a period of time, for example, you will find a case incident that happened in 2017, and that’s one of the biggest challenges that we are facing. By the time investigations are done, you’re advising the file in 2020, 2023, or 2024 [...] there was an RRI, that is, the Rapid Results Initiative conducted by the Human Rights Division Unit in the ODP. They reviewed a total of 102 files, and in these files, the issue was that they were incidents that happened in 2020, and this was in 2023 when they were reviewing these files” –CJS Actor - Prosecution

“In most of the cases, there is quite some delay in those offices. I’m not saying it’s by design, but because of the sheer volume of what to do, you find there is a delay. In this period of delay, the complainant is always perceiving that justice is not being done. At times it may take weeks, occasionally, months, and even years before you get feedback. During that period of waiting for the review and the advice, it is one of the most hectic times, especially for the investigators.” – CJS Actor - Investigation

Guidelines and quality control in evidence collection: There are notable mechanisms for quality control in investigations that CJS institutions rely on, though some actors believe that the mechanisms have not been applied optimally. According to many participants from investigative CJS institutions, PAP cases across the board are accorded similar attention to other criminal cases, in terms of collection of relevant evidence. Investigating Officers (IOs) take statements from key victims, witnesses, suspects and other auxiliary persons that benefit investigations. There is indication that IOs also collect, in most instances, potential non-testimonial evidence – physical or digital evidence with potential to provide proof of an element of the crime or with other significant probative efficacy. There are notable mechanisms for quality control of investigation processes across the investigative CJS institutions in cases related to PAP. These

include guidance on timelines for investigation, operational conduct of investigation officers, procedures for considering evidence collected and consolidation of cases after investigation. At IPOA for instance, participants argued that there are guidelines on the stages investigation of an incidence takes – from complaint processing to assignment of IOs, internal review, Regional Case Conference Review Meetings, review by main office of investigation, reviews by legal department for legal provisions and evidence, peer reviews by all the investigators in the region and ODPP for review and advice. IOs consulted indicated that there remain gaps regarding adherence to the SOPs and other quality control guidelines. This has meant that sometimes evidence is tampered with, lost or compromised. Discussions with stakeholders from investigation highlighted some of the quality control mechanisms as depicted in the quotation below:

“You do a team review to identify the gaps in the cases, and these gaps are raised at that point. Thereafter, when you finalize on maybe making the corrections and the filling of the gaps that have been identified by your team members, we usually do the Regional Case Conference Review Meetings, where you present the cases; Then the team there reviews the file, and adds value; they suggest areas of improvement, maybe areas that you have omitted during the research. That is not final; after that, we also take the file through our main office of investigation who also reviews the file. Finally, to our legal department, who looks at the legal provisions, evidence that is there to see if the recommendations that have been done by the investigator meets the threshold before the file is forwarded to the ODPP.” – **CJS Actor - Investigation**

Investigative expertise: The study noted, based on conversations with Investigative CJS institutions (IPOA, DCI and IAU) that they generally demonstrate utilisation of a range of analytical tools and techniques for the discovery of evidence or examination of materials relevant to investigation of reported incidences of PAP. This gave the indication that there is generally good expertise for conducting investigations that can be relied upon to build up credible evidence to back up prosecution of PAP cases in the country.

“The DCI has every person that is a reflection of the true society we have medical doctors, counsels as well as engineers, and all the

trades that you may think about. [...] We dissect cases from what is required from the point of initiation of the case [...], there is the case plan. Who do I need in this case? What extent of resources do I need? All those are captured in the initial stages so that as you progress in your case, you're able to consult. Who do I need? A road engineer? Yes. Do I need an accountant?” – **CJS Actor - Investigation**

“Majority of their files [IPOA] have very good evidence, good investigations, even when I compare them to the files handled by DCI in other aspects [...] They know how to gather evidence. From the few cases, like one I was handling in Kajiado, they are very active even in trying to get the attendance of the witnesses to court. They make our work easier while we're in court.” – **CJS Actor - Prosecution**

“I know officers go way out of their ordinary performances, so that they can be able to succeed in whatever they do. The capacities as you mentioned, from the sub-county level through to the national level in the DCI headquarters, we have different capacities. I would like to elaborately inform you that if a case requires some special attention. The DCI headquarters through the other offices, through the county and through the regional offices, come in handy to support. Many are times that the officers are facilitated directly from the DCI headquarters so that you can have good results out of every case that is reported.” – **CJS Actor - Investigation**

The study noted nonetheless that independent institutions outside NPS (especially IPOA) seem to lack adequate specialised expertise for forensic analysis and as such depend largely on NPS (DCI). Besides causing delays, the reliance on NPS for various aspects of investigations has sometimes led to loss of evidence or inability to collect and consider crucial evidence necessary for investigations within reasonable timelines. This finding is backed by sentiments of some of the CJS actors consulted as illustrated in the following quotations.

“They don't, I can assure you. You'll never get the ballistics. The ballistic is also part of the police. If they come, they'll tell you the gun which was issued to this guy is different, and the killer bullet is different. When that evidence is given, as a court, you are left, you don't know what to do. That's unfortunate.” – **Judiciary**

“Getting the technical reports, and the ballistics examiner’s report is also sometimes a challenge because they are not very many in this country” – **CJS Actor - Judiciary**

“There are instances where we have delays [due to lack of adequate investigative expertise]. For example, you take some samples to the Government Chemist or DCI and you want to get their reports. It doesn’t come at the exact time that you want, so there are those delays” – **CJS Actor - Investigation**

Operational independence of Investigation

Officers: The study got the indication that IOs generally have considerable independence and follow up on logical, reasonable, and relevant lines of inquiry in the processes for investigating PAP cases. Most IOs consulted indicated ability to collect evidence across the board without undue influence from superiors, other CJS actors or other influence from the public or political elite. They indicated that they independently and lawfully identify and seize evidence, ensure prudent documentation ensuring its integrity – **preventing alteration or tampering.**

It was notable nonetheless that reliance on other CJS institutions in some processes (like forensic analysis) during investigations sometimes impairs the ability of IOs to take full control of investigations. Many IOs particularly from IPOA indicated that strengthening their investigative systems – particularly more resources to establish their own forensic lab would minimise challenges related to delays and undue interference in investigations when cases are referred to other CJS institutions like DCI.

“What I see is a problem at IPOA perhaps is personnel, manpower. I still think they depend on police investigators to investigate their cases. If they can get independent investigators on their own, that would help. Because as long as they are depending on the police, once it comes to the point where they are investigating one of their own, there’s always that bias that is carried along. At the end of the day, a case will be compromised because of that. IPOA can be strengthened in terms of their investigative arm should be a bit independent and a bit free from the internal processes of the police. They should not depend on the internal processes of the police to gather their evidence.” – **CJS Actor - Investigation**

“Interference with the investigations again, though as I’ve told you with IPOA, that’s at least being minimized, but there is still that, whereby some of the evidence is watered down through the interference. By the time you’re coming to present it in court, it’s not as concrete as you thought when you were making the decision to charge.” – **CJS Actor - Prosecution**

Success rate of investigations: A straightforward way of judging effectiveness of investigations of PAP is reviewing the extent to which PAP case investigations result in arrest and the proportion of case investigations that are filed with the prosecutor’s office or registered with in court. The study noted, from conversations with IOs at IPOA

and DCI that there are many instances where IOs have recommended the use of legal authority to seize or take into custody police officers suspected of having committed PAP related upon review of available evidence. Some IOs interviewed indicated however that many PAP cases do not end up in court or filed with prosecutor’s office and in fact largely deemed disciplinary or administrative to be dealt with by IAU. This was also reflected in records of PAP reports which indicate a substantive variance between reports and number of cases prosecuted. For instance, out of a total 2,373 PAP complaints investigated by IPOA between 2021 and 2024, only 463 cases were submitted to ODPP for decisions to charge (signifying completion of investigations). This is affected by the fact that IOs do not have mandate on decisions to charge – this is centralised and vested in the ODPP. The IG also has discretion on whether a case is investigated. This separation of authority and decisional autonomy on how investigations proceed is noted as a significant problem affecting success of investigations.

Timeliness of investigations: The average time taken for investigations for most PAP cases to be completed is considerably long. The general observation is that amount of time elapsed between the collection of evidence and the receipt of the forensic results in most cases is so long as to jeopardize integrity of cases and assurance of justice for victims. Resource constraints (in terms of human resource, funding for investigation related expenditures) affect the speed at which investigations are completed. Several IOs cited heavy workload when comparing available human resource for investigations with the number of news cases and backlog. The issue of coordination among relevant CJS institutions also comes into play. There are investigations that take long to conclude because elements referred to other CJS institutions delay and as such limit ability of IOs to complete and forward files to ODPP or otherwise. Many IOs also noted that this is affected by cooperation from witnesses and victims who report cases. Where witnesses are not available or do not make time for statements and consultations they affect the duration of completion of investigations. Also, the transfer of investigators has been cited as a source of delays in progression and completion of investigations since new officers take time to acquaint with cases and catch up.



A community dialogue in Nairobi

3.4.1.3. Challenges limiting performance in ILED

The study noted that there are several issues that determine and have shaped performance of the CJS institutions in investigation of PAP cases. These include: (i) resource endowments; (ii) technical capacity; (ii) human resource and workload (iv) coordination; (v) public confidence and conflict of interest; and (vi) witness safety/protection among others.

Resource endowments: The broad spectrum of processes and services involved in investigation of PAP cases are resource intensive – both human and material. Nonetheless, resource endowments to critical CJS institutions mandated to investigate PAP cases has been considerably low and remains an impediment to effectiveness of investigations with adverse implications on determination of PAP cases. Across the board, CJS actors argue that resources are always not enough. For IPOA and IAU, there is an acute limitation in requisite technology, equipment, manpower/capacity and other material support necessary to conduct independent and robust investigations.

“IPOA does not generate income so it sorely relies on the exchequer to finance its operations. Especially in the current financial year, they have very extensive budget cuts, and it's of course, going to be impacting negatively on work. Much cannot be done with those cuts. Investigations is field based, so when you're in the office, there's nothing much you can do.” – **CJS Actor - Investigation**

“If we can have a well-equipped laboratory, that can also be able to help us expedite some of these things instead of us waiting for a month or two to be able to get the reports from the various experts. If we can have them, that can be valuable to us. We can also invest in better and more modern equipment for monitoring.” – **CJS Actor - Investigation**

This has meant that these institutions lack internal investigative resources to take on PAP cases and conduct independent investigations that produce strong evidence that can buttress convictions. As such, the quality of investigations, speed of investigations and scope of complaints taken through rigorous investigations remains limited. Many CJS actors argue that tackling this requires institutional strengthening, legal backing and more resource allocation accompanied with practical budget autonomy/independence to adequately empower the investigative CJS institutions to effectively discharge their mandate.

Technical capacity: There are challenges with capacity of investigating officers that affect performance of mandated CJS institutions to

conduct robust investigations. This has resulted in poor quality evidence and lack of timeliness in production of evidence to support prosecution of PAP cases. Many investigative officers interviewed indicated that PAP cases require specialised training and high level of capacity that is not always available to institutions tasked – IPOA, IAU. There appear to be inadequate continuous capacity strengthening of investigative officers including in areas like forensic analysis. Key investigative agencies seem inadequate in developing capacities of investigative officers on PAP. Most staff recount only inductions – there are no robust investigative training programs for IOs when they join IPOA or IAU and limited evidence of regular on-job trainings to improve capacity. There is notable dependence of key CJS institutions mandated to investigate PAP (IPOA and IAU) on DCI which is problematic in terms of maintaining hygiene of investigations and objectiveness of evidence.

“I can't say there is a structure or mechanism that we follow to ensure continuous training because once you are recruited, other than the basic orientation you get from the department, mostly you are expected to learn on duty. You learn the hard way as you conduct investigations.” – **CJS Actor - Investigation**

“I've had interaction with them [IPOA, IAU]. They are still amateurs; they are still growing up. The reason why I'm saying this is, you can imagine when somebody is giving a junior officer to investigate a senior officer, it doesn't make sense. Some people you investigate with attitude it's not very good.” – **CJS Actor - Investigation**

“Not all the people have that extensive experience of conducting investigations, and also investigations to do with police. I think continuous training to enhance skills for the investigators, especially the young and the new investigators who join the institution, could go a long way in ensuring that as an authority, we conduct quality investigations.” – **CJS Actor - Investigation**

Human resource and workload: Personnel and manpower remains a big challenge to investigation of PAP cases. There is a significant problem of workload that limits quality, speed of investigations and quality of evidence. According to most of the participants of key CJS institutions with investigative mandate (like IPOA and IAU) interviewed, there is a significant human resource deficiency that hampers their effectiveness. Staff in such institutions interviewed for the study argued that they are overstretched, especially with investigations, when they compare the numbers of available investigators to the police officers that are supposed to oversight and conduct investigations against. Due to such human resources limitations, tasked institutions, face challenges regarding the available officers for conducting

investigations. Whilst there is a standard number of files that one investigator is mandated to handle at any given time, HR inadequacies and frequency of PAP cases has meant that IOs handle more than the stipulated number. This is believed, by investigators and some judicial officers consulted, to affect the quality and timeliness of investigations and evidence. There is also the issue of addressing psychosocial support necessary for officers investigating PAP cases and also for police officers accused of misconduct that appears to be inadequately addressed. This is reflected in the following experts of interviews with some of the investigative officers and magistrates (judicial officers) as follows

“There is a standard but in practice that is not applicable. For instance, [here] we have only five investigators covering six regions. Including myself, we are six that translates to one investigator covering one county and we have several complaints coming from various counties. [...] Sometimes you realize that we have given an investigator like say ten files that they are supposed to handle within a given time but sometimes because of pressure, there is a matter of public interest you are forced to again reconstitute and give them some of these cases because again it’s an issue of public interest and we must run with it and ensure that we deliver within good time. While we have 10 files per investigator at one given time, but again circumstances sometimes force us to give them more.” – **CJS Actor - Investigation**

“We are overstretched, especially with the investigations. We have very few numbers of investigators as compared to the police officers that are supposed to oversight and conduct investigations against them. These things also depend on time or the locations. Like, when we have had these demonstrations, you can be assigned more than 10 cases in a month depending also on the situation. On normal times, maybe five, when things are not going bad, but when there are issues to do with police operations, and that’s when we experience increase in police abuse of power, and of course, much misconduct being committed by NPS, you get an influx of the cases, and you might end up with even 10 cases that you are running up with in the course of that particular period.” – **CJS Actor - Investigation**

“Lobby the government to employ more people, especially for the investigations department. 70 investigators running investigations across the country is just a drop in the ocean. We are overstretched. Whatever I have in my queue, even if I don’t get any new cases this year, I cannot complete them. That’s why backlog keeps on growing in the authority.” – **CJS Actor - Investigation**

“I feel they don’t have the necessary manpower yet to deal with some of these cases. Like I said, they are not able to conduct independent investigations fast enough. Most of the time, the cases will be lost because there’s evidence that was not collected in time, and by the time IPOA reacts and is able to step in, a lot has been lost. I attribute it to the challenge of manpower; they are still not properly constituted and they don’t have the necessary manpower to do some of the functions they are supposed to do.” – **CJS Actor - Judiciary**

“We keep receiving quite a number of cases each and every day. More so during this maandamano [riots and demonstrations] periods, we’ve received a number of cases. You realize that the staff are not enough to handle all those cases”. – **CJS Actor - Investigation**

Coordination in investigation: Tackling PAP requires multi-agency coordination, particularly in investigation. This is because there are various CJS institutions that are legally mandated to contribute to various facets of the processes in investigation – like receipt and processing of complaints, technical investigative capacity, protection and care of witnesses during investigations among others. This requires that such institutions engage collaboratively – to avoid duplication of effort, limit counter-productive actions that may undermine investigations, strengthen available capacity to investigate, pool and optimise existing resources, facilities and equipment and to increase the speed of investigations to get evidence ready for trial.

Whilst there exist mechanisms for coordination, cooperation among relevant CJS institutions during investigation of PAP remains poor and undermines effectiveness of investigations. The study noted from interviews with investigators and some CSOs involved in defending human rights that there are numerous reports of non-cooperation, especially from NPS on critical information and support necessary for independent agencies like IPOA and IAU that limit their capacity to conduct robust investigations.

“Non-cooperation with the police. It’s not a common thing that you will summon a police officer who knows that he has been accused of committing a crime, and they will come. Mostly, what happens is we find ourselves doing letters, summons, and reminders three or more times before an officer shows up. At times, even when they show up, whatever they tell you is not adding up.” – **CJS Actor - Investigation**

“Whenever you even seek some information just to clarify an issue or something, the way police respond to our request, they are always defensive. When I started, we said that they feel the authority is a witch-hunt institution. We are just there to find police culpable and such, so

that process is a bit of a strange relationship, I can say. That's why you see this relationship affects our work in a way because it causes unnecessary delays. It is back and forth. So, yes, we've had prejudiced relationship and cooperation with a number of the actors and stakeholders. Same for the NPS, but its work in progress." – **CJS Actor - Investigation**

There is also perceived overlap in mandates between IPOA and IAU that is cited for undermining evidence collection, complicating processes for witness engagement, evidence gathering and custody. This is reflected in interviews with IOs and also responses from some CSOs that work with CJS institutions on protection of human rights. Although IPOA and IAU indicate that they have cordial relations with DCI and regularly refer cases to them for support, especially where there is backlog, there are also superiority challenges cited by investigators from IPOA, exhibited by DCI officers that undermine collaboration. Also, multiple reporting of cases to IAU and IPOA presents challenges in terms of tracking what has been done about them.

"Sometimes there appears to be overlap with IPOA meant to investigate injuries or deaths in the hands of police. Sometimes we have conducted parallel investigations on the same cases and arrived at different conclusions (where there are diverging outcomes - decided by IG) – also arrived at similar conclusions in some cases." – **CJS Actor - Investigation**

"I think there is a duplication of duty because some would go to IPOA and some would go to IAU, and both of them come with the same thing." – **CJS Actor - Investigation**

"No, certainly not. You have a sibling type of rivalry, where you have an external observer, that is, IPOA, more like the black sheep, trying to do their best because they know what is at stake, and you have the big brother, DCI, taking the role of protection, protecting their own, what we call the blue code of silence." – **CSO Representative**

"You have that push and pull. In fact, there was a time we were in a post-mortem exam and when the bullet was retrieved, IPOA said, 'I'm taking it' and DCI said, 'I'm taking it.' We had to get the intervention of a senior superintendent. That is the kind of partnership that you have on the ground." – **CSO Representative**

The study noted nonetheless that there have been efforts to address the coordination challenges by leaders of the relevant CJS institutions. For instance, some IOs indicated that there have been engagements at director levels (for IAU and DCI) to address challenges of coordination between the two agencies.

Conflict of interest and public confidence: There are strong perceptions of conflict of interest in the current set up of the CJS with regards to handling PAP cases. Most stakeholders hold the view that as

it is, the architecture of the CJS in Kenya positions police officers involved in PAP both as perpetrators and investigators of their own crimes. This is understood to impair investigations, prosecution and conferment of justice to victims/survivors of PAP. There is significant lack of public confidence in capacity of investigative CJS institutions that has adversely affected perception of justice. There are allegations of collusion between police suspected of committing PAP crimes/misconduct and investigating officers (both NPS and IPOA). There are several examples cited including: police officers failing to provide evidence, tampering with evidence in their custody, providing adverse witness statements/evidence in court, delaying investigations of submission of evidence, among other misdeeds. Many argue that police are investigated by their colleagues since it is police that arrest and are presented as witnesses against their accused colleagues. The DCI for instance, is viewed as quasi police – not entirely objective in dealing with PAP cases when they extend capacity to IPOA and IAU in investigating PAP cases. Many judiciary actors consulted in this study argue that the outcomes of the cases they adjudicate is most often determined by the quality of evidence presented which in many cases is inadequate, weak due to deliberate action by investigating officers colluding to destroy or weaken evidence against their colleague police officers. There is a need to delink investigations from police where police are the culprits. Many argue that effectively resolving PAP cases should not rely on police investigators. Relevant CJS institutions must get independent investigating officers. There is also perceived abuse of internal administration (disciplinary) processes on PAP cases. There is the tendency of NPSC and IAU to prefer to deal with PAP cases as administrative – even where there is evidence of criminality in order to protect their colleagues.

"We are relying on some documents from the same police officers to implicate them in these cases, so as I mentioned, you will find you are investigating a shooting case, you have a witness testimony that says they saw officer AB shooting at this person, however, if you go to request for documents, you'll find the Arms Movement Register is intact, the officer returned the firearm, all the bullets are there, it did not expend any. However, the evidence you have contradicts the records with the police, meaning, most probably, they have altered their reports, or rather the records down there." – **CJS Actor - Investigation**

"If we can just delink all alleged police abuses from police investigations, that is the only way, like we have done with the Ethics and Anti-Corruption Commission. I can assure you, I've been there. Matters being investigated by EACC are properly handled compared to the ones under investigation by the DCI." – **CJS Actor - Investigation**

"Even if they come, they make sure they destroy the case. The last one I did which involved police officers, they made sure that

the evidence they gave was adverse, so they were declared hostile. All of them. You want us, we'll come, we give hostile evidence. What's the position in law? That is useless evidence. It is destroyed from the investigation. If you insist, we come and we give adverse hostile, and at worst, we come and say, we are not testifying."

– CJS Actor - Judiciary

"The moment we'll sit down, even lobby our legislatures, and then come up with a law which even permits IPOA to carry out investigations concerning police abuses and present without relying on police to investigate themselves, that is the only remedy. As long as it is the police being accused of abuse and they're investigating themselves, we have a long way to go."

– CJS Actor - Judiciary

"If you look at the Act that institutes IPOA, it still relies heavily on the police to investigate. Then they do their own, then it is given to another police officer to compile and present everything. They only come in as witnesses. Even in cases where they've managed to secure a conviction, it is by the grace of God. You've seen, in fact, was it two years ago where they went to Kasarani police station and the OCS was under investigation of abuse of power, I think on injuring somebody. The police wielded a gun and this man had to run for his life. In as much as they investigate, still they have to rely on the police."

– CJS Actor - Judiciary

"One of the ways that they protect the police officers or their colleagues, is that you will see a file being brought to us as a normal criminal case, maybe assault, or just something minimal, being investigated by the police. When you look at that file, you'll say, "No, this is not something that I can just take to court. From the way I look at the circumstances of this case, this is not a case that I can just allow to go to court. If you allow it to go to court, with the police being the investigators, trust me, you will never find those witnesses, and the file will never proceed; one way or the other, it will just disappear."

– CJS Actor - Prosecution

"Most of the time, they want to have all these cases dealt with internally as disciplinary issues when some of them you can see a crime has occurred. Maybe you can attribute that to protecting one another. From my experience, most of these cases are covered or get lost under the cover of, "they are being dealt with administratively" either at the station level or the HQ, but I think if an independent body would look into some of the practices that occur there, we would have a lot more cases unearthed and brought forward to court."

– CJS Actor - Judiciary

Witness safety/protection: Witnesses are critical ingredients in investigations and trial of PAP cases. Their availability and quality of evidence they provide profoundly impact adjudication of PAP cases. However, the typical nature of PAP cases puts witnesses at significant personal risk and in many

cases affects their willingness to participate in CJS processes from investigations to appearing in court.

Many CJS actors and CSOs working on PAP interviewed for this study believe that the country lacks adequate proper/effective victim and witness protection mechanisms that limits investigations and quality of evidence. Many actors cited considerable fear of victimisation by witness or victims of PAP that they argue prevents members of the public from reporting cases, providing evidence about PAP cases and participating in CJS processes. This was especially notable in FGDs with Human Rights Defenders (HRDs) and victims/survivors of PAP who recounted stories of being threatened by police. Whilst there exists a Victims Protection Board (with legal backing) and Witness Protection Agency, it appears that they remain ineffective in handling the protection needs of several of witnesses and victims of PAP in the country. Many actors consulted argued that the VPB remains in infancy and underdeveloped with limited interventions, mechanisms and resources available to cushion and relieve victims of PAP. They contented also that the Witness Protection Agency remains encumbered by resource constraints that limit its ability to protect many witnesses that otherwise require protection. This was corroborated by participants from WPA consulted who indicated that as established, it currently retains/implements a very high standard and criterion for admissions of witnesses that locks out the vast majority of PAP witnesses that need their services and that would otherwise be available to provide crucial evidence to PAP cases. Some CJS actors interviewed indicated that Kenya's WPA is nonetheless considered one of the best in witness protection in the continent. As such, many PAP cases fail at investigations stage due to lack of a functional witness protection mechanism that assures safety of witnesses over the typically lengthy processes of PAP investigations.

"We also experience non-cooperation from the complainants and the civilian or the independent witnesses, in the sense that there are people who come and launch a complaint with a record, but they are not ready to avail themselves to further these investigations. Every other time you look for them, they're not available."

– CJS Actor - Investigation

"There is also the general fear by citizens where the police are involved. Getting a witness willing to come and testify is also a challenge. Most witnesses would rather keep off."

– CJS Actor - Judiciary

"Some of our witnesses, even civilian witnesses, are afraid of testifying; when they testify, the police might turn against them, therefore they're afraid of testifying"

– CJS Actor - Investigation

3.4.1.4. Qualitative estimate of ILED Core Standardized Indicators

IJM's nine ILED core standardized indicators (SIs) measure law enforcement's ability to:

- Register criminal complaints (proactively or reported)
- Ensure victims are relieved from abuse
- Take key statements
- Gather non-testimonial evidence
- Complete forensic analysis in a timely manner
- Follow up on key lines of inquiry
- Arrest suspects
- File cases
- Complete investigations in a timely manner.

Since these SIs were not collected as explained under the limitations section [2.5], we have provided a “qualitative estimate” of the level of performance for each of the ILED SIs based on the study’s qualitative results (see table 23 below for more details). Overall, the performance of the ILED pillar was estimated to be low for each of the nine core indicators.



Table 23: Estimated level of performance of selected ILED SIs

Performance SIs that measures JS outcomes	"Estimate" of the level of JS Performance based on the qualitative results
IC3 - Statements Taken	1
IC4 - Non-testimonial Evidence (Case Files)	2
IC5 - Completed Forensic Analysis	1
IC6 - Appropriate Lines of Inquiry	3
IC7 - Investigations Resulting in Arrests	2
IC8 - Investigations Filed	2
IC9 - Time to Complete Investigations	1
Average Level for ILED SIs	Mean (2), Mode (2) and Median (2) = Low



3.4.2. Performance under Legal (Prosecution & Adjudication)

3.4.2.1. Duration of case reviews by ODPP

The study established, from conversations with investigative officers, that processes for reviewing investigated cases submitted to the ODPP to ascertain whether they merit prosecution (should be taken to court) can be long, precipitating undue delays that frustrate timely adjudication of PAP cases. As per the law in Kenya, the ODPP is solely in charge of considering evidence presented after investigation to determine whether to press charges or refer cases for alternative mechanisms for resolution where they do not meet the threshold for charges. Reported delays in review of case are believed to limit justice for victims of PAP in the country. Participants from the ODPP and other CJS institutions indicated that delays are mostly caused by manpower challenges coupled with influx of many PAP cases over the past two years and backlog of cases not yet concluded.

“Our files sometimes take ages with them before they are reviewed and returned. We have cases that have been with the DPP for the last two years. With such cases again we have clients asking about the status of their cases and we are sometimes unable to give them a satisfactory explanation.” – **CJS Actor - Investigation**

“They are the sole state agency that has the capacity to make decisions to charge, but the way they move with the decision to charge or to even request for rectification in a file from either IPOA or IAU is a bit too slow.” – **CJS Actor - Investigation**

“[...] delay of files at the DPP [...] some cases can stay at the DPP for even three or four years awaiting feedback or direction from the DPP. In that process, some witnesses die and others give up on the case. By the time it comes up, you find that a witness doesn't want to pursue that matter anymore.” – **CJS Actor - Investigation**

“You take the file for review and advice from the DPP. In most of the cases, there is quite some delay in those offices. I'm not saying it's by design, but because of the sheer volume of what to do, you find there is a delay.” – **CJS Actor - Investigation**

“In this period of delay, the complainant is always perceiving that justice is not being done. At times it may take weeks, occasionally, months, and rarely even years before you get feedback.” – **CJS Actor - Investigation**

3.4.2.2. Charges and Decision to Charge

The DPP has brought to court several cases regarding PAP over the past three years (2021 to

2024) that demonstrate its efforts/contributions towards holding police officers who abuse their power to account. According to available casework data (reporting by IPOA and IAU), at least 59 alleged perpetrators of PAP were formally charged over the past two years and accused police officers arraigned in court. There exists criteria/guidance followed to inform the decisions to charge. This includes the Decision to Charge Guidelines, 2019 (Office of the Director of Public Prosecutions, 2019) that stipulate conduct of prosecutors, their powers, roles and duties in relation to guiding investigations and making the decision to charge, the independence of prosecutor in making the decision to charge, duties of disclosure, continuing review and general guidance on discontinuance, plea bargaining, diversion, appeal and revision (IJM, n.d.). A key feature of the guidelines is the three-stage test – which subject cases to evidential public interest and threshold test to establish the strength and suitability of cases presented for prosecution (Nation Africa, 2020). The evidential test ensures prosecutors assess realistic prospects of conviction – checking to ascertain the reliability, credibility, admissibility, sufficiency and strength of rebuttal evidence. The Public Interest Test on the other hand assesses culpability of the suspect the harm they pose to the community, age and whether prosecution is a proportionate response.

There has been substantive effort towards building capacities of prosecutors for better understanding and application of the DTC Guidelines. These guidelines were lauded by some actors in the CJS as an enabler of standardisation and uniformity in decisions to charge taken by prosecutors across the country. Prosecutors consulted argued that the DTC guidelines have enabled prevention of cases with insufficient evidence providing grounds for referral of cases back to investigative agencies for further investigations to strengthen cases. The centralisation of the decision to charge at the ODPP is however perceived, by some CJS actors, to somehow curtail prosecution of PAP cases. Several CJS stakeholders – particularly investigative institutions and judiciary argue that there is a lot of discretion vested on the prosecutors regarding decisions to charging PAP cases that is prone to abuse and has in many instances undermined delivery of justice for PAP victims. Some IOs argue that despite building strong evidence against some accused police officers, sometimes decisions not to charge have been preferred by the ODPP on some PAP cases without adequate justification. There are those who also complain of lengthy processes involved in taking decisions that delay charging of perpetrators of PAP. Here are excerpts from KIIs with some CJS stakeholders (both investigating officers and CSOs working on PAP) that reflect this finding.

“We have had instances where we take our files there [ODPP] and to the best of our knowledge and ability, there is enough evidence to sustain a charge in court. However, once the files are there, there is a lot of reaching out and a lot

of dispersion of information and whatever happens there, the files comes back with different recommendations [...] I think they also take advantage of the fact that the decision to charge lies squarely on them. Most of our cases, we think something went on behind, canvassing with files, and now the victims did not get justice.” – **CJS Actor - Investigation**

“Every single time you have an officer, maybe from IPOA, telling you they’ve done this for over a year, just putting documents together and getting a file that is useful to proceed with prosecution and nothing is done, it’s disheartening.” – **CSO Representative**

“We have instances whereby when a file is investigated, it has to go through many channels, up to the ODPP, so you find that delay again. Some witnesses end up giving up in the case or some even end up dying in the process before the matter comes back from the ODPP.” – **CJS Actor - Investigation**

3.4.2.3. Convictions and Overturned Convictions

Whilst several PAP cases go through the CJS annually, the rate of conviction of police officers on charges related to PAP remains very low. Foremost, the majority of PAP cases appear to be dealt with administratively (through IAU and other internal NPSC mechanisms). The proportion of PAP cases considered criminal and taken through judicial process remains low. According to IPOA records seven PAP cases led to convictions of accused police officers between 2021 and 2024. This is compared to 8,851 complaints registered, 2,373 cases investigated, and 463 submitted to ODPP over the same period. As such, convictions in PAP related cases also remain few. There are some instances where police officers accused of PAP have been convicted but the cases are long and arduous according to the experience of prosecutors and judges who have been involved in hearing/trying them. The low conviction rate in PAP cases is attributed, by CJS stakeholders, to several reasons including: (i) the long protracted period of adjudication of cases; (ii) gaps in investigations and quality of evidence (evidence tampering), (iii) quality of witnesses and witness testimonies (witness intimidation/ disappearance, transfer of police officers who are witnesses); and (iv) assignment of junior prosecutors without experience to prosecute complex PAP cases among others. Convictions in PAP cases overturned through appeals are also reportedly few. There have been instances where some convicted police officers have appealed and been acquitted on the basis of poor-quality evidence. The issue of quality of prosecutors in terms of technical capacity to prosecute cases is also cited

as a determinant of the incidence of overturned (by appeal) PAP convictions. There is also the abuse of inquest. Some CJS stakeholders argue that sometimes inquests are utilised/applied to delay or curtail prosecution of police especially senior officers involved in PAP cases with strong evidence that could ordinarily lead to conviction. Some of the conversations with stakeholders (mainly investigative and judicial officers-magistrates) that reflect this finding are as follows.

“I’ve heard of some cases which have gone all the way to conviction on misuse of firearms. Some have gone all the way to conviction, but as I’ve said, the process is usually not easy.” – **CJS Actor - Judiciary**

“There’s so much going on in court, that’s why you find that people commit crimes with impunity. [They know the courts will not do much], so many delays, things happen. You see cases which are outright clear, but you find ruling inatoka mtu anaenda tu [that acquit them]. They just go scot-free.” – **CJS Actor - Investigations**

“ODPP - they seem not to be able to retain experience. You see very young inexperienced prosecutors trying to prosecute very complex cases, especially when you’re talking about abuse by the National Police Service. The officers concerned may be very experienced; when you pit them against inexperienced prosecution counsels, there is an imbalance. The capacity to retain experience is an issue with the ODPP.” – **CJS Actor - Judiciary**

“One example. It was brought in as an inquest where a person had been shot dead by forest rangers and the inquest was for the purpose of determining whether anybody could be held culpable for the death of the young man. I heard the evidence. The witnesses were the forest rangers themselves, the Kenya Police Seice, DCI, and the ballistic examiner, and there were also two civilian eyewitnesses. After I heard all the evidence, I was satisfied that there was improper use of a firearm by a person authorized to possess a firearm, so I recommended that one of the forest rangers be charged appropriately for misuse of a firearm that led to the death of that young man.” – **CJS Actor - Judiciary**

“In most cases, when the police are involved, they don’t charge them; they come with an inquest to cover. [...] We’ve heard cases where people involved are seniors, but the police don’t want to come over there. You start with an inquest to delay.” – **CJS Actor - Judiciary**

“They appealed and they were acquitted because of that missing evidence linking the killer bullet with the gun and the police, which is in the custody of the police.” – **CJS Actor - Judiciary**

“Then interference with the investigations again, [...] whereby some of the evidence is watered down through interference. By the time you’re coming to present it in court, it’s not as concrete as you thought when you were making the decision to charge.” – **CJS Actor - Prosecution**

“You will find that maybe a crucial exhibit is misplaced or a crucial witness will have been transferred midway and cannot be availed.” – **CJS Actor - Judiciary**

“A police officer has just shot somebody dead. It’s the police who are there first at the scene and they realize something wrong has happened and somebody will soon be in trouble. Interference starts right from there, from the scene. I’ve seen cases where the firearms are interfered with, such that the report from the ballistics examiner is not able to say exactly which firearm has been used for what.” – **CJS Actor - Judiciary**

3.4.2.4. Time taken to reach judgement

The general outlook is that there are acute delays in adjudication of PAP cases with most cases taking longer than three years to conclude. This is perceived by most of CJS stakeholders and members of the public as the single most problem with addressing PAP in Kenya. Victims of PAP and witnesses cite long time taken through the CJS as a discouraging factor limiting their willingness to participate through the process till determination of cases. The lengthy period between the start of PAP cases to the point of reaching a judgement is attributed to several issues ranging from: (i) judicial backlog; (ii) manpower challenges in the judiciary; (iii) judicial staff transfers; (iv) coordination and inefficiencies in collaboration between CJS institutions; (v) judicial malfeasance (laziness and misconduct of judicial officers); to (vi) judges allowing too many adjournments. Procedural issues are also cited as affecting the duration of prosecution of PAP cases. This includes unavailability of witnesses, loss or misplacement of case files, absence of prosecution, investigating officers and advocates. This is reflected in some of the conversations with CJS actors engaged in KIs as outlined below.

“Cases taking too long. Sometimes we conduct our investigations within the shortest time possible, but once the matter gets to court it drags and it takes time for it to be concluded.” – **CJS Actor - Investigation**

“All cases are supposed to be cleared within three years [...] from the time the plea is taken [...] the first time the accused is arraigned before court, up to the time I’m delivering my judgment, it should take three years. That is not the reality on the ground. [...] in most cases, they’ll take more than that.” – **CJS Actor - Prosecution**

“Any criminal case which is part heard and a judicial officer has been transferred, there’s something called taking directions. The new magistrate coming in must take a direction. Will the matter proceed afresh or start from where it had reached? An accused has a right to demand the matter to start afresh. [if we grant that] a witness, maybe who had testified before, is no longer there. It takes a long time to get that witness.” – **Judiciary**

“The frustrations in this prosecution aspect come about when, even though it’s someone’s right to make an application, they allow too many applications in these cases. Let’s take for example the Baby Pendo ²³ case and even the lengthy period for them to determine this application.” – **CJS Actor - Prosecution**

“Then judicial backlog. You see a case; the hearing was today. That’s not the only hearing in that case list. If it’s a murder file, you have like four others, so you will not hear all the witnesses on that day. The next date you will be given will be three months down the line, and any of the judicial actors may not be in a position to attend court. This inordinate judicial backlog causes inordinate delays.” – **CJS Actor - Prosecution**

“I can tell you, before you fix and settle that matter for hearing, you will have gone for all the constitutional. Each and every step; that is interlocutory, and you see, the moment they challenge anything, maybe in terms of constitutional violations or human rights violations, it will go all the way. They will go all the way up to the Court of Appeal. Sometimes if you go to the High Court, the High Court stays what is happening on the Court below. All these factors play in and [cause] delays.” – **CJS Actor - Judiciary**

“Sometimes you find files missing. In as much as we are embracing ICT, I can tell you, at the moment, still files miss. When the file is missing, we are not proceeding with it. We have to get another mention date; we look for the file. It’s still happening.” – **CJS Actor - Judiciary**

23. This case arose from the 2017 post-election violence when baby Samantha Pendo who was only six months old was killed by police officers, and several individuals were tortured and raped in Kisumu’s informal settlements.

3.4.2.5. Inadequacy of Witness Protection Hampering Prosecution

There are general concerns about protection of witnesses and victims in PAP cases. Several CJS actors indicate that the safety and willingness of witnesses has had a profound bearing on the performance of the sector in addressing PAP. There are numerous reports and accounts of CJS officers (from investigations to prosecution and judiciary) that paint the picture of an overall ineffective system for identification and protection and welfare of witnesses.

“There could be civilian eyewitnesses; some are intimidated to tailor their testimony to fit certain outcomes.” – **CJS Actor - Judiciary**

“Number one, witness interference. It will not even be the suspect going after the witnesses; even his friends or his family members.” – **CJS Actor - Prosecution**

“In this high-profile case, this former governor, there were around 30 witnesses. All of them were put under protection, but before they were put under protection, the five main ones were eliminated. Even after being put on protection, the main witness who testified under protection, and we took three months to deal with that witness, also died. The Witness Protection Act is there but it is not effective to protect the witnesses.” – **CJS Actor - Judiciary**

“The measures of how these witnesses are protected, I think are also not effective. How would you explain somebody being killed when they are under witness protection? How do you explain that? We are still a long way to go.” – **CJS Actor - Judiciary**

Foremost, the architecture of the judicial system is set up in such a way that judges/magistrates rely on prosecutors to bring to the attention of court the need for protection of witnesses. Where this is not done well, witnesses remain in jeopardy, sometimes disappear (dead, intimidated or excluding themselves for personal safety). Whilst the court has the mandate to ensure safety and protection of witnesses while they go through court processes, as established currently, it lacks necessary supporting infrastructure and resources to effectively deliver on this mandate. The physical set-up of courts across the country makes it difficult for judiciary officers to assure safety and protection of witnesses. Judicial precincts (court rooms) lack designated areas for protection of witnesses. Also, the judiciary lacks supportive ICT (equipment and software) for concealing identities of witnesses – both when they appear physically in court (or through virtual mechanisms) and for redaction of evidence to conceal identities in witness statements especially electronic data.

“[there are] special mechanisms that are the responsibility of the judiciary to provide. One is witness protection cost. [...] it should be part of the court infrastructure, but it is not there [...] or

not adequate.

There are things they are supposed to do [like] protection pathways; how do you enter court, where do you stay in court when you're waiting, and how do you leave the court? That is part of the court infrastructure. The pathway that is there, is mainly for the judicial officers, the judges, or the magistrates. They are the ones we protect to come in and out, but not the witnesses.” – **Aftercare CJS actor**

Secondly, due to resource limitations, the threshold for admission of witnesses into the existing witness protection program in Kenya set by WPA is very high. It accommodates a tiny fraction of witnesses excluding the majority that require protection services. Also, the VPB remains in infancy without notable programs, resources and mechanisms available for addressing safety needs of people who report PAP cases or avail themselves as witnesses in PAP investigations or court processes. The overall ineffectiveness of the CJS in witness/victim protection has had profound effects on adjudication of PAP cases – in terms of time taken to reach judgement but also on results – in terms of achieving convictions of PAP perpetrators.

3.4.2.6. Coordination in prosecution/ adjudication

The ODPP and Judiciary depend on the effectiveness of other institutions of government in the CJS (like prisons service, NPS, WPA) for processing PAP cases. There have been efforts at increasing coordination of CJS actors with other institutions and non-state actors in the handling of PAP cases that is perceived to be progressive. This includes in the areas of case reviews, prosecutor guided investigations, and witness protection among others. Through prosecutor guided investigations, prosecutors are increasingly working with investigators (IPOA, DCI, IAU) to guide in collection, analysis and consideration of critical evidence to ensure cases are strong. This is perceived by some CJS actors as an effective way to build the strength of PAP cases and increase likelihood of convictions.

“We guide these investigations, when files are brought to us for perusal and advice. When I look at this file, I can see there is an area that has not been covered. We advise investigators on what to do – If this area is covered like this, then we'll get more evidence that is admissible in court.” – **CJS Actor - Prosecution**

“This is where now inter-agency comes in; the prosecutor and the investigating officer must agree on when they are going to take this case to court, so that even that respective police officer will be availed on that day and will be given the summons to attend on that day.” – **CJS Actor - Prosecution**

There are still notable gaps in coordination in witness protection to ensure adequate engagement between prosecution that notify court of the need for witness protection and victim protection. There also remain challenges in coordination in restraint,

arrest and arraignment of suspected police officers accused of PAP. Sometimes there is reluctance to detain suspects and irregularities in issuance of bonds.

“It is true that sometimes we have to adjourn because an exhibit has been left behind, sometimes deliberately. The reasons for adjournments have to go case by case, but I can assure you in such types of cases, most of the adjournments are occasioned by the investigating officer. They are either failing to bond witnesses or bring exhibits to court and things like that.” – **CJS Actor - Judiciary**

“It is the police officers who respond to the scene first, the ones who investigate, the ones who collect evidence, and the ones who are supposed to bond witnesses to come to court. If they decide they are in no hurry for that case to be completed, then it becomes difficult.” – **CJS Actor - Judiciary**

“They usually give the canon principle of presumption of innocence until proven guilty. Whose liberty should be taken away, the accused persons or the witnesses.” – **CJS Actor - Prosecution**

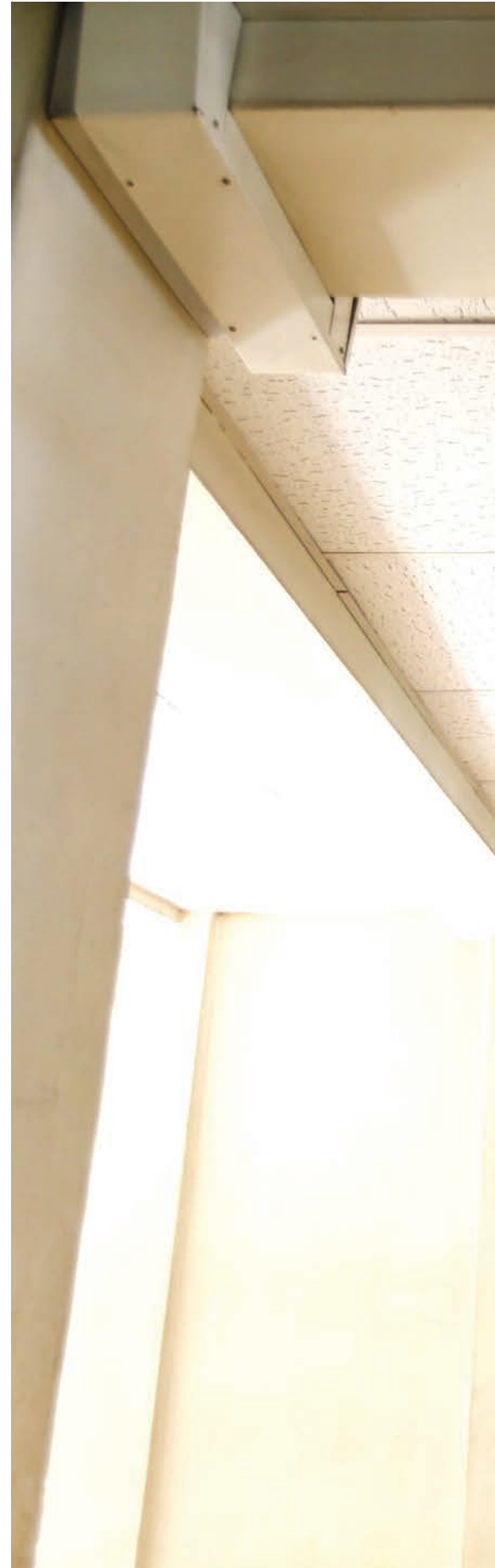
“You try then using the forensic, but you don’t get them, that sometimes delays. There are other agencies that we work with, for example, the Government Chemist; maybe you want to do some DNA analysis to identify some things, and you take them to Government chemists. They take ages to be processed, and that again, takes time. If you don’t have call data, you send some IPOA men to Safaricom or even to banks to get it, those are some of the things that may delay the investigation.” – **CJS Actor - Investigation**

3.4.2.7. Challenges affecting Performance under Legal

Human resource constraints: There are substantive delays in hearing and determination of cases resulting from workload compared to the human resource portfolio available to the Judiciary. Hearing PAP cases can be intensive processes that require a lot of human resource capacity, for processing of complaints, investigations, case reviews, prosecution and hearing of cases. The human resource establishment at the ODPP and Judiciary remains sub-optimal affecting the pace and period of determination of cases. Both ODPP and judiciary have a backlog of cases coupled with influx of new cases that appears to overwhelm existing human resource. This has had profound limiting effect on prompt determination of PAP cases and proffering justice to victims as captured by in excerpts of KILs with some CJS stakeholders.

“One of the challenges that was captured, when analysing the Rapid Response Initiative (RRI) files, I just spoke about from IPOA, was that prosecutors, especially in this division, are too few. The ODPP has the challenge of [not] having enough counsel. That’s a big challenge because, in the human rights division, they said that the files are too many for them to handle. You can see 102 files between 10 prosecutors; that’s a lot, and you have to write your reasoning.” – **CJS Actor - Prosecution**

“When a matter is set down for hearing, manpower in the judiciary is not optimal right now, so we still have a lot of case backlog as well as fresh cases coming. Most of the time we lose sight of even the fresh cases that are coming. We tend to focus on the backlog, but I can tell you, like for today in my court at Mavoko, we have





registered 23 new criminal cases. I was taking pleas this morning for 23 new cases.” – **CJS Actor - Judiciary**

“We have DPPs across the counties but look at the number of prosecutors that we have in the country vis-à-vis the number of cases that each of them has. I also think we need to look into staffing. Because we are saying, the biggest problem for cases of police brutality, is their direct going to court for and having successful convictions, but you see, it is the state that prosecutes so if this state is overwhelmed, they are not likely to pay attention to the cases for police brutality.” – **CJS Actor - Prosecution**

“The caseload is too high. I can tell you as an example, that for me today, between 8:00 AM and 12:15 PM, I handled 37 cases. The sheer volume of work is quite huge. What that translates to is that if you list 10 matters in a day for hearing, the likelihood of you hearing more than two witnesses for each of those 10 cases, is very little.” – **CJS Actor - Judiciary**

Witness apathy and hostility: Beyond protection, the issue of witness apathy also emerged as an important factor impacting performance of CJS in addressing PAP. Witness apathy is both a product of inefficiencies and failures of the CJS and an important factor influencing achievement of convictions in PAP cases. There are several PAP cases where witnesses have opted not to proceed

with providing evidence and/or become hostile providing adverse testimonies that have undermined prosecution of PAP cases. The long durations that cases take have put-off some witnesses and sometimes also provided opportunity for accused persons to allegedly identify and intimidate or disappear witnesses. Also, because in many cases witnesses tend to be colleague police officers, some CJS actors consulted contend that there is the tendency of collusion between accused police officers and their colleagues to undermine evidence in their cases.

“You also expect that the witnesses who are going to be called, if they were serving in the same station with the main suspect, if it’s an inquest, you would expect that those witnesses would tend to give evidence that favours the suspect. If they are civilian eyewitnesses, you would expect that there will be intimidation. It’s not an ordinary case, there are difficulties.” – **CJS Actor - Judiciary**

“Retractive witnesses. These are the ones who come and just decide not to say anything and there is nothing you can do. That is one of the main challenges. Then, securing the attendance of these witnesses. You may have a desire to charge, but now the witnesses completely refuse to come to court. Once they do not come to court, then you do not secure their evidence.” – **CJS Actor - Investigation**





"Most of the time it's a challenge to prosecute these cases because you find that, at the end of the day, they are the ones who are expected to be presented as witnesses against their colleague. Many times we find that the cases for one reason or another collapse along the way." – **CJS Actor - Judiciary**

"Even if they come, they make sure they destroy the case. The last one I did which involved police officers, they made sure that the evidence they gave was adverse, so they were declared hostile. All of them. You want us, we'll come, we give hostile evidence. What's the position in law? That is useless evidence. It is destroyed from the investigation. If you insist, we come and we give adverse hostile, and at worst, we come and say, we are not testifying. That's where we are." – **CJS Actor - Judiciary**

Inadequate infrastructure/court environment

Existing infrastructure and facilities available to judiciary officers remain inadequate to allow speedy hearing and determination of cases. They also remain inadequate in terms of assuring safety and protection of witnesses. Further, supporting ICTs necessary for complementing judiciary proceedings appear inadequate. These have had significant limiting

implications on efficiency and appropriateness of judicial proceeding with regards to the specialised needs/requirements in trying/hearing PAP cases.

"Let's say, some of the cases we are doing virtually. This ICT equipment, sometimes we don't have enough, sometimes the network is down. [...] Do you know my CTS is also down and I can't hear matters now which I scheduled on the internet through the CTS account." – **CJS Actor - Judiciary**

"Then also you go back to the resources in terms of the buildings and the rest. We are eight magistrates and we have open courts for magistrates. There are three open courts. One is used by the magistrate in charge, so these other two are shared amongst the seven magistrates. Out of seven, you go in court in turns. By the time you're going in turns, it means it takes your time within which you could have heard another case. Some courts are adequately facilitated in terms of the open courts and the rest, others, we are still using the colonial, like here it is the colonial court we are using." – **CJS Actor - Judiciary**



3.4.2.8. Qualitative Estimate of Legal Core Standardized Indicators

IJM's nine legal core standardized indicators (SIs) focus on the three stages of a legal case: pre-trial, trial and post-trial stages. The pre-trial stage indicators focus on referred investigation cases resulting in legal cases, charges and restraint of suspects. The trial stage indicators focus on trial outcomes, namely convictions and the time it takes to reach final judgement. The post-trial stage indicator examines the affirmation or reversal of

trial outcomes. Overall, these SIs are crucial for demonstrating that the criminal legal system is functioning as intended.²⁴ Since these SIs were not collected as explained under the limitations section [2.5], we have provided a “qualitative estimate” of the level of performance for each of the Legal SIs based on the baseline qualitative results (see table 23 below for details). Overall, the performance of the Legal pillar was estimated to be low or very low for each of the nine core SIs.

²⁴ Performance SIs Manual 1 (2023)

Table 23: Estimated level of performance of the selected legal SIs

Performance SIs that measures JS outcomes	"Estimate" of the level of JS Performance based on the qualitative results
LC1 - Referred Cases Resulting in Legal Cases	1
LC3 - Pre-trial Custody	NC
LC5 - Accused Convicted	1
LC7 - Time to Final Judgment	1
LC8 - Types of Final Judgment	NA
LC9 - Overturned Convictions	4
Average level for LEGAL SIs	Mode (1), Mean (2), Median (1) = Low

3.4.3. Performance under Aftercare

3.4.3.1. Trauma-informed Interactions

Victims of PAP and witnesses that come forth to provide evidence in PAP cases encounter traumatic experiences – borne out of acts for which police officers are accused; actions of other parties sometimes linked to accused police officers and sometimes also linked to attitudes and perceptions of members of the public. These include physical harm, displacement, personal loss, and psychosocial malaise like stress, stigmatisation, fear, defamation among others. There are significant gaps with regards to capacity of CJS actors in terms of training to handle victims of PAP in a trauma-informed manner. Psychosocial support to complainants and witnesses is not always available – and not effective despite the need. Whilst there are some CJS institutions that retain counsellors, the overall outlook is that victims in many PAP cases seldom receive adequate psychosocial support. This is largely attributed to resource constraints that limit hiring and availability of adequate competent psychosocial support staff to support victims on relevant trauma challenges that they suffer from PAP. This has also been linked to problems of coordination between prosecution (and investigation officers) in terms of notifying court of the needs for such psychosocial support so that they can be sanctioned and made available accordingly. Many CJS actors consulted in the PAP study argued that the gaps in trauma-informed interactions can be remedied by enhancing SOPs to ensure appropriate care is provided, training, capacity building of CJS officers, better coordination of relevant CJS actors during the process of handling PAP cases. This is reflected in excerpts of KIs with some CJS actors as shown below.

"[There are protection measures offered] the special ones, like armed, physical relocation, change of identity, among others. You will not be in the program without receiving that kind of psycho-social support. You will not attend court without psycho-social support. You will not be discharged without psycho-social support. Psychologists and psychiatrists are part of the program. The program has a security

component, a mental health component, and a legal component." – **Aftercare CJS Actor**

"DCI or the National Police Service may not have a provision to give psychosocial support to victims. However, there are certain cases involving gender, and children, I've got specific offices that handle those cases. There in you'll find officers who have some level of training to give that kind of support to victims but a majority of other cases that are there that do not fall into the categories." – **CJS Actor - Investigation**

"Sometimes establish that the victim or the complainant is somewhat stressed or is traumatized [...] we make referrals within [our institution]. We have our resident counsellors [...] domiciled in Nairobi [...] We request that they come to the region so that this can be undertaken [...] We also work with some contract counsellors within various regions whom we can always contract, engage and assist our clients [...]" – **CJS Actor - Investigation**

"Unfortunately, in this part, we lack support completely [...] apart from sexual offenses cases, particularly those that involve minors or children, where we have a pool of volunteer psychosocial personnel, for this one, as you rightly put it, these are victims who have been traumatized one way or another and they would require that kind of support." – **CJS Actor - Investigation**

'I was afraid of guns because they harmed me to the extent I thought I died. I saw the person who shot me but they asked me not to say. Some police came to the hospital looking for me, hospital staff hid me. [...] I am afraid because when I hear gunshot noise, it triggers my pain. If someone shouts at me, I flee, because the experience affected me a lot.' – **PAP Survivor**

'We reported to IPOA but nothing has been done about my case. My neighbour was shot and killed inside her house. IPOA came and took statements but haven't seen the outcome

of all that. That woman died and left her children destitute. IPOA said they will come investigate the death of that woman. We have not seen any concrete actions to date.' – **PAP Survivor**

'If you go there to report, they don't take you seriously. They look at us young men as the culprits, who cause chaos. We are stigmatized – police say: 'this one comes here to report police abuse yet they were demonstrating'. They wouldn't understand I wasn't part of the demonstrations. They take our reports but do nothing.' – **PAP Survivor**

3.4.3.2. Victim/Witness Facilitation/Support

There is some rudimentary facilitation offered to victims or witnesses by the judiciary in terms of support in the course of hearing PAP cases. This includes appropriating a judiciary kitty (budget allocation) available to courts/judges to provide basic support like transportation facilitation. Generally, aftercare services are not well developed and remain inadequate in dealing with challenges of victims, witnesses and police officers involved in PAP cases. Provision of such kind of support is largely limited by resource constraints (limited budget available to relevant CJS institutions), coordination gaps between courts and prosecution in terms of evaluating and recording the need for witness facilitation/support in court. This may also be a problem of lack of standard procedures/SOPs on aftercare services implemented across the board.

"In terms of economic, some of them are economically vulnerable, and we have a kitty for such witnesses. Even for transport for people to come to court, we have a kitty. The moment the prosecution brings to the Court's attention, we order for traveling and subsistence. We have that, but for psychosocial, I can assure you; we still don't have it. Where we can say you are taken for this counselling, that one we don't have at the moment." – **CJS Actor - Judiciary**

"We give them currently, that is witness travel expenses [...] when we have funds, we pay them travel expenses whenever they come to court to encourage them to continue coming to court, if necessary [...] pro bono services. If they can access pro bono advocates, this would assist them because sometimes navigating court for a layperson." – **CJS Actor - Judiciary**

"For witnesses, we have a small kitty, we call it a Witness's Expense Account. Again, it's a very, very small one but we do try. Where an application has been made that a certain witness is unable to pay bus fare to come to court or to go back home, that is the small kitty which we use." – **CJS Actor - Judiciary**

"Because of lack of proper funds, because

it's funded by the exchequer, it's always not enough. They can't put everyone under the program. If they put them under the program, it reaches a point when they can't sustain them there." – **CJS Actor - Judiciary**

3.4.3.3. Limited Victim Protection Mechanism Hampering Aftercare

The country has a Victims Protection Board (VPB) and Witness Protection Agency (WPA) mandated to provide crucial services related to protection and care of witnesses and victims during the process of trying PAP cases. These should be able to take care of welfare of complainants and witnesses in PAP cases. However, the overall outlook is that victim protection remains minimal save for victims/witnesses who are taken up by the WPA. As already documented, the admission criteria for witness protection utilises a high threshold that excludes the vast majority of witnesses that may need protection. Several CJS actors interviewed indicated that witness/victim protection is only provided when a case is before court which precludes the circumstances of victims/witnesses during investigations before a case is brought to court. Some CJS actors also complain that the processes for review of victim/witness suitability for admission into the witness protection program tend to be long and jeopardise their welfare.

"The threshold for admission in their program is quite a thing considering there are so many things that they want you to prove to them before they consider your clients. We have had instances where they have delayed in considering our clients and God forbid, they got lost, they were killed. As an investigator, you really feel the pain, especially when you had approached this institution to consider your client for the protection program, but because there are those thresholds they want to be met, they delayed doing that and the worst happened to your client." – **CJS Actor - Investigation**

"They have always been helpful except that sometimes their processes of evaluating the risks takes a bit of time and that might jeopardize the life of our witnesses. From where I sit I think they should expedite the process of ensuring that this is done within the shortest time possible and have assessments done and if the victim or witness is found to be entering the program, they do it soonest." – **CJS Actor - Investigation**

"One of their [WPA] conditions are that they cannot look for the security of a witness until you prove that he's a witness in court. That means the case must have been registered in court. That's a challenge because as IPOA is investigating these cases, where is this witness?

How are you securing their witness? They only come in after someone has been charged in court.” – **CJS Actor - Judiciary**

“The Witness Protection Act is not effective to protect witnesses. We have even safe houses that these people are being kept. All the protection they are being given but it is not effective. Then our system, [...] is not the standard of the West, where we will conceal the identity and even the voice of the witness. I remember one advocate telling me, “These things are just useless; the person talking even the voice we know. There’s nothing. You are wasting time hiding.” In as much as you need to hide, conceal the identity and everything, you also need to conceal or distort the voice. In all the cases we have here, the voices are not distorted.” – **CJS Actor - Judiciary**

“Victim Protection Board is a very small institution. It’s not easily available to victims. I’m sure the majority of Kenyans do not even know it. They don’t have visibility. How would they be able to help victims if people do not even know about their existence.” – **CJS Actor - Investigation**

“Because, the rules are supposed to be the cover for witnesses in court stations, and there is one big challenge because the magistrates and the judges have not internalized this special mechanism and they’ve not internalized the use of those witness protection rules, which can be activated by the court [...] and also by the DPP.” – **Aftercare CJS Actor**

It was notable nonetheless that for victims/witnesses that fall within the threshold, the WPA provides sufficient care that includes protection, material support and psychosocial trauma-related interactions. Also, witnesses/victims admitted into the program are covered holistically, taking care of all concerned relatives or associates that need to be protected.

“The good thing is they just don’t take one witness, the one who is testifying in court. If it is a mother, like in this case, two brothers were testifying against the murder suspect, and they were feeling insecure in that community. So, they took the children, the mother, and the father relocated them to another place and currently enrolled them in a different school.” – **CJS Actor - Judiciary**

3.4.3.4. Case Management and Restoration

In the context of the protection study, case

management refers to the identification, assessment, treatment, monitoring and closure of reported cases of PAP (Wilkinson, 2021). It is notable that victims of PAP in Kenya seldom receive case management support. Instead, notable cases of pro-bono legal support are sometimes provided to victims mostly facilitated by non-state actors such as NGOs working in the CJS sector, including IJM, Amnesty International, Haki Africa, and IMLU, among others. There were anecdotal indications from some of the CJS actors interviewed, particularly those involved in investigations, that they endeavour to handle investigations using a case management approach.

IJM defines restoration as when a survivor is able to function in society with low vulnerability to revictimization. Due to the infrequent provision of case management support to victims of PAP, the extent to which they achieve restoration remains unknown. While court rulings may offer restorative benefits to PAP victims upon case conclusion, the extent to which this happens is unclear. Various government institutions and other stakeholders have mandates or may participate in efforts to restore victims. For example, some judicial officers have attempted to reconcile parties in PAP cases post-conviction.

“This is my experience; in every case after conviction, doesn’t matter what kind of offense it is, I will always call for that pre-sentence report because that report informs the court what it is they are dealing with in terms of the accused person, the complainant or the victim of the crime, or the societies where they live; their sentiments. Where possible, we encourage people, if there are certain things that ought to be done for the two sides to be able to get over the incident; we encourage them to do that.” – **CJS Actor - Judiciary**

3.4.3.5. Qualitative Estimate of Aftercare Core Standardized Indicators

A strong CJS ensures that individuals are provided with the support needed to pursue justice and to access appropriate services. The three core outcome aftercare SIs allow us to measure the minimum necessary system provisions to ensure that survivors are protected and empowered towards restoration. These indicators include restoration rate, case management provision and trauma informed interactions.²⁵ Since these SIs were not collected as explained under the limitations section [2.5], we have provided a “qualitative estimate” of the level of performance for each of the Aftercare SIs based on the baseline qualitative results (see table 24 below). Overall, the performance of the Aftercare pillar was estimated to be very low for each of the three SIs.

25. Performance SIs Manual 1 (2023)

Table 24: Estimated performance of selected Aftercare SIs

Performance SIs that measures JS outcomes	“Estimate” of the level of JS Performance based on the qualitative results
AC2 - Restoration Rate	1
AC3 - Case Management Provision	2
AC4 - Trauma-informed Interactions (based on victim interviews, observations or providers)	1
Average level for Aftercare SIs	Mean (1), Mode (1) and Median (1) = Very low



Discussion

4.0. Introduction

This study noted a high prevalence of PAP, with participants reporting corruption and harassment as the major forms of PAP experienced. However, publications by policing oversight authorities such as Independent Policing Oversight Authority (IPOA) and Internal Affairs Unit (IAU) highlight police inaction as the major form of PAP reported by citizens over the years. While citizens generally possess knowledge of the institutions where they can seek help, there is significant distrust in the CJS. The low levels of trust are largely driven by perceptions of corruption and inefficiency within the CJS, leading to limited confidence in its effectiveness, efficiency, and fairness in addressing police misconduct. The study noted a severe lack of confidence in the effectiveness of the justice system to protect citizens from PAP. Additionally, a majority of key stakeholders held the view that the CJS is grossly inefficient in its efforts to address PAP. Key stakeholders engaged further provided an indication that CJS institutions were unfair (particularly the NPS) when engaging citizens on matters of PAP. Nonetheless, it emerged from the study, key stakeholders were confident in the overall fairness of IPOA and Courts in handling citizens with PAP issues. Despite these factors, citizens remain willing to engage with these institutions. While CJS institutions have made efforts to fulfil their mandate, they are hampered by both internal and external challenges including technical and financial resource constraints, insufficient coordination and support from other CJS actors, and limited political will among others. Performance of relevant CJS institutions on investigations remains sub-optimal with notable gaps in the quality of evidence. This is understood to be an impediment to prosecution and conviction of police officers accused of various crimes related to PAP. Moreover, there are acute delays in adjudication of PAP cases. This has been evidenced by cases taking longer than three years to conclude and low rates of conviction of police officers with charges related to PAP – providing the impression that police misconduct often goes unabated. The study established that there were significant gaps in the capacity of CJS actors for trauma-informed handling of victims of PAP and

encountered knowledge gaps around thematic areas such as case management provision and restoration of victims of PAP.

4.1. Prevalence

The prevalence domain measures the proportion of vulnerable population who are victimized through PAP. High prevalence of PAP in Kenya: The study noted that 42.9% (2,444 out of 5,700) participants had been victimized through PAP whereas 69.9% (3987 out of 5,700) participants had witnessed police misconduct. Similarly, a survey conducted by IPOA across 36 out of the 47 counties in Kenya found that that 46.2% of participants (2,756 out of 5961) had experienced at least one form of police misconduct (IPOA, 2019). The IPOA study and this study had differences in geographical scope, but shared similar methodology thereby making the results comparable at national level. Since 2019, PAP prevalence had significantly dropped from 46.2% to 42.9% at $p=0.0034$ demonstrating progress in the fight against police brutality.

Higher PAP prevalence in certain regions/counties: There are counties/regions of the country that appear to be more prone to PAP. More incidents/complaints about PAP were reported in Kisumu and Nairobi counties compared to other sampled areas, with 56.7% of participants in Kisumu and 52.3% in Nairobi reporting experiencing PAP. Historically Kisumu and Nairobi (especially within the informal settlements) have been the epicentre of police violence during cyclic political protests before and after every general elections.

High proportion of those who have experienced PAP have occupations in the informal sector: A higher proportion of those reported to have experienced PAP were engaged in some economic activities within the informal sector (self-employment and casual employment). Previous research has also highlighted the vulnerability to police misconduct for those living in informal settlements, especially Nairobi. Those living in informal settlements are exposed to arbitrary

arrests, police killing and disappearances (Missing Voices Network, 2024). This denotes greater vulnerability to PAP for segments of the population engaged in informal sector and evidences the need for protection activities – like public education, police-community dialogue and enforcement of policing protocols in such areas.

Corruption/extortion and harassment are the most prominent forms of police misconduct: The protection study established that among those who experienced PAP, corruption/extortion and harassment were identified as the most common forms. Whilst reporting by IPOA and IAU corroborate the study findings, highlighting corruption and harassment as among the common forms of PAP reported, the reports rank police inaction as the most common form of police misconduct reported by citizens. According to the 2022 IAU half-year performance report, 38.6% of complaints related to police inaction, followed by harassment and intimidation (10.6%); bribery, corruption, and extortion (7.0%). Similarly, the 2022 IPOA half-year performance report noted 1,777 complaints of which police inaction accounted for 34.9%, physical assault causing non-serious injury (12.4%), police unethical practices (9.3%), harassment (8.0%) and corruption/extortion (5.6%). Overall, the most prevalent forms of PAP in Kenya include police inaction, corruption and harassment.

PAP is more likely to occur in public spaces, in the evenings towards the end of the week and associated more with rapid police operations (crack downs), public demonstrations and electioneering period. These are similar to findings by ACLED (2023) and Human Rights Watch & Amnesty International (2024) that show police have increasingly used excessive force during anti-government demonstrations. The study also established that PAP largely happens within public spaces compared to private spaces, and there is an increased likelihood of police misconduct toward the end of the week, with incidents becoming more frequent as the day progresses towards

the evening. This is congruent with media accounts of incidences of police misconduct in the country.

Participants with specific characteristics related to age, sex, occupation, religion, ethnicity and physical appearance were particularly vulnerable to various forms of PAP. Those reported as particularly vulnerable to police victimization include youths, Muslims, informal workers (matatu (public service vehicles) touts, hawkers), certain ethnic communities, those involved in illicit trade (sex workers), men and individuals with eccentric body features like heavy beards, tattoos and/or long dreadlocks.

4.2. Reliance

Reliance is the degree to which vulnerable people rely on the justice system for protection from violence. The study found a willingness among people to participate in the justice system. However, significant barriers to reporting crime persist. The most common reasons for reluctance included distrust in justice system institutions (53.1%), fear of retaliation (28.5%), financial constraints (26.8%) and lack of awareness about where to report cases (24.9%). FGDs revealed additional challenges that further discourage reporting, such as corruption, systemic inefficiencies and fear of intimidation.

Studies have also revealed that police attitudes have emerged as a significant barrier to reliance of the public on law enforcement services in Kenya. Historically, the NPS has been widely perceived as displaying hostility and punitive behaviour towards citizens (Centre for Human Rights and Policy Studies (CHRIPS), 2014). This perception is often reinforced by accounts of condescending attitudes, where officers interact with citizens in a manner that belittles or demeans them (Centre for Human Rights and Policy Studies (CHRIPS), 2014). Moreover, instances of disrespectful behaviour towards individuals are frequently reported, contributing to a deep-seated

mistrust of the police force (Kamau, Onyango, & Salau, 2022). Additionally, the dismissive approach taken by law enforcement further compounds these issues, as citizens' concerns are often met with indifference or neglect. As a result, the perceived attitudes of the police create a substantial barrier to fostering positive relationships and effective collaboration between law enforcement agencies and the communities they serve (Kamau, Onyango, & Salau, 2022).

Despite these challenges, a notable proportion of participants, 88%, expressed willingness to participate in criminal proceedings if provided with adequate support. However, challenges such as financial constraints, delays in court processes, and the lack of a proper witness protection system hinder full participation. FGDs revealed that logistical burdens, resource limitations, and the complexity of legal processes disproportionately affect marginalised groups, leaving them disempowered. Furthermore, fears of retaliation or intimidation were prevalent, particularly among human rights defenders and community witnesses.

Some progress is evident in the reporting of police misconduct. Of those who reported PAP cases, 52.5% directed their cases to relevant criminal justice institutions, with the majority approaching police stations. However, reporting to oversight agencies such as IPOA remains minimal, reflecting either limited awareness of their role or dissatisfaction with their effectiveness. Additionally, a significant portion of incidents was reported to non-criminal justice actors such as chiefs, religious leaders, and community-based organizations, indicating reliance on informal systems for seeking redress. This finding

was similar to other studies done that show communities often sought alternative avenues for addressing crime, with the most preferred intervention being community leaders/Nyumba Kumi/community watch groups, as a means of augmenting their sense of security in the absence of reliable law enforcement support (Gitonga & Soi, 2022).

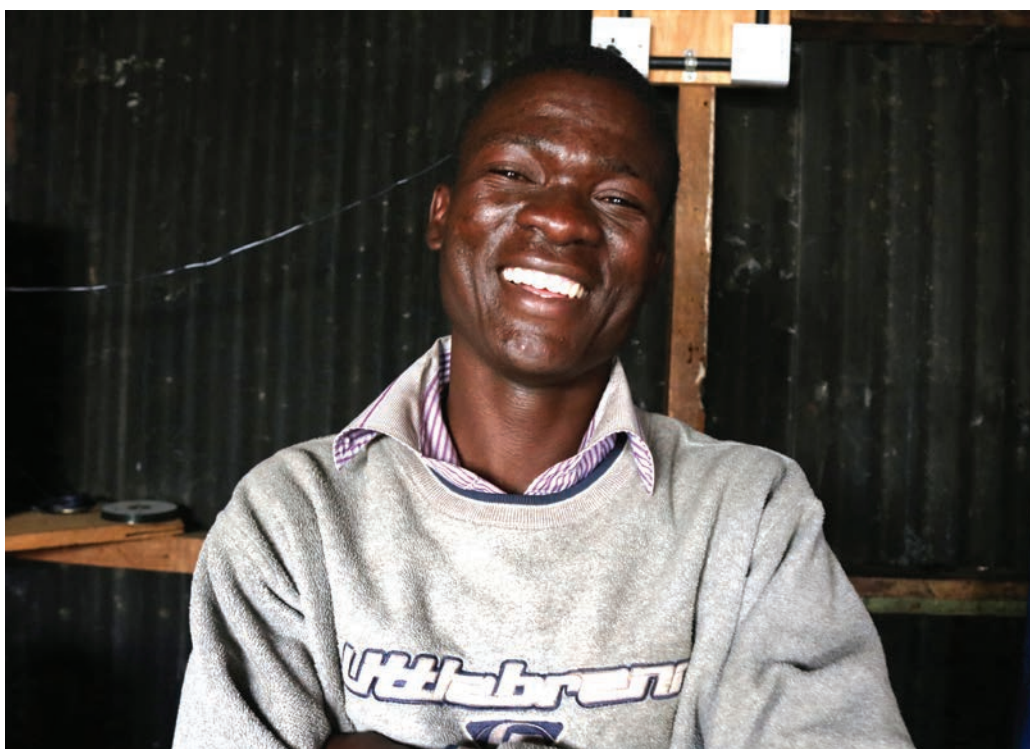
The study also found that 75.4% of survivors engaged in justice processes, either directly or through legal representation. However, systemic issues such as corruption, inefficiencies, tedious and complex judicial process and delays in obtaining essential documentation, such as P3 forms as well as lack of financial resources to meet court costs and absence of proper witness protection mechanisms hinder full participation. FGDs highlighted the critical need for accountability within law enforcement and judicial processes, as well as the importance of addressing institutional bottlenecks and providing support to survivors.

4.3. Confidence

IJM defines stakeholders' confidence as key stakeholders' confidence in the justice system to protect people from a targeted form of violence (in this case protecting citizens from PAP).

Effectiveness

There is an acute lack of stakeholders' confidence in the effectiveness of the CJS in the country to address PAP. Only 14.3% of key stakeholders reported confidence in the effectiveness of CJS institutions to protect people from PAP.



Collins Ouma were wrongfully accused of robbery with violence and later acquitted



Coordination: Coordination among CJS institutions in dealing with PAP remains weak. The study established that only 32.7% were confident in effectiveness of coordination. This was attributed to notable rivalry among some CJS institutions due to overlapping mandates, non-cooperation during investigations by some CJS institutions – particularly those mandated by investigation, and challenges in flow of evidence and information. This is corroborated by findings of the 2021-2022 NCAJ Annual Report (National Council of the Administration of Justice, 2022) which noted poor coordination among CJS institutions due to challenges in interpreting conflicting or unclear goals. This calls for strengthening and promoting utilisation of coordination mechanisms like the NCAJ, Court Users Committees amongst other forums for tackling PAP.

Respect for rule of law: There is low adherence to rule of law within the criminal justice system (especially within the NPS), based on the findings of this study. Study participants engaged highlighted that the NPS often acts contrary to the stipulated laws and constantly violated human rights when engaging with citizens. This finding is corroborated in numerous other sources, including print and electronic media, reports from the KNCHR which have provided evidence of police officers (Kenya National Commission on Human Rights, 2023) acting contrary to the rule of law. Centre for Human Rights and Policy Studies further indicated that the police, plenty

of times are intimidating, violent, government-oriented, inhuman, and have no respect for rule of law when handling members of the public (Ruteere & Mutahi, 2019). Many stakeholders called for review and strengthening of NPS training curriculum and in-service trainings to inculcate respect of human rights and rule of law among police officers as a measure to address PAP.

Public support: Public support for CJS institutions in Kenya remains low including on how they have handled police abuse of power. Only 26.5% of key stakeholders expressed confidence regarding public support for CJS institutions. Existing literature corroborates this finding, indicating that the general public has negative perceptions on some CJS institutions such as the NPS. Such reports have cited corruption, brutality, and lack respect for the rule of law (National Crime Research Centre, 2021). Additionally, public perceptions regarding the criminal justice system captured in the National Crime Research Centre's report for 2023, indicated that overall, the CJS in Kenya is beleaguered by corruption, and unreasonable adjournment of criminal cases such the ones on police abuse of power (National Crime Research Centre, 2022). These perceptions negatively impact citizens' willingness and ability to rely on CJS institutions for justice against PAP.

Deterrence of PAP: From the study, it emerged that deterrence of PAP remains ineffective and key stakeholders have low confidence in CJS



institutions' ability to reduce propensity of police officers to engage in abuse of power. Sentiments documented by some CSOs on external literature further coincide with these study findings. Key stakeholders believe the criminal justice system has not worked effectively to address PAP as police officers continue to perpetuate this crime, with very little efforts to hold them accountable (Mathare Social Justice Centre, 2023). Many stakeholders cite low conviction rate and the evident increase in prevalence of PAP in the country. In its 2023 annual report, the Missing Voices consortium indicated that, overall, no one has been held criminally accountable for cases of enforced disappearances that have occurred over the years to date (Missing Voices, 2021). This has led to increased prevalence of the various forms of PAP further eroding stakeholders' confidence in the ability of CJS institutions to effectively deter this crime in the country.

Efficiency

Major stakeholders believe the CJS remains largely inefficient in its efforts to address PAP to the satisfaction of the public.

Mandate independence: Overall, key stakeholders engaged in the study have questioned the independence of most CJS institutions in dealing with the problem of PAP in Kenya. There are allegations of undue external influence by the political elite on CJS institutions' operations impeding their absolute independence. Also, institutional dependence by some actors like IAU and IPOA on NPS for elements of their operations is considered to be limiting their mandate independence particularly in the area of investigations. There are media accounts of opinions related to the influence of the national executive in the operations of such CJS institutions as DCI, ODPP and judiciary that impacts stakeholder confidence (Sang, 2023; Human Rights Watch, 2023).

Timeliness in service delivery: Generally, the study established that key stakeholders also expressed low confidence in the CJS delivery of services to victims of PAP in a timely manner. A 2021 annual report by Missing Voice documented similar sentiments from stakeholders who highlighted that PAP cases take long in the system and delay timely access to justice to victims of PAP (Missing Voices, 2021). Victims and survivors of PAP have indicated that the process of seeking justice is slow, arduous, and extremely frustrating, with cases taking an average of five years to reach convictions (Kwoba Magero, 2022). Some CJS actors attributed this to mandate discretions, like autonomous decision to charge vested

in the ODPP, backlog and inefficiencies in the judiciary and investigation delays.

Political support: Political support for CJS institutions remains low, thus affecting their ability to discharge their mandates effectively. Less than half of the stakeholders engaged were confident that the NPS (14.3%), IPOA (24.5%), DCI (14.3%), ODPP (32.7%), Courts (22.4%), and VPB (22.4%) enjoy political support when addressing PAP. Political support through budgetary allocations to some CJS institutions such as the Judiciary, NPS have been politicized thus undermining effective and efficient functioning of these institutions (Human Rights Watch, August).

Fairness

Majority of stakeholders felt confident that Courts (53.1%) and IPOA (51.0%) treated everyone equally without discrimination when handling PAP cases. The NPS (including DCI), however, does not enjoy the confidence of key stakeholders (10.2% - NPS and 14.3% - DCI).

Non-discrimination: The study established that there is the tendency for perpetrators of PAP and citizens of a higher social economic class to be favoured by CJS institutions. Some CJS institutions like the NPS are believed by key stakeholders consulted to be discriminatory in handling citizens seeking justice for PAP. These findings were corroborated by existing reports of police officers demonstrating discrimination in their policing by targeting members of a minority community in the country and young men of a lower socio-economic status (Arthur's Dream Autism Trust, Article 48 Initiative & Southern Africa Litigation Centre, 2021).

Respect for dignity of persons: The study established that some CJS institutions have failed to uphold respect and dignity of citizens they have interacted with, according to majority of stakeholders. Stakeholders perceive that in conduct of their mandates, the NPS has continued to engage in unlawful arrests, detention of citizens in inhumane conditions, and excessive use of force. The findings align with sentiments in a 2023 report by the Human Rights Watch, which noted that numerous complaints have been raised on unlawful arrests and detention of citizens in facilities with inhuman conditions (Human Rights Watch, 2024). Such incidences are a contradiction of the requirement of the NPS to uphold and respect the right to dignity of persons.

4.4. Performance

The study has established that there are several channels available to the public to report and for registration of PAP-related incidences and complaints, and there exist regulations and procedures that CJS institutions rely on for processing of complaints. This is evidenced by records of PAP complaints reported by IPOA and IAU that are mandated to address police misconduct. There are also complimentary reports compiled by other institutions of government dealing with human rights like KNCHR. There is however the challenge with conceptualisation of PAP that complicates the computation and reporting of PAP complaints lodged by members of the public. According to several judicial officers consulted in the study, cases in court are not necessarily registered as PAP but rather as murder, assault and theft/robbery among other crimes. As such this presents a difficulty in tracking PAP complaints as they progress along the CJS - for instance comparing complaints reported with such indicators as completed investigations, cases where decisions to charge have been proffered and conviction rates. This points to a need to develop a common definition or understanding of PAP that can be operationalised across CJS institutions and other actors to ensure accurate recording and reporting of PAP cases. Thus far, there are various disparate statutes that provide guidance on conceptualisation of PAP like the IPOA definition of police misconduct, crimes in the penal code that apply to police officers, provisions of Ethics and Anticorruption Act among others.

Performance of relevant CJS institutions on investigations remains sub-optimal with substantive gaps in the quality of evidence which is understood to be limiting prosecution and conviction of police officers accused of various crimes related to PAP. The study found that mechanisms for quality control exist and that investigative officers strive to use a range of analytical tools and techniques for evidence discovery and examination. However, independent investigative institutions, particularly IPOA, lack sufficient investigative officers and specialised forensic expertise and therefore rely heavily on DCI. This limits timeliness in production of strong evidence for prosecution of PAP cases and impairs operational independence of IPOA, limiting their ability to take full control of investigations.

Performance under Legal indicates that one of the limitations to achieving higher conviction

rates in PAP cases is the problem of the quality of evidence. Several studies on IPOA investigations of PAP arrive at similar conclusions – indicating that several loopholes allow for manipulation of the investigative processes (Probert, Kimari, & Ruteere, 2020). This has profound implications on people's reliance and confidence on the CJS to address PAP cases. Many survivors and members of the public indicated that there are several cases that have fallen apart or failed in court because of inadequacies in the processes during investigations. Media reports for instance point to the failure of IPOA to effectively investigate several accounts of high severity complaints of police abuse of power (Fick, 2018). This underscores the validity of claims to strengthen IPOA, in terms of its legal mandate and resource allocation towards establishment of an independent forensics lab, recruitment of investigative officers and acquisition of more field stations to cover the country (2Chanue News, 2024). This would address issues related to evidence integrity, scientific credibility and capacity of investigative officers. It is notable that such recommendations were already made by the Maraga Taskforce suggesting that what's necessary is more political backing for institutional independence and strengthening.

Coordination among relevant CJS institutions during investigation of PAP remains inadequate and undermines effectiveness of investigations. Non-cooperation especially from NPS on critical information and support necessary for independent agencies like IPOA and IAU and perceived overlap in mandates (leading to parallel investigation) are cited for undermining evidence collection, complicating processes for witness engagement, evidence gathering and custody. A study on IPOA investigations arrived at similar findings indicating that police compliance with the law with regard to notifications remains a significant challenge for IPOA's investigations (Probert, Kimari, & Ruteere, 2020). The IPOA 2024 end-of-term report also recounts the major challenges that impinge on its ability to conduct effective investigations that align with the findings presented in this study (IPOA, 2024).

Different CJS actors view the merits of the decision to charge mandate of the ODPP differently. Whilst there are those who believe that the guidelines have strengthened prosecution – increasing sensitivity to public interest and enhancing reliability, credibility, admissibility, sufficiency and strength of rebuttal evidence, there are those who argue that centralisation of the decision to charge at the ODPP may be curtailing performance on addressing PAP. The guidelines are generally expected to enable standardisation and uniformity in review of cases investigated across the board. However, many stakeholders, especially investigative institutions/officers, observed that the centralisation has led to longer processes for review of investigated complaints precipitating undue delays that frustrate timely adjudication of PAP cases. Several CJS stakeholders argue that there is a lot of discretion vested on the ODPP regarding decisions to charge PAP cases that is prone to

abuse and has in many instances undermined delivery of justice for PAP victims. This calls for further interrogation, through multi-stakeholder consultations, to understand the unintended consequences that the centralisation may have caused and how to address them. There are significant implications for people's reliance and stakeholder confidence that application of the guidelines may have. Failure to address complaints or misgivings about the negative effects and inefficiencies of centralisation may lead to erosion of public trust and confidence of counterpart CJS actors that is necessary for overall performance of the CJS in addressing PAP.

There are acute delays in adjudication of PAP cases with cases taking longer than three years to conclude and the rate of conviction of police officers on charges related to PAP remains very low giving the impression that police misconduct goes largely unabated. Foremost, the challenge of tracking PAP cases across the CJS institutions presents a problem since court records do not necessarily document cases as PAP, even when several crimes are understood as PAP. Although some CJS actors argue that conviction rates may not necessarily be a robust indicator for measuring performance, public perceptions on the probability of reported PAP complaints being dealt with can be profoundly impaired by limited evidence of prosecution of police officers especially considering that the public interface with incidences of PAP despite lacking information about case progression.

The lengthy period of adjudication and low conviction rates in PAP cases is attributed to several issues ranging from gaps in investigations and quality of evidence (including evidence tampering), to quality of witnesses and witness testimonies (that is affected by witness intimidation/disappearance, transfer of police officers who are witnesses) and assignment of junior prosecutors without experience to prosecute complex PAP cases among others. Most of the CJS actors consulted attributed these challenges to systemic issues related to policing in Kenya and in the performance of CJS institutions. These include: backlogs (observed in the Judiciary, ODPP as well as IPOA) due to manpower challenges, judicial staff transfers; judges allowing too many applications and adjournments; and malfeasance among others. Also, existing infrastructure and facilities available to judiciary officers remain inadequate to allow speedy hearing and determination of cases and effective protection of witnesses. Further, the country lacks an adequate and effective mechanism for victim and witness protection. This has had adverse effects on retention of witnesses not only during investigations but also throughout the court processes to determination of court cases. Both the WPA and VPB remain encumbered by resource constraints that limit their ability to protect many witnesses that otherwise require protection. This has meant that WPA implements a very high standard and criterion for admissions of witnesses that locks out the vast majority of PAP witnesses that need their services.



It is notable nonetheless that CJS institutions, particularly Judiciary, IPOA and ODPP, recognise these challenges and continue to lobby for more resources and implementing several institutional changes towards: reducing case backlogs, addressing human resource deficits and institutional strengthening. IPOA for instance is reported to be working on further decentralisation of services to more counties, pursuing legislative amendments to the IPOA Act to address mandate overlaps and addressing non-cooperation from NPS (Cherono, 2024). The Judiciary is pursuing mechanisms for daily tracking to identify impediments to expeditious disposal of cases, improving its service delivery and lobbying national treasury for more (Jillo, 2021). The Chief Justice for instance has made commitments to reduce time taken to reach judgements – indicating that trial courts should not last more than three years and a year in an Appellate Court (Kendi, 2021). There is evidence that some of these measures are delivering steady improvements in performance in fast-tracking hearing and determination of cases. For instance, the Judiciary Performance Management and Measurement Understandings Evaluation Report (PMMU) of 2022/23 indicated a 13% reduction in cases taking more than three years before judgment among other improvements including in case clearance rate and case backlog reduction (Judiciary, 2023).

There are significant gaps in the capacity of CJS actors for trauma-informed handling of victims of PAP and there is limited evidence of case

management provision and restoration of victims of PAP. Victims and witnesses in PAP cases seldom receive adequate psychosocial support due to lack of adequate capacity. Inadequate coordination between prosecution (and investigation officers) in notifying court of needed psychosocial support also limits access. Because several PAP victims and witnesses come with various strains of trauma, inadequacy of the CJS in aftercare is a critical gap that needs to be urgently addressed. Continued gaps prevent would be witnesses and witnesses to report cases or participate fully throughout the processes. Whilst a lot of work may be done towards educating the public and incentivising their willingness and participation, such gaps in witness protection and trauma informed interactions impinge on progress. This underscores the need for deliberate planning, resource allocation and tracking of progress towards training of CJS officers on promoting delivery of effective aftercare services. Many CJS actors consulted believe that trauma-informed interactions can be improved through more training, SOPs to ensure appropriate care is provided, and better coordination of relevant CJS actors during the process of handling PAP cases. Although court rulings may proffer restorative benefits to victims of PAP when cases are concluded, the extent to which this happens is not apparent.



Section Five:

Conclusion

Conclusion

5.0. Conclusion on Prevalence

PAP remains prevalent within the country (at 42.9%), with more cases being reported in major towns such as Nairobi (52.3%), Kisumu (56.7%) and Mombasa (49.3%). However, in comparison with the 2019 IPOA survey, which recorded police misconduct prevalence at 46.2%, the results indicate a slow declining trend in police abuse of power. The study also established corruption (55.8%) and harassment (54.7%) as the most common forms of PAP reported by participants, and some factors such as age, occupation, religion and physical appearance were noted to predispose citizens to police abuse of power.

5.1. Conclusion on Reliance

The study highlights both the potential and the challenges in building people's reliance on the criminal justice system (CJS) to address PAP in Kenya. While the majority of vulnerable populations express a willingness to engage with the justice system by reporting crimes (at 63.7%) and participating (at 88%) in criminal proceedings, significant barriers remain. The lack of trust in justice system institutions, high cost of using the CJS, fear of victimization by police, and systemic corruption hinder access to justice, particularly for marginalised communities. This is consistent with findings from desk research which indicated that citizens perceive the police service as unwilling and ineffective in addressing public safety concerns or combating crime (Elfvorsson, Ha, & Hoglund, 2024). Moreover, the inability of institutions such as IPOA to respond swiftly and consistently undermines public confidence in the justice process. To strengthen reliance on the CJS, reforms must address these systemic issues, particularly focusing on improving transparency, reducing delays, enhancing witness protection, and ensuring that justice is accessible to all, regardless of economic status.

5.2. Conclusion on Confidence

Generally, stakeholders indicated low levels of confidence in the effectiveness (14.3%), efficiency (7.8%), and fairness (33.7%) of the criminal justice system in addressing PAP/misconduct. This was attributed to weaknesses in coordination among criminal justice institutions, inadequate adherence and respect for the rule of law, lack of public support for criminal justice system institutions, and ineffectiveness in deterrence of PAP/misconduct. Low stakeholder confidence in efficiency of the criminal justice system institutions is largely attributed to: political interference resulting in institutions not operating independently, lag in investigations and prosecutions that negatively impact timely delivery of justice services, limited public access to some criminal justice system institutions, and inadequate political support in terms of adequate budgetary allocations and good will from the political class. Additionally, stakeholders expressed low confidence in the fairness of the criminal justice system citing prevalent cases of discrimination. It emerged from the study that perpetrators of PAP from a higher socio-economic class are treated more



favourably compared to citizens or victims of PAP from a lower socio-economic class. Stakeholders noted that citizens/victims facing PAP were not treated with dignity in their interaction with some criminal justice actors. There were violations of human rights including unlawful arrests, and unfair treatment of those arrested.

5.3. Conclusion on Performance

Whilst there has been notable reform in the legal framework, increased investments in institutional strengthening, and progress towards resource allocation and operational independence, performance of the country's CJS institutions in tackling PAP remains tepid and below expectations of the public.

Citizens seem aware of mechanisms for reporting complaints about PAP and relevant CJS institutions like IPOA, IAU, ODPP among others provide tools, regulations and procedures for registration and processing of PAP-related incidences and complaints. Investigations of PAP cases remain sub-optimal with substantive gaps in the quality of evidence which is understood to be limiting prosecution and conviction of police officers accused of various crimes related to PAP. Whilst the study established that there exist mechanisms for quality control, and that investigative officer endeavour to apply a range of analytical tools/techniques for the discovery and examination of evidence, independent investigative institutions (particularly IPOA) lack adequate investigating officers and specialised expertise for forensic analysis and as such depend largely on DCI. This limits timeliness in production of strong evidence for prosecution of PAP cases and impairs operational independence of IPOA limiting their ability to take full control of investigations.

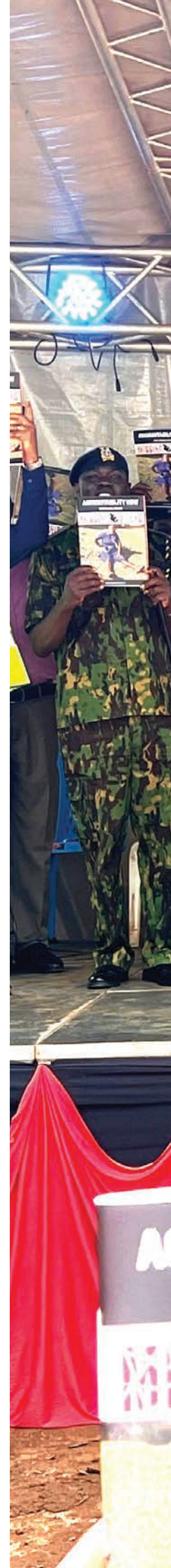
The Decision to Charge Guidelines (published in 2019) have strengthened prosecution - increasing sensitivity to public interest and enhancing reliability, credibility, admissibility, sufficiency and strength of rebuttal evidence. There are however CJS stakeholders who believe that centralisation of the decision to charge at the ODPP may sometimes curtail performance in addressing PAP as it may be prone to abuse. There are delays in adjudication of PAP cases with cases taking longer than three years to conclude and the rate of conviction of police officers on charges related to PAP remains very low giving the impression that police misconduct goes largely unabated.

There are significant gaps with regards to capacity of CJS actors for trauma-informed handling of victims of PAP and there is limited evidence of restoration of victims of PAP. Trauma-informed interactions can

be improved through more training, SOPs to ensure appropriate care is provided, and better coordination of relevant CJS actors during the process of handling PAP cases.

5.4. IJM's Role in Addressing PAP

IJM has been well positioned to address police abuse of power in Kenya owing to extensive experience in combating human rights violations and promoting justice system reforms over the years. This experience, coupled with strong partnerships IJM has established with criminal justice system actors in Kenya enabled collaborative work towards: i) addressing the root causes of police impunity and advocating for legal reforms to reduce prevalence of police abuse of power; ii) building trust between communities and law enforcement to enhance reliance; (iii) improving accountability mechanisms to ensure justice for victims of police abuse and to increase confidence in the justice system; (iv) providing training and resources to both police service and other CJS institutions to enhance performance of the CJS; and v) providing legal and psychosocial support to victims and/or survivors of police misconduct. Through casework, the organization has helped in the development of jurisprudence around police reforms including upholding the constitutional right to fair trial, the rights of victims to effectively participate in their own cases, addressing arbitrary arrests by the police, participation in criminal proceedings and the use of excessive force by police among other key areas.







Recommendations

(Program Considerations)

Based on the findings, analysis and general observations of this study, the following recommendations are made for consideration by IJM and key CJS actors:

To Reduce Prevalence of PAP and Enhance People's Reliance on the CJS

1. Ministry of Interior to facilitate sector-wide consultations towards strengthening of NPS training curriculum and in-service trainings to inculcate respect of human rights and rule of law, ethical behavior and proper use of force among police officers;
2. CJS institutions to develop basic information packages or training toolkits for knowledge transfer on the criminal justice system in Kenya to enhance citizens' awareness of the roles of CJS institutions in tackling PAP;
3. NPS (IAU) and IPOA to facilitate community dialogues for increased interface and improved relations between police and communities;
4. NCAJ to work with IPOA, NPS and ODPP to increase integration of digital mechanisms for reporting, registration and processing of cases and to develop a collaborative unified and centralized database for curation of reported PAP complaints/incidences.

To Enhance Performance and Stakeholder Confidence in CJS actors on tackling PAP

5. CJS actors to collectively lobby Parliament and National Treasury to increase and ring-fence funding for police oversight institutions (KNCHR, IPOA and IAU) so as to effectively monitor and address police misconduct;
6. IPOA, IAU and DCI to collaborate in developing or reviewing standard operating procedures for conducting and monitoring investigations of PAP cases;
7. Victim Protection Board to accelerate operationalization of the Victim Protection Trust Fund for support of victims of Police abuse of power as they engage in the CJS processes;
8. CJS actors to collectively lobby Parliament and National Treasury to increase funding for the Witness Protection Agency to expand its capacity to absorb more witnesses of PAP;
9. Judiciary to review and strengthen witness protection protocols in court precincts to enhance security and welfare of witnesses including handling

witness identity protections both in virtual and physical court proceedings;

10. Judiciary, IPOA, IAU and ODPP to pursue partnerships with relevant state actors and civil society organizations (like IJM) for building capacity of CJS actors on psychosocial support and trauma-informed interactions with victims of PAP;
11. ODPP to facilitate regular review and report regularly on PAP cases taken to court, decisions, duration on taking decisions to charge among other relevant metrics for monitoring of case progression;
12. NCAJ to promote coordination among CJS institutions on issues around tackling police abuse of power including effective utilisation of Court Users Committees and regular sector wide coordination forums;
13. Judiciary to work with IPOA in regular review of PAP case files and report on key indicators including duration of reaching judgments, convictions, appeals and overturned convictions among other relevant metrics;
14. IPOA, IAU, ODPP and Judiciary to train their respective officers on the case management approach in order to improve handling of PAP cases across CJS institutions and to proffer meaningful support to victims as they navigate the CJS; and
15. CSOs working on criminal justice in Kenya to pursue partnerships with relevant CJS institutions for improving complaints registration and processing, investigation, prosecution, adjudication and provision of aftercare services to victims of PAP.

Beth Njokia
survivor of false
accusation



References

References

- 2Chanue News. (2024, August 16). News. Retrieved from 2Chanue News: <https://2chanuane.co.ke/ipoa-under-scrutiny-challenges-in-overseeing-kenyas-police-service/>
- ACLED. (2023). Kenya Situation Update: September 2023 | Police Use Excessive Force in Response to Anti-Government Demonstrations. Kenya. Retrieved from ACLED: <https://acleddata.com/2023/09/26/kenya-situation-update-september-2023-police-use-excessive-force-in-response-to-anti-government-demonstrations/>
- Alai, C. (2019). Breaking Cycles of Violence: Gaps in Prevention of and Response to Electoral-Related Sexual Violence in Kenya. Physicians for Human Rights (PHR). Retrieved from <https://phr.org/our-work/resources/breaking-cycles-of-violence-gaps-in-prevention-of-and-response-to-electoral-related-sexual-violence-in-kenya/>
- Amnesty International. (2020). Jamaica: Time for stronger police accountability. Amnesty International. Retrieved from Amnesty International.
- Amnesty International. (2023). Police Violence Around the World. Retrieved February 8, 2024, from Amnesty International Issues: <https://www.amnestyusa.org/issues/deadly-force-police-accountability-police-violence/>
- Amnesty Kenya. (2023). End Police Impunity. Amnesty Kenya.
- APCOF. (2022). Assessment of the Kenya National Police Service's Progress towards Meeting the Common Standards for Policing in Eastern Africa. Common Standards for Policing in Eastern Africa -Kenya, pp 1 -59.
- Arthur's Dream Autism Trust, Article 48 Initiative & Southern Africa Litigation Centre. (2021). An exploratory study of the interaction between the criminal system and persons with intellectual and psychosocial disabilities. Nairobi: Article 48 Initiative (A48), Arthur's Dream Autism Trust (ADAT) & Southern Africa Litigation Centre. Retrieved from <https://www.southernafricalitigationcentre.org/wp-content/uploads/2021/09/Kenya-Report.pdf>
- BBC. (2020, January 23). BBC News. Retrieved from BBC News: <https://www.bbc.com/news/world-latin-america-51220364>
- Bureau of Democracy, Human Rights and Labour. (2022). Kenya 2022 Human Rights Report. United States Department of State .
- Centre for Human Rights and Policy Studies (CHRIPS). (2014). Local Policing Accountability in Kenya: Challenges and Opportunities for Action. Nairobi: CHRIPS.
- Cherono, S. (2024, August 28). IPOA News. Retrieved from IPOA: <https://ipoa.news/2024/08/28/ipoa-board-hands-its-end-of-term-report-to-partners-and-stakeholders/>
- Elfversson, E., Ha, T.-N., & Hoglund, K. (2024). The urban-rural divide in police trust: insights from Kenya. An International Journal of Research and Policy, pg 166 - 182.
- Fick, M. (2018, February 23). Amid claims of police brutality in Kenya, a watchdog fails to bite. Retrieved from Reuters: <https://www.reuters.com/investigates/special-report/kenya-police-watchdog/>
- Fred. (2021). Blue Code Of Silence: Big Threat To Professional Policing. IPOA - ONLINE NEWS. Retrieved from <https://ipoa.news/2021/09/09/blue-code-of-silence-big-threat-to-professional-policing/>
- Gitonga, D., & Soi, G. (2022). PRELIMINARY REPORT ON 2022 NATIONAL CRIME MAPPING: PUBLIC PERCEPTIONS AND EXPERIENCES OF CRIME PREVALENCE IN KENYA. Nairobi: National Crime Research Centre (NCRC) .
- Huma Rights Watch & Amnesty International. (2024). "Unchecked injustice": Kenya's suppression of the 2023 anti-government protests. New York: Human Rights Watch.
- Human Rights Watch. (2022, August 9). Kenya Events of 2022. Retrieved January 22, 2024, from Human Rights Watch: <https://www.hrw.org/world-report/2023/country-chapters/kenya>
- Human Rights Watch. (2023, January 12). Africa: Conflicts, Violence Threaten Rights. Retrieved January 22, 2024, from Human Rights Watch: <https://www.hrw.org/news/2023/01/12/africa-conflicts-violence-threaten-rights>
- Human Rights Watch. (2023). World Report 2023: Events of 2022. New York: Human Rights Watch. Retrieved from https://www.hrw.org/sites/default/files/media_2023/01/World_Report_2023_WEBSPREADS_0.pdf

- Human Rights Watch. (2024, November 25). Unchecked Injustice: Kenya's Suppression of the 2023 Anti-Government Protests. Retrieved from <https://www.hrw.org/report/2024/11/25/unchecked-injustice/kenyas-suppression-2023-anti-government-protests>
- Human Rights Watch. (August, 2022 1st). Kenya: Police Impunity Raises Election Risk. Retrieved from Human Rights Watch: <https://www.hrw.org/news/2022/08/02/kenya-police-impunity-raises-election-risk>
- ICJT. (2010). Security Sector Reform and Transitional. Nairobi: The International Centre for Transitional Justice in Kenya. Retrieved from <https://www.ictj.org/sites/default/files/ICTJ-Kenya-Security-Reform-2010-English.pdf>
- IJM. (2018). Integrated Justice System Transformation Program to Reduce Police Abuse of Power. IJM Kenya.
- IJM. (2019). Police Abuse of Power. London: International Justice Mission Canada.
- IJM. (2020). Protection Summary. International Justice Mission.
- IJM. (2021). Best Practices in Case Management of Child Sexual Abuse and their suitability to Online Sexual Exploitation of Children in the Philippines: A systematic review. Manila: IJM.
- IJM. (2021). Protection Measurement: People's Reliance. International Justice Mission .
- IJM. (2021). Stakeholder Confidence Technical Brief. International Justice Mission.
- IJM. (2022). IJM Prevalence Guidance. International Justice Mission .
- IJM. (2024). Global Standardized Indicators for Stakeholders' Confidence: Guidance and Tool. International Justice Mission.
- IJM. (n.d.). Kenya Launches Policy to Protect Kenyans from False Charges. Retrieved September 2024, from International Justice mission: <https://www.ijm.org/news/kenya-launches-policy-to-protect-kenyans-from-false-charges>
- IMLU. (2020). Kenya's National Policing Budget: Fact Sheet. IMLU. Retrieved from <https://www.imlu.org/wp-content/uploads/2022/02/IMLU-FACT-SHEET..pdf>
- International Center for Transitional Justice. (2010). Security Sector Reform and Transitional Justice in Kenya. Nairobi: The International Center for Transitional Justice.
- International Commission of Jurists. (2023). Executive Summary: Report of the National Taskforce on Police Reforms. International Commission of Jurists. Retrieved from <https://icj-kenya.org/news/executive-summary-report-of-the-national-taskforce-on-police-reforms/>
- International Peace Institute. (2009). National Task Force on Police Reform. Retrieved from https://www.ipinst.org/wp-content/uploads/2010/01/pdfs_summary_policereformreport.pdf
- IPOA. (2013). Baseline Survey on Policing Standards and Gaps in Kenya. Nairobi: Independent Policing Oversight Authority .
- IPOA. (2019). Endline Survey on Policing Standards and Gaps in Kenya. Nairobi: IPOA.
- IPOA. (2019). Endline Survey on Policing Standards and Gaps in Kenya. Nairobi: IPOA.
- IPOA. (2022). Guarding Public Interest in Policing . Nairobi: Independent Policing Oversight Authority.
- IPOA. (2024). 2018-2024 IPOA Board End-Term Performance Report. Nairobi: IPOA. Retrieved from <https://www.ipoa.go.ke/frontAssets/uploads/resources/1725282564020924.pdf>
- Jillo, K. (2021, September 17). All cases to be completed within three years, says Koome. Retrieved from The Star: <https://www.the-star.co.ke/news/2021-09-17-all-cases-to-be-completed-within-three-years-says-koome>
- Judiciary. (2023, July 26). Judiciary improves significantly in expeditious case determination. Retrieved from The Judiciary Republic of Kenya: <https://judiciary.go.ke/judiciary-improves-significantly-in-expeditious-case-determination/>
- Judiciary improves significantly in expeditious case determination. (2023, July 26). Retrieved from Judiciary of Kenya Website: <https://judiciary.go.ke/judiciary-improves-significantly-in-expeditious-case-determination/>
- Kadida, J. (2021, September 17). All cases to be completed within three years, says Koome. Nairobi: The Star. Retrieved from The Star: <https://www.the-star.co.ke/news/2021-09-17-all-cases-to-be-completed-within-three-years-says-koome>
- Kadida, J. (2024). Concerns mount over Ipoa's inability to check police excesses. The Star. Retrieved from https://www.the-star.co.ke/news/2024-01-10-concerns-mount-over-ipoas-inability-to-check-police-excesses?utm_source=chatgpt.com
- Kamau, P., Onyango, G., & Salau, T. (2022). Kenyans cite criminal activity, lack of respect, and corruption among police failings. Nairobi: Afrobarometer.

- Kendi, S. (2021, September 4). News - Court cases will not last more than three years in High Court, and a year in an Appellate Court, CJ Koome says. Retrieved from International Commission of Jurists: <https://icj-kenya.org/news/court-cases-will-not-last-more-than-three-years-in-high-court-and-a-year-in-an-appellate-court-cj-koome-says/>
- Kenya National Commission on Human Rights. (2023). Press Release: Rising Police Brutality: Public Rights Violated, Urgent Action Needed! Retrieved from Kenya National Commission on Human Rights: <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1155/Press-Release-Rising-Police-Brutality-Public-Rights-Violated-Urgent-Action-Needed>
- Kivoi, D. (2020). Policing Reforms to Enhance Security in Kenya. Nairobi: The Kenya Institute for Public Policy Research and Analysis (KIPPRA). Retrieved February 13, 2024, from <https://repository.kippira.or.ke/bitstream/handle/123456789/2745/policing.pdf>
- Kivoi, D. L. (2020, June 5). Why violence is a hallmark of Kenyan policing. And what needs to change. Retrieved February 13, 2024, from The Conversation: <https://theconversation.com/why-violence-is-a-hallmark-of-kenyan-policing-and-what-needs-to-change-139878>
- Kivoi, D. L. (2022, February 3). Kenya has tried to reform its police force, but it's left gaps for abuse. Retrieved from The Conversation: <https://theconversation.com/kenya-has-tried-to-reform-its-police-force-but-its-left-gaps-for-abuse-176044>
- Kwoba Magero. (2022, May 30th). Who will wipe our tears? - Police brutality and delayed justice in Kenya. Retrieved from Heinrich Böll Stiftung: <https://ke.boell.org/en/2022/05/30/who-will-wipe-our-tears-police-brutality-and-delayed-justice-kenya>
- Mapping Police Violence. (2024). Retrieved from Mapping Police Violence: <https://mappingpoliceviolence.org/>
- Mathare Social Justice Centre. (2023, June 5th). The Untold Terror of Police Violence during Maandamano. Retrieved from Mathare Social Justice Centre: <https://www.matharesocialjustice.org/category/police-brutality/>
- Mazurova, N. (2022). Law Enforcement Development in Kenya: History, Reform and Path Forward. Washington DC: COPS U.S. Department of Justice; International Criminal Investigative Training Assistance Program. Retrieved from <https://www.justice.gov/criminal/criminal-icitap/file/1492276/dl?inline>
- Mazurova, N. (2022). Law Enforcement Development in Kenya: History, Reform, and Path Forward. Washington, DC: Office of Community Oriented Policing Services.
- Ministry of Planning and National Development. (2003). Economic Recovery Strategy for Wealth and Employment Creation. Ministry of Planning and National Development.
- Ministry of State for Planning. (2003). Economic Recovery Strategy for Wealth and Employment Creation 2003-2007. Ministry of Planning and National Development. Retrieved from <http://196.202.210.190:8090/handle/123456789/2059>
- Missing Voices. (2021). Delayed Justice: 2021 Annual Report. Nairobi: Missing Voices. Retrieved from <https://icj-kenya.org/wp-content/uploads/2022/05/MISSING-VOICES-2021-ANNUAL-REPORT.pdf>
- Missing Voices Network. (2024). "We are all part of the system and therefore can be part of the solution." | Heinrich Böll Stiftung. Retrieved from Heinrich Böll Stiftung: <https://www.boell.de/en/2023/11/12/missing-voices-network-kenya>
- Mugabi, I. (2020, April 4). COVID-19: Security forces brutalizing civilians. Retrieved January 22, 2024, from DW: <https://www.dw.com/en/covid-19-security-forces-in-africa-brutalizing-civilians-under-lockdown/a-53192163>
- Nassiuma, B. (2021). Public Trust and Service Delivery in the National Police Service. Nairobi County, Kenya. Retrieved from https://www.academia.edu/81053358/Public_Trust_and_Service_Delivery_in_the_National_Police_Service_Nairobi_County_Kenya
- Nation Africa. (2020, July 31). Guidelines on the decision to charge and Uadilifu case management system. Retrieved from Nation: <https://nation.africa/kenya/brand-book/guidelines-on-the-decision-to-charge-and-uadilifu-case-management-system-1910064>
- National Council for Law Reporting. (2011). Independent Policing Oversight Authority Act, 2011. Nairobi: National Council for Law Reporting.
- National Council for Law Reporting. (2012). National Police Service Act No.11A of 2011. Nairobi: National Council for Law Reporting.
- National Council of the Administration of Justice. (2022). Administration of Justice in Kenya: Annual Report 2021 - 2022. Nairobi: National Council of the Administration of Justice. Retrieved December 2024, from <https://www.ncaj.go.ke/index.php/download/ncaj-annual-report-2021-2022/>
- National Council on the Administration of Justice. (2016). Criminal Justice System in Kenya: An Audit. Nairobi: National Council on Administration of Justice.
- National Crime Research Centre. (2021). Factors shaping police performance in Kenya. Nairobi: National Crime Research Centre. Retrieved from <https://www.crimeresearch.go.ke/wp-content/uploads/2022/04/Report-On-Factors-Shaping-Police-Performance-In-Kenya-Summary-of-Findings-and-Recommendations.pdf>
- National Crime Research Centre. (2022). Public perceptions and experiences on the access to criminal justice in Kenya. Nairobi: National Crime Research Centre. Retrieved from <https://>

www.crimeresearch.go.ke/wp-content/uploads/2023/08/REPORT-ON-PUBLIC-PERCEPTIONS-AND-EXPERIENCES-ON-THE-ACCESS-TO-CRIMINAL-JUSTICE-IN-KENYA-REPORT.pdf

National Taskforce on Police Reforms. (2023). National Taskforce on Improvement of the Terms and Conditions of Service and other Reforms for Members of the National Police Service, Kenya Prisons Service and National Youth Service. Nairobi: The Government Printer.

NCAJ. (2016). CRIMINAL JUSTICE SYSTEM IN KENYA: An Audit. National Council on Administration of Justice (NCAJ) Legal Resources Foundation Trust, Resources Oriented Development Initiatives. Retrieved from https://kenyalaw.org/kenyalawblog/wp-content/uploads/2017/01/Criminal_Justice_Report.pdf

Office of the Controller of Budget. (2024). National Government Budget Implementation Review Reports. Retrieved from Office of the Controller of Budget: <https://cob.go.ke/reports/national-government-budget-implementation-review-reports/#1608721965853-532bad5b-b1ee>

Office of the Director of Public Prosecutions. (2019). Guidelines on the Decision to Charge, 2019. Nairobi: Office of the Director of Public Prosecutions.

Okeowo, A., & Mainga, L. (2020). COVID19 and Police Brutality in Africa. Retrieved January 25, 2024, from Witness: <https://blog.witness.org/2020/04/covid19-and-police-brutality-in-africa/>

Oniang'o, M. (2022). Media coverage of police brutality in Kenya's informal settlements. Retrieved from https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2022-08/RISJ%20paper%20_Maurice_TT22_Final.pdf

Probert, T., Kimari, B., & Ruteere, M. (2020). Strengthening Policing Oversight and Investigations in Kenya. Centre for Human Rights and Policy Studies.

Republic of Kenya. (2010). Constitution of Kenya, 2010. National Council for Law Reporting.

Republic of Kenya. (2011). Independent Policing Oversight Authority Act, 2011.

Republic of Kenya. (n.d.). National Police Service Act (No. 11A OF 2011).

Republuc of Kenya. (2010). Constitution of Kenya 2010. National Council for Law Reporting.

Ruteere, M., & Mutahi, P. (2019). Policing Protests in Kenya. Nairobi: Centre for Human

Rights and Policy Studies. Retrieved from <https://www.chrips.or.ke/wp-content/uploads/2019/08/CHRIPS-Policing-Protests-in-Kenya-full-book.pdf>

The Star. (2024). Concerns mount over Ipoa's inability to check police excesses. The Star. Retrieved from <https://www.the-star.co.ke/news/2024-01-10-concerns-mount-over-ipoas-inability-to-check-police-excesses?>

UNODC. (2024). PLEAD II BASELINE SURVEY AND NEEDS ASSESSMENT REPORT. Nairobi: UNODC.

Wairuri, K., Chemlali, A., & Ruteere, M. (2018). Urban Violence in Nakuru County, Kenya. Dignity Publication Series on torture and violence study.

Wako, A. (2021, November 22). Abduction or arrest? Whereabouts of Ethiopian businessman unknown. Retrieved from Nairobi News: <https://nairobinews.nation.africa/abduction-or-arrest-whereabouts-of-ethiopian-businessman-unknown/>

Wilkinson, D. (2021). Best Practices in Case Management of Child Sexual Abuse and their suitability to Online Sexual Exploitation of Children in the Philippines: A systematic review. Manila: International Justice Mission.



ANNEX 1

Stakeholder Mapping and Analysis

Introduction

Stakeholder mapping and analysis entails categorizing a constellation of stakeholders, that would be crucial for successful implementation of the project. This will be beneficial for the Police Abuse of Power (PAP) Program to identify critical stakeholders to work with basing on their interest and influence while aiming to achieve project objectives. The table below provides a summary of various stakeholder and their respective roles.

Stakeholder	Role
Government criminal justice system actors	These are key stakeholders with legal mandates to address issues around Police Abuse of Power (PAP). Additionally, their involvement and engagement in the PAP Program will contribute to achieving objectives under each protection domain through formulation, implementation and enforcement of laws and policies.
Other government Ministries, Departments, Authorities (MDAs), Bodies	These include Government Ministries, departments, bodies, and organs with some mandates pertinent to social justice, human rights, and redress of issues on PAP. They could be engaged by the Program to strengthen results across the Protection Domains through formulation and implementation of laws, regulations, and policies.
Developmental partners	They are global development partners with interest in advancing social justice and respect for human rights. They are critical in providing technical, and financial support to the Program through collaborations to protect citizens from PAP.
Relevant Global, National and Local level Civil Society Organizations (CSOs)	National and local level CSOs with human rights and social justices as their areas of interest advocate for action against PAP. They form critical partners for IJM to strength advocacy efforts, awareness creation, capacity building, support services to victims among others around PAP issues in the country.
Faith Based Organizations (FBOs)	These are representatives from faith based institution sin the country vocal about social justice and human rights. They are deemed influential and could be engaged by the project to use their platforms to intensify conversations and actions around PAP.

Community policing actors	They are involved in responding to incidences of PAP, supporting victims and survivors to get justice and hold justice system actors to account at community level with reference to PAP. They are integral for the Program to diffuse its impact to grass-root levels.
Human Right Defenders (HRDs)	They are organised into groups or individuals with efforts concerted towards defending human rights. IJM could engage them strengthening their capacity to be agents of change and advancing human rights in communities necessary to deter PAP.
Paralegals	This stakeholder category consists of individuals and groups with interest in ensuring citizens have access to justice through provision of legal aid and services. IJM's collaboration with paralegals will be critical in ensuring victims of PAP receive needed legal support to secure justice.
Community members	They are witnesses, and survivors of PAP. Their experiences and perceptions regarding the criminal justice system provide relevance to IJM's Police Abuse of Power Program.
Local and National Media	Local and national media actors create public awareness highlight an array of issues such as human rights and social justice. They could be engaged in the Program to document and highlight cases of PAP, progress of seeking justice for victims, and ensuring the Program reaches more citizens in the country.

Stakeholder analysis: Interest – Influence Analysis

The stakeholder Interest – Influence analysis categorizes stakeholders based on their interest and influence into four quadrants. Each quadrant indicates the level of interest and influence various stakeholders possess and provides direction to Program on the suitable approach to engage these stakeholders. Overall, the analysis and categorization guides the Program's efforts channeled towards each stakeholder with the goal of protecting citizens from PAP and equally deterring this crime.

Category One: High Interest – High Influence: This category of stakeholders encompasses influential stakeholders with significant interest in issues around Police Abuse of Power. Their interest arises from their respective mandates, roles, and areas of focus as individuals or institutions. The influence stems from their power push for formulation, implementation, and enforcement of laws,

regulations and policies on social justice and human rights. Therefore, through various activities they contribute to protection of citizens against PAP and subsequently lead to its deterrence. The PAP Protection Study identified the following stakeholder categories under the High Interest – High Influence quadrant: Government criminal justice actors, some government MDAs and bodies, some global and national level CSOs, some subject matter experts/academia, developmental partners, community policing actors, and national and local media.

Category Two: High Interest – Low Influence: Stakeholders grouped under this category often demonstrate high interest but low influence on a Project's/Program's areas of actions. In IJM's PAP Program, these stakeholder's high interest is attributed to their involvement in advocacy against PAP, and desire to fortify social justice and respect for human rights in law and enforcement in the country. Nonetheless, they have low influence as a result of instances of inadequate financial resources, technical capacity, knowledge and awareness, and lack of political good will. Nonetheless, they can be molded into High Interest – High Influence stakeholders by the PAP Program through: organizing them into groups for amplified voices necessary for effective advocacy, capacity building and training, and financial support. The identified stakeholder categories under this quadrant include: HRDs, community members, and paralegals.

Category Three: Low Interest – High Influence: Stakeholder listed under this category have low interest in the Program's thematic areas. While their work may indirectly spread across issues around PAP, their primary focus is inclined towards performing specified mandates outside addressing PAP. The identified stakeholders under this category include some government MDAs and bodies such as Legislature and Executive. IJM could engage them in the program to leverage on their influence on various regulatory, legal, and policy frameworks around PAP.

Category Four: Low Interest – Low Influence: These stakeholders have low interest and influence around PAP in the country. This could be attributed to: their pre-occupation with other life activities, have neither face, witnessed or experienced PAP, have inadequate knowledge on various elements around PAP. Nonetheless, they form critical stakeholders to be engaged and their interests on matters around PAP increased. The Program could strengthen their engagement through awareness creation forums, including them in local and national dialogues with various criminal justice actors, and recruiting them as agents of change and advocacy needed to support deterrence of PAP in the country.

High Interest – Low Influence	High Interest – High Interest
Local CSOs -Defenders Coalition -Crime Si Poa Community Members -Survivors of PAP -Witnesses of PAP -Family and friends of victims and survivors of PAP Human Right Defenders (HRDs) -HRD Groups (Women, Youth and Men led) Paralegals -Paralegal Groups (Women, Youth, and Men led)	Criminal justice actors NPS DCI ODPP Judiciary (Courts) IPOA IAU WPA VPB
	Other Criminal justice actors
	Court Users Committee National Council on the Administration of Justice (NCAJ) National Council for Law Reporting (NCLR) Kenya National Commission on Human Rights (KNCHR) National Police Service Commission Kenya Law Reform Commission Judicial Service Commission National Gender and Equality Commission (NGEC) Law Society of Kenya (Nairobi, Kiambu, Machakos, Uasin Gishu, Kisumu, Nakuru, Mombasa, Garissa, Kakamega)
	Relevant MDAs and Bodies
	Ministry of Interior and National Administration Department of Justice Media Council of Kenya (MCK) Ethics and Anti-Corruption Commission Legislature - Justice and Legal Affairs Committee, and Constitutional Implementation Oversight Committee
	Subject Matter experts/Academia
	National Crime Research Centre Centre for Human Rights and Policy Studies (CHRIPS)

	Kenya Institute for Public Policy Research and Analysis The Law on Police use of Force Worldwide Usalama Reforms Forum
	National CSOs
	Missing voices HAKI Africa Kituo Cha Sheria Focus Kenya Human Rights Agenda Kenya Human Rights Commission (KHRC) Independent Medico-Legal Unit (IMLU)
	Faith Based Organizations
	Anglican Church Development Services Anglican Church of Kenya Kenya Conference of Catholic Bishops (KCCB) National Council of Churches (NCCCK) Focus Kenya Association of Sisterhoods of Kenya (AOSK)
	Global/Regional CSOs
	Amnesty International Human Rights Watch Article19 Peace Brigades International Open Society Foundation International Commission of Jurists (ICJ) Commonwealth Human Rights Initiative (CHRI) Freedom House International Peace Institute Heinrich Boll Stiftung International Federation for Human Rights Transparency International African Policing Civilian Oversight Forum (APCOF) International Police Science Association
	Community policing actors
	Nyumba Kumi Social Justice Center Working Group (Nairobi, Kiambu, Machakos, Uasin Gishu, Kisumu, Nakuru, Mombasa, Garissa, Kakamega)
	Developmental partners
	U.S Agency for International Development (USAID) United Nations Special Rapporteur African Union World Bank American Embassy European Union United Nations Office on Drugs and Crime (UNODC) United Nations Development Programme (UNDP) GIZ Royal Netherlands Embassy UK Embassy Office of the United Nations High Commissioner for Human Rights (OHCHR) United Nations International Children's Emergency Fund (UNICEF) United Nations High Commissioner for Refugees (UNHCR) Local and National media Nation Media Group Royal Media Services Kenya National Broadcasting Corporation Standard Group PLC Radio Group Africa The Humanitarian
Low Interest – Low Influence	Low Interest – High Influence
Community members	Relevant MDAs and Bodies
-Community members who have not interacted with the Police and other criminal justice system institutions.	Legislature – National Assembly and Senate Treasury and Economic Planning

ANNEX 2

Stakeholder Category	Actor	Description
Government Criminal Justice System Actors	National Police Service (NPS)	Established under Article 243 of the Constitution of Kenya. One of its objective is to strive for the highest standards of professionalism and discipline, preventing corruption, promoting and practicing transparency and accountability.
	Directorate of Criminal Investigations (DCI)	The mandate of DCI is to investigate all serious criminal cases as guide by the law and buttressed by Article 247 of the Constitution of Kenya, 2010 and the National Police Service Act, 2011
	Office of the Director of Public Prosecutions (ODPP)	Mandate of the ODPP is derived from Article 157 of the Constitution of Kenya, 2010. Its mandate is to institute and undertake prosecution of Criminal matters and all other aspects incidental thereto
	Judiciary (Courts)	Judiciary is responsible for delivering justice to citizens, handling disputes in a just manner while protecting rights and liberties of all thus facilittaing attainment of ideal rule of law. Its mandate is derived from Article 159 of the Constitution of Kenya, 2010.
	Independent Policing Oversight Authority (IPOA)	IPOA's mandate indicated in Article 244 of the Constitution of Kenya, 2010 is to provide for civilian oversight over police work in Kenya, ensuring the police act with discipline and professionalism.
	Internal Affairs Unit (IAU)	The IAU was established by the National Police Service Act, 2011 to receive and investigate complaints against police officers
	Witness Protection Agency (WPA)	Established under the Witness Protection Act, 2006, the agency's mandate is to provide special protection, on behalf of the state to persons bearing important information and potentially face the risk of intimidation/compromise due to their cooperation with law enforcement agencies.
	Victim Protection Board (VPB)	The VPB was established by Section 31 of the Victim Protection Act, 2014. The institution's mandate is to provide advice to the Cabinet Secretary responsible for matters relating to justice on activities aimed at protecting victims of crime. The board also implements preventive, protective, and rehabilitating programmes for victims of crime.
Other Government Criminal Justice System Actors	Court Users Committees (CUCs)	Bring together state and non-state actors involved in administration of justice at local level with the aim of ensuring the efficient administration of justice within the court's jurisdiction.
	National Council on the Administration of Justice (NCAJ)	NCAJ was established under Section 34 of the Judicial Service Act, 2011 with the overarching mandate of ensuring a coordinated, efficient, effective, and consultative approach to the administration of justice and undertaking reforms in the justice sector.
	National Council for Law Reporting (NCLR)	Semi-autonomous state corporation established under the National Council for Law Reporting Act, 1994. The mandate of this actor is to ensuring monitoring and reporting on the development of Kenya's jurisprudence through publication, revising, and consolidating the Laws of Kenya

	Kenya National Commission on Human Rights (KNCHR)	The commission was created by Article 59 of the Constitution of Kenya, 2010 and established by the Kenya National Commission on Human Rights Act, 2011. Its two key mandates are: to act as a watchdog over the government in the area of human rights, and to lead the country towards a human rights state.
	National Police Service Commission (NPSC)	The commission oversees the human resource functions of the National Police Service as provided in Article 246 of the Constitution of Kenya, 2010.
	Kenya Law Reform Commission	Established by the Law Reform Commission Act, 1982, its mandate is to review all laws in Kenya to ensure systematic development and reform of various laws. Its mandates have further been expanded and strengthened by Clause 5(6) of the Constitution of Kenya, 2010 to table in parliament legislations to be implemented in the Constitution.
	Judicial Service Commission (JSC)	JSC was established under article 171 of the Constitution of Kenya and operationalised by the Judicial Service Act, 2011. The mandate of the Judicial Service Commission is to promote and facilitate independence and accountability of the Judiciary for effective, efficient, and transparent administration of justice
	National Gender and Equality Commission (NGEC)	Its establishment was rationalised by Article 59(4) of the Constitution of Kenya and established by the National Gender and Equality Commission Act, 2011. The mandate and function of the commission is to promote gender equality, principles of equality and non-discrimination for all persons in Kenya.
	Law Society of Kenya (LSK)	The Law Society of Kenya was formed by the Law Society of Kenya Ordinance, 1949. The mandate of the LSK is to advise and assist members of the legal profession, the government and the general public in all matters relating to the administration of justice in Kenya.
Relevant Ministries, Departments & Authorities (MDAs), and Bodies	Ministry of Interior and National Administration	This is a state organ of the government of Kenya mandated to maintain internal security, overseeing national registration services, managing immigration policies and coordinating national government functions.
	Department of Justice	Department of Justice carries out the functions that were formerly conducted by the Ministry of Justice, National Cohesion and Constitutional Affairs. Some of its mandates include; fulfillment of human rights and fundamental freedoms and enhanced access to quality legal education, support effective implementation of the constitution, strengthen legislative and policy framework for fight against corruption.
	Media Council of Kenya (MCK)	Established by the Media Council Act, 2013 and purpose derived from Article 34(5) of the Constitution of Kenya, 2010, MCK sets media standards and ensures compliance. The institution has been instrumental in highlighting and condemning instances of police abuse of power in Kenya.
	Ethics and Anti-Corruption Commission (EACC)	The commission was established under Section 3(1) of the Ethics and Anti-Corruption Commission Act, 2011. Its mandate is to combat and prevent corruption, economic crime and unethical conduct in Kenya. It has also advocated for rights and safety of journalists documenting and filming cases of police abuse of power especially during protests.
	Legislature - Justice and Legal Affairs Committee	Parliament of Kenya Committee tasked with an array of responsibilities pertinent to rule of law and justice in Kenya.
	Legislature - Constitutional Implementation Oversight Committee	Ensures that all aspects of the Constitution of Kenya are implemented accordingly, including those that encompass issues on police abuse of power,
	Legislature - Parliament of Kenya	Consists of the National Assembly and the Senate. Responsible for debating and passing laws, regulations and policies which touch on various issues including; justice, human rights, and workings of various criminal justice system institutions

	National Treasury and Economic Planning	One of its mandates is to mobilise domestic and external resources for financing national and county government budgetary requirements. They come in handy to determine financial resources allocated to criminal justice institutions to enable them effectively deter police abuse of power.
Subject Matter Experts/Academia	National Crime Research Centre	The National Crime Research Centre was established by the National Crime Research Act, 1997. Its main mandate is to conduct research into cause of a particular crime and its prevention and disseminate research findings to government actors responsible with administration of criminal justice in Kenya.
	Centre for Human Rights and Policy Studies (CHRIPS)	A leading international African research institution based in Kenya. It conducts high quality relevant research on human rights, security, terrorism and counter-terrorism, violence, crime and policing. Its research findings contribute to development of innovative and effective policy solutions.
	Kenya Institute for Public Policy Research and Analysis (KIPPRA)	Formed and established by the KIPPRA Act, 2006, this is a public research institution with the primary mandate of providing quality advice to the government and other key stakeholders by conducting policy research and analysis in array of areas including policing.
	The Law on Police use of Force Worldwide	An academic website with documents and analysis of how legal regimes around the world regulate the use of force by the police. The website provides profiles of each country under six sections: Constitutional provisions, Treaty adherence, National legislation on use of force by police and prison officers, Police Oversight, Case law, and Downloads (of key instruments and jurisprudence).
	Usalama Reforms Forum	A Kenyan based public policy and research organization which consolidates civil society organizations involved in the security sector reforms programs in Kenya. It has partnered with criminal justice system institutions in Kenya for policy legislation, police accountability and professionalism and community engagements.
National Civil Society Organizations (CSOs)	Missing Voices	A Non-Governmental Organization (NGO) whose work is driven by the mission to end enforced disappearances and extra-judicial executions in Kenya. It also advocates for upholding human rights in Kenya.
	HAKI Africa	A Pan-african non-governmental organization based in Mombasa that seeks to address issues such as police abuse of office through its civil and political rights thematic area.
	Kituo Cha Sheria	“A Pan-African non-governmental organization based in Mombasa that seeks to address issues such as police abuse of office through its civil and political rights thematic area. One of the oldest NGOs with a focus on providing legal aid and advocating for respect of human rights to citizens in Kenya. It has voiced its concerns against instances of police abuse of power such as arbitrary arrests/unlawful detentions.”
	Human Rights Agenda (HURIA)	A non-profit local organization based in Mombasa committed to advancing and mainstreaming a culture of human rights and ensuring that all citizens equally enjoy fundamental rights and freedom as enshrined in the Constitution of Kenya, 2010. The organization has published research reports highlighting instances of police abuse of power such as police inaction in the Coastal region of Kenya.
	Kenya Human Rights Commission (KHCR)	An NGO concerned with advocating for human dignity, freedoms, and social justice in Kenya and beyond. The organization has publicly condemned police use of force on protesting citizens and urged criminal justice actors to take action against these crime.

	Independent Medico-Legal Unit (IMLU)	Formed in 1993, IMLU is an NGO that responds to extremely worrying cases of torture in Kenya ensuring healing, justice and accountability. The organization has supported legal, institutional and policy reforms leading to enactment of laws such as the National Coroner's Service Act, 2017 and the Prevention of Torture Act, 2017. It has also contributed to the reform journey of the National Police Service.
Faith Based Organizations	Focus Kenya	A Christian umbrella body linking and networking Christian Unions from different universities and colleges in Kenya. It has highlighted the state of police use of force on citizens in the country and urged the pursuance of a Christian approach to addressing human rights violations attributed to police excesses.
	Anglican Church Development Services (ADS Kenya)	A Christian based organization founded by the Anglican Church of Kenya with some of its areas of interest relevant to addressing police abuse of power in Kenya being advocacy.
	Anglican Church of Kenya	Through its House of Bishops, the Christian faith institution has reflected on prevalent cases of police brutality in the country and pressed for action from the government and criminal justice institutions against police officers committing this crime.
	Kenya Conference of Catholic Bishops (KCCB)	Established to deliberate on matters pertaining to Pastoral concerns in Kenya. However, it has been vocal and called to action regarding police use of force particularly on protesting citizens in Kenya
	National Council of Churches (NCCCK)	This is a family of Christian communions and organisations in fellowship and witness. Its mission is to ensure a holistic transformation of lives for a just, resilient and sustainable society. The institution has continued to maintain pressure for good governance in the country advocating for respect of rule of law by government actors including criminal justice actors.
	Association of Sisterhoods of Kenya (AOSK)	Faith based organization made up of Catholic women with the aim of harnessing their collective potential to address an array of social issues. Through its Justice and Integrity Creation theme, the organization aims to create and just a peaceful society where dignity of persons and rights are upheld.
Global/Regional CSOs	Amnesty International	A global movement operating in over 150 countries campaigning to end abuses of human rights. Some of its key action areas pertinent to addressing police abuse of power include: activism to defend human rights, and ending detention of people who voice their opinions.
	Human Rights Watch	A global NGO that investigates and reports on abuses all over the world including on police abuse of power. The organization further directs its advocacy towards governments, armed groups, and groups pushing them to change or enforce their laws, policies and practices.
	Article19	An international think-do organization that bolsters the freedom of expression movement locally and globally to ensure all people realise power of their voices. It has used digital spaces to influence discourses and action on human rights globally.
	Peace Brigades International	Protects and supports individuals, communities, movements, and organisations that defend human rights and seek to uphold peace and justice for all.
	Open Society Foundation	A foundation that champion the search for bold, democratic solutions to urgent common challenges that advance justice, equity and human dignity. Through its Open Society Justice Initiative, the organisation provides legal support to communities and organizations through its lawyers, advocates, and other staff.
	International Commission of Jurists (ICJ)	A global non-governmental organization comprising judges and lawyers from all legal traditions leading efforts in defending and protecting people from human rights violations and ensuring that the rule of law is upheld.
	Commonwealth Human Rights Initiative	An independent non-profit organisation working in the area of human rights. Some of its areas of work pertinent to police abuse of power include: Access to justice - Police reforms, Access to Justice - Prison reforms

	Freedom House	A global organization founded to defend and expand freedom globally. It works across political divides to advance policies that strengthen democracy and protect human rights by supporting activists and advocates who champion democratic change and respect for human rights in their countries.
	International Peace Institute	A non-profit organization working to strengthen inclusive multilateralism for a more peaceful and sustainable planet. It has further highlighted police brutality globally and in countries particularly in conduct of peace missions by law, peace and security enforcement bodies.
	Heinrich Boll Stiftung	Heinrich-Boll-Stiftung (HBS) is a non-profit organisation working to amplify and support civic and political/policy dialogues. It has covered police impunity in Kenya through articles, reports, and collaborative programmes with other NGOs.
	International Federation for Human Rights	An international human rights NGO defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration of Human Rights. Acts at national, regional and international levels to support member countries and partner organisation to address human rights abuses and consolidate democratic processes.
	Transparency International	A global movement working in over 100 countries to end injustice of corruption. Through the organization's advocacy, campaign and research, it has worked to expose corruption in systems and networks promoting transparent and integrity.
	Kios Foundation	A human rights foundation operating in East Africa and South Asia working on supporting human rights work of civil society organisations. Some of the areas of work relevant to police abuse of power include: supporting human right defenders and advancing democracy and the rule of law.
	International Police Science Association (IPSA)	A non-profit global organisation specializing in police science and practices. It has programs carefully designed to strengthen quality and excellence in policing.
	African Policing Civilian Oversight Forum (APCOF)	A non-profit organisation in Africa working on issues of police accountability and governance. Value of the organisation seek to: assist in restoring public confidence, developing a culture of human rights, promoting integrity and transparency within the police, and nurturing good working relationships between the police and the community.
Community Policing Actors	Nyumba Kumi	Established to maintain peace and security at community level. It has also been used to enhance proficient, informed, and adherence to the rule of law in maintaining law and order at community levels.
	Social Justice Centers Working Group (Nairobi, Kiambu, Machakos, Nakuru, Kisumu, Kakamega, Mombasa, Garissa, & Uasin Gishu)	Founded in 2014 by a group of community activists with the vision of creating a center that would promote participatory forms of justice and minimise violations of human rights. It has have been involved in a number of initiatives, including but not limited to, reproductive justice, extrajudicial executions, police abuse of power and Maji ni Haki (water rights campaign).
	Social Justice Centers (Nairobi, Kiambu, Machakos, Nakuru, Kisumu, Kakamega, Mombasa, Garissa, & Uasin Gishu)	Work with paralegals, human right defenders, CSOs, and other criminal justice system actors to respond to instances of police abuse of power, holding the police force and other criminal justice system institutions accountable and advocate for respect for human rights and upholding the rule of law.
Developmental Partners	U.S Agency for International Development (USAID)	USAID has demonstrated its commitment to supporting activities and initiatives that address police abuse of power such as brutality and corruption. They have also published guidance notes on tackling this crime in Africa and globally.

	United Nations Special Rapporteur	United Nations Special Rapporteur's mission is to report to the UN General Assembly and to the Human Rights Council on issues pertaining human rights in a country they are responsible. Some of the themes the institution focuses on that are relevant to police abuse of power include: Enforced or involuntary disappearance, extrajudicial, summary, or arbitrary executions; situation of human right defenders, Torture and other cruel, inhuman, or degrading treatment or punishment.
	African Union	A continental organisation aimed at strengthening cooperation among African countries for development. Through its partnership with GiZ, the African Union supported the implementation of the Programme, "Build and Strengthen the Police Structures in Selected Partner Countries in Africa." One of the key areas of the project entailed strengthening internal accountability, professionalism, and access to citizens by the police.
	World Bank	The institution has made investments into activities that target to support criminal justice reforms and prevention of crime through the Development Policy Loans (DPLs).
	American Embassy	The American Embassy has been vocal on cases of police use of force in Kenya and other countries. They form critical developmental partners offering strategic guidance and further enhance collaboration with other global institutions to address police abuse of power.
	European Union	The European Union has funded programs in Europe to address racial targets to citizens by the police in Europe. It has also expressed its concerns over instances of police brutality against protestors in Kenya. This is an opportunity for IJM to engage the EU on support to implement programs aimed at address police abuse of power.
	United Nations Office on Drugs and Crime (UNODC)	One of the thematic areas of UNODC is crime prevention and assisting member countries reform their criminal justice system for effectiveness, fairness, and treatment of citizens with dignity.
	United Nations Development Programme (UNDP)	United Nations' lead agency on international development. Through the rule of law and human rights component, the agency supports policing systems by building their capacity in law enforcement to ensure protection of citizens and that justice is served fairly to all.
	GiZ	A service provider in the field of international cooperation for sustainable development with its work encompassing areas such as peace and security. It has supported law enforcement reforms in African countries such as Kenya through programmes such as the Programme to build and strengthen the police structures in selected partner countries in Africa.
	Royal Netherlands Embassy	Works together with partner countries to solve an array of national challenges on areas such as peace and justice. The Royal Netherlands Embassy has trained and build the capacity of civil society organizations in African countries such as Uganda on human rights, good governance, and engagement on policing and police reforms.
	UK Embassy	Maintains and develops relations between the United Kingdom and partner countries. The Embassy has been involved in funding projects that strengthen respect for human rights and access to justice against various crimes.
	Office of the United Nations High Commissioner for Human Rights (OHCHR)	OHCHR is the UN's leading entity on human rights. Its unique roles relevant to police abuse of power include to: promote and protect human rights; and assist governments to prevent abuses and enact laws and policies. The entity has been involved in training of national law enforcement officials and civilian police to broaden their understanding for human rights and policing.
	United Nations International Children's Emergency Fund (UNICEF)	UNICEF works to ensure children's lives and rights are defended and protected. It also works with countries to address challenges such as police brutality, arbitrary and unlawful detentions, inhumane prison conditions among others.

	United Nations High Commissioner for Refugees (UNHCR)	A UN Refugee Agency that works to ensure that everybody has the right to seek asylum and find safe refuge, having fled violence, persecution or war at home. The agency has provided protection and assistance for refugees and migrants against exploitation and abuses perpetrated by security forces, police, and military.
Local CSOs	Defenders Coalition	A national organisation that strengthens the capacity of human rights defenders to work effectively in the country, protecting them from vulnerability, the risk of being persecuted and enabling them to advocate for favorable legal and policy environment in Kenya.
	Crime Si Poa	A non-profit organisation in Kenya that ensures access to justice for the vulnerable in the community particularly youth targeted by police abuse of power. It also ensures re-integration of those who have committed crime back into the community
Media	Nation Media Group	Largest independent media house in East and Central Africa. Its print, broadcast and digital media have frequently highlighted instances of police abuse of power and journey of victims and survivors seeking justice.
	Royal Media Services	A leading broadcasting and digital media company in the country. It has reported and provided public information regarding police use of excessive force during seasons and national events. It has also covered cases of public interest involving police abuse of power.
	Kenya Broadcasting Corporation (KBC)	National broadcasting and radio media institution. It highlights and reports on various issues including on police abuse of power, human rights, and access to justice.
	Standard Group PLC	A multi-media company with print, digital, radio, and television broadcasting. It has published and aired documentaries on police brutality in the country.
	Radio Group Africa	A media company in Kenya with radio stations, print media, and television broadcasting. Shares information through its channels including matters on police abuse of power.
	The Humanitarian	An Independent non-profit newsroom that uses journalism for the greater good of society. It investigates and communicates information on an array of issues including policing in various African countries.
Community Members	Survivors of PAP	Citizens who have been victims of various instances of police abuse of power in the community and live to recount the experiences. Their experiences provide useful information on each protection domain of the program needed to achieve the Program's goal.
	Witnesses of PAP	Those citizens in the community who have witnessed firsthand, police abuse power. They report and participate in the criminal justice process to help victims receive justice.
	Family and friends of victims and survivors of PAP	They are close people to victims and survivors of PAP. They remain affected by instances of brutality inflicted on their loved ones. They offer all sorts of support to the victims and survivors to ensure they receive justice or recover.
	Community members who have not interacted with the Police and other criminal justice system institutions	Community members who have not experienced or witnessed police abuse of power as they are seldom exposed to situations that would have them interact with the police.
Human Rights Defenders (HRDs)	HRD Groups (Women, Youth and Men led)	Human Rights Groups led by women, men, and youth aimed at advocating for human rights, access to justice and speak up on instances of police brutality in the community. They often participate in the criminal justice system process as reporters and witnesses. They provide legal, psychosocial and other forms of support to victims of police abuse of power.
Paralegal Groups	Paralegal Groups (Women, Youth, and Men led)	Groups of trained legal officers who often support victims and survivors of police abuse of power to access legal aid. They also support victims and survivors through various court processes when seeking justice.

ANNEX 3

Qualitative Codebook: IJM PAP Protection Study

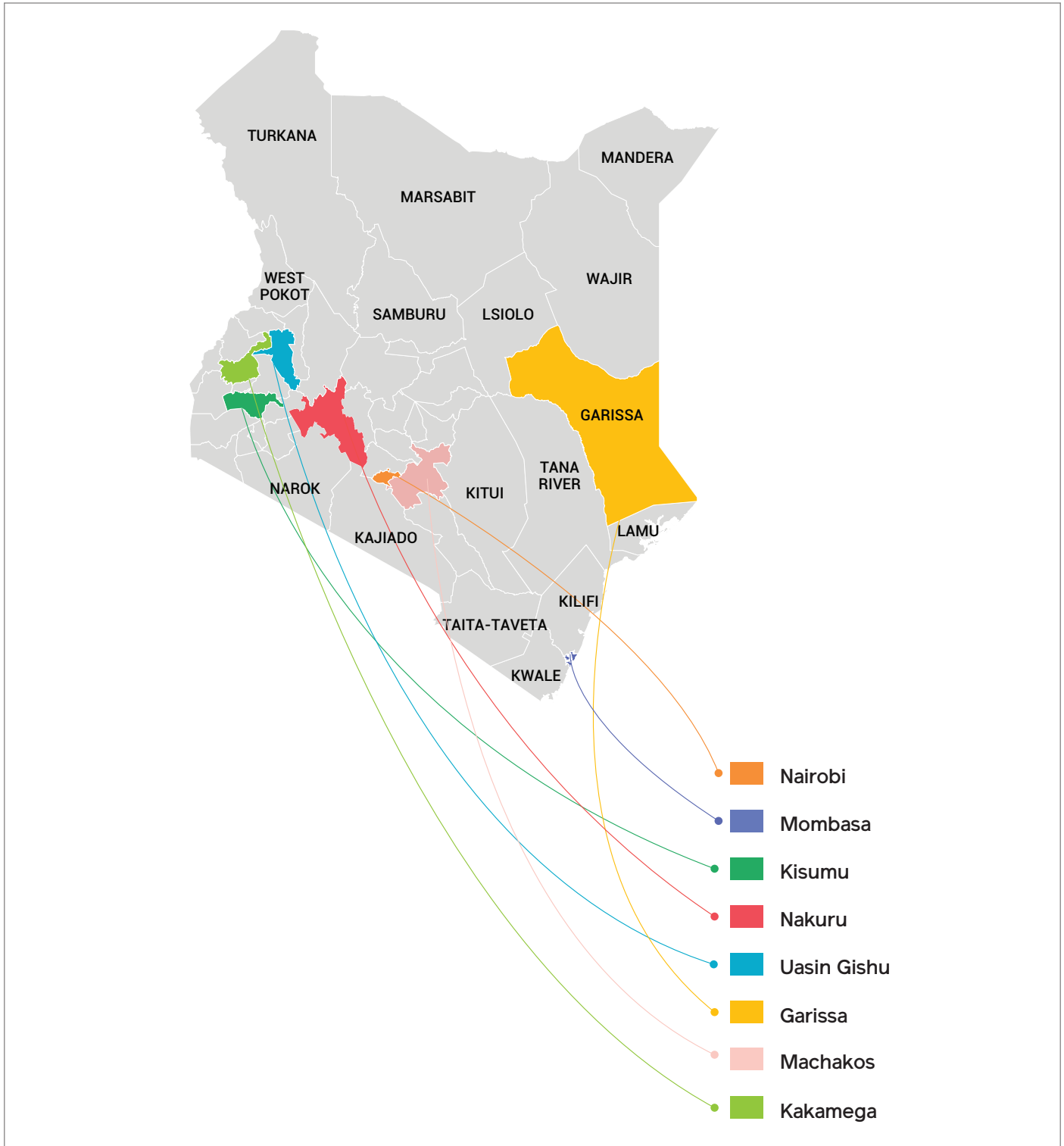
Reliance Domain			
Theme	Code	Definition	Examples
Participation in CJS	Reliance Participation CJS	Instances where one has engaged with stakeholders in the criminal justice system	attended court, provided evidence, reported, summoned, gave statement,
	Reporting	Instances where one engaged with CJS to render complaint/report PAP	Informed relevant authorities, took action, used ICTs to report, went to station to report, accompanied/ supported in reporting, gave statement
	Reliance Challenges	Difficulties /limitations faced when dealing with CJS actors	Time spent, costly, distance, corruption, intimidation, no response, unavailable, No CJS, fear, long wait time, resources, lack of knowledge
	Incentive	Motivating factor for engaging with CJS actor	Need for justice, previous experience, reception, knowledge, ease of access, trust in CJS, have resources, have support,
Support services available for victims of PAP	Support services	Psychological and/or legal services offered to those engaging CJS actors	Counselling, transportation, facilitation, legal aid, witness/victim protection,
Prevalence Domain			
Who	Victim Characteristic	Characteristics of persons likely to experience PAP	Education, age, income level, residence, ethnicity, gender, personal appearance – dreadlocks, beards, built physique, piercings, tattoos, occupation – HRDs, illicit trade, bodaboda riders, sex workers, touts(konda), wines and spirits attendants, hawkers
	PAP Frequency	Number of times of witnessing and/or experiencing PAP	Daily, weekly, monthly, once in a while,
What	PAP type	Forms/types of PAP witnessed or experienced	Police inaction /negligence of duty, physical assault occasioning non-serious injury, police unethical practices/ abuse of office, harassment, corruption / extortion, threats to life, death from police action (shooting and physical assault, traffic accidents), wrongful detention (arbitrary arrest / wrongful detention, violation of rights of persons deprived of liberty), physical assault occasioning serious injury, shooting causing injuries, malicious prosecution, death in police premises/custody, enforced disappearance, sexual offences, destruction of property by police officers, contempt of court order, detention of exhibits/ property by police officers, refusal to refund cash bail, unlawful discharge of a firearm that does not cause injuries, use of obscene, abusive, insulting language, administrative issues including compliments, transfers, promotions, and dismissals, matters of a personal nature (civil in nature, debts, family disputes), non-mandate issues (complaints not involving police officers)
Theme	Code	Definition	Examples
Where	Where PAP experienced/ witnessed	Place where PAP is likely to be experienced/ witnessed/ happened	Police station, market places, homestead, town – CBD, county border, on traffic, bar, political rally, concert, government office, court, religious places (mosque), school
When	When incident happened/ witnessed	Time of day/week/month/year or season when PAP is likely to be experienced/ witnessed/ happened	Morning – early morning, mid-morning, afternoon, night, end-month, Friday, weekend, election season, demonstration
Why	Vulnerability to PAP	Factors predisposing individuals to PAP	Poor, knowledge of rights, lack of knowledge, fear, occupation, residence, ethnicity, religion, personal appearance, victimization
Performance Domain			

ILED			
Registration	Efficiency Registration processes	Extent to which processes of receiving and recording complaints by citizens on PAP are efficient, appropriate, suitable, accessible	Time taken for registration, modern/digitised systems for reporting, available mediums for reporting, personnel for documenting complaints, costs involved in reporting
Relief of Victims	Relief of Victims	Help provided to citizens reporting incidences of PAP	Counselling, referrals to CSOs, medical support/referral
Complaints processing	Efficiency complaints processing	Extent to which processes of reviewing reported PAP complaints are efficient	Time taken for processing, personnel, workload, criteria for reviewing complaints, Number of complaints assessed (closed or forwarded for investigation)
Investigation	Efficiency/effectiveness of investigation	Extent to which cases are investigated and completed within guidelines (time) - investigated up to completion and forwarded for next steps	Personnel(workload), time taken, investigations completed, resources – equipment, ICTs, lab, finances, technical capacity, quality of evidence
	Coordination in investigation	Extent of engagement and collaboration among CJS stakeholders in investigations	Joint investigations, referrals, overlap of mandates, duplication, counterproductive investigations, conflicting investigation activities, non-cooperation by necessary MDAs
	Other Challenges investigation	Other limitations to effectiveness of investigations	Political interference, staff transfers, discretion of IG, lack of practical independence, hostile witnesses (police witnesses)
Legal			
Reviewing of files/completed investigations	Effectiveness/efficiency of case reviews	Effectiveness of processes for assessing files of completed investigations	Criteria for assessment, personnel, workload, technical capacity, time taken
	Coordination in case reviews	Extent of collaboration of prosecution officers with investigations	Legal advice
Prosecution	Effectiveness/efficiency of prosecution	Extent to which prosecuted cases lead to conviction	Time taken, personnel (workload), capacity (junior officers handling high profile cases), proportion of cases leading to conviction
	Other challenges to prosecution	Other limitations to effectiveness of prosecution	Political interference, staff transfers, lack of practical independence, hostile witnesses (police witnesses)
Theme	Code	Definition	Examples
Adjudication	Convictions	Extent to which perpetrators of PAP are convicted through the legal process	Proportion of cases leading to conviction, duration of time to conviction, personnel (workload)
	Overtaken convictions	Extent to which convictions are reversed or the perpetrators pardoned	Proportion of convictions reversed, overturned convictions in appeal
	Effectiveness & efficiency of adjudication	Effectiveness & efficiency of judiciary processes of adjudication of PAP cases	personnel (workload), court facilities (chambers, ICTs, safety and protection of court officer/ witnesses, resources (funding), availability of witnesses & prosecution
	Coordination during adjudication	Extent of collaboration and coordination with other CJS stakeholders during adjudication	Joint protection of witnesses/victims, facilitation of witnesses (transportation, psychosocial support, legal aid), non-cooperation by necessary MDAs
	Other challenges to adjudication	Other limitations to effectiveness of adjudication	Resources/budget, Political interference, staff transfers, lack of practical independence
Aftercare			

Aftercare	Legal/Regulatory framework for aftercare	Existence and effectiveness of Laws, institutions and policies governing aftercare	Laws, policies, regulations, institutions (MDAs), budget
	Effectiveness & efficiency of aftercare	Availability, Effectiveness & efficiency of aftercare processes and services for victims/witnesses	Legal aid, counselling, medical aid, witness/victim protection, admission criteria, resources/budget for aftercare services , probation services
	Restoration	Degree to which CJS repairs damage/harm done by police abuse of power	Prison services, probation services, compensation, relocation/resettlement,
	Coordination for stakeholders within Aftercare	Engagement and collaboration with other stakeholders (on cases and processes) on provision of aftercare services	Joint protection of witnesses/victims, facilitation of witnesses (transportation, psychosocial support, legal aid), non-cooperation by necessary MDAs
	Other challenges related to Aftercare	Difficulties /limitations pertaining to Aftercare services	Personnel, Resources/budget, technical capacity, equipment (ICTs), non-cooperation of witnesses
Confidence Domain			
Theme	Code	Definition	Examples
Effectiveness	System Coordination	Perception on the extent to which CJS institutions work in an interconnected manner towards assuring delivery of justice to PAP victims and reducing prevalence of PAP	Good, timely and credible flow of evidence from the initial reporting of violence to law enforcement, smooth transition (or otherwise) of cases from CJS actor to the next, joint investigation, joint development of SOPs
	Respect for Rule of Law	Perception of stakeholders on CJS institutions' operation in adherence to established laws	Respect of court orders, adherence to laws, regulations, protocols and SOPs when executing mandate
	Public Support	Perception on the degree to which CJS institutions operate with the approval and authority granted by the people	Citizens relate well with CJS stakeholders (or otherwise), public participation in policing (CJS forums), positive/negative sentiment on conduct of CJS
	Effectiveness in Crime Deterrence	Perception on the degree to which CJS stakeholders effectively enforce the law to deter others from related criminal activities.	Appropriate convictions, lawful arrests, balanced use of force by police
Theme	Code	Definition	Examples
Efficiency	Mandate Independence	Perception on the extent to which CJS institutions operate without external interference, whether in or outside of government	Practical budget independence, political influence, mandate overlaps
	Timeliness of Service Delivery	Perception on ability of justice institutions to provide justice services within the applicable time.	Duration between reporting and determination of cases, speed of investigations, duration of processing of complaints, duration of case progression between CJS institutions
	Public Access	Perception on the availability of avenues of interaction between members of the public and CJS institutions.	Availability of sub-national stations for reporting (IPOA, IAU), availability of various modes of reporting – ICTs, walk-ins etc., public engagement forums with judiciary, ODPP, availability of feedback mechanisms
	Political Support	Perception on the extent to which CJS institutions are supported by the government stability to enable operation in a sustainable way without political interference.	Adequate budgets, positive/negative political sentiments, legal backing by legislature, policy backing by executive, positive/negative sentiments by executive
Fairness	Non-discrimination	Perception on the extent to which CJS institutions treat everyone equally before the law	Fair judgements, lawful arrests, fair treatment of individuals arrested, reasonable bail terms
	Respect for the Dignity of Persons	Perception on how CJS observes the dignity of persons who approach them for remedies or those who are processed through these institutions.	Respect of human rights, lawful arrests, fair treatment of individuals arrested, reasonable bail terms, respect of differentiated gender needs for those arrested/ seeking justice

ANNEX 4

PAP Baseline Study Areas: KENYA



ANNEX 5

Operation definition of key terms

Key term	Operational definition
Adjournment	Putting off or postponing proceedings; an ending or dismissal of further business by a court, legislature, or public official—either temporarily or permanently.
Baseline	Information collected through research or routine monitoring before or at the start of a project or program.
Case file review	A process for reviewing case files and collecting data in order to document performance of the justice system
Casework	The activities and response or services provided to clients within a justice system. These services often include legal, investigation, and aftercare assistance.
Civil Society Organizations	Non-governmental groups or organizations formed voluntarily by citizens to advance shared goals or interests. E.g. non-governmental organizations, faith-based organizations, survivor groups, etc.
Confidence	This measures key stakeholders' confidence in the CJS to protect people from the targeted form of violence. The domain measures a key factor—confidence—that affects the CJS's ability to offer protection to people
Conviction	A judgment issued by a competent court finding the perpetrator guilty of the crime prosecuted or of a lesser included/alternative offense.
Dismissed	Charge(s) against the accused definitively dismissed by the court, in which the prosecution is no longer able to proceed.
Faith Based Organization	A non-profit, civil society organization formed with values rooted in religious teachings or beliefs.
Justice System	The system of institutions that are directly involved in identifying, apprehending, prosecuting, defending, sentencing, and punishing those suspected or convicted of criminal offenses, and those institutions that provide victim services.
Monitoring	The systematic, repeated collection of relevant data to learn the extent to which implementation has occurred and progress has been made against plan.
Outcomes	The longer-term changes expected to result from the program, at the community, institution, or system level. IJM programs can directly influence the desired outcome. E.g. police proactively rescue and respond to the crime.
Outputs	The immediate deliverables or products of a program, achieved through implementation of activities. E.g. the number of rescue operations conducted.
Performance	This domain measures how well the CJS disposes of reported cases of the targeted crime in terms of (a) case progression and (b) application of desired behaviors and attitudes
Perpetrator restraint	Persons accused held in custody through a conviction, pre-trial detention, or other court-ordered detention.
Prevalence	The proportion of a population in a given geography that have experienced violence within the period under study
Police Abuse of Power	All the ways police officers can abuse their positions by taking advantage of the people they have pledged to protect, including use of excessive force, placing a citizen under false arrest, warrantless searches or arrests, assault upon a citizen, violations of the civil rights of a citizen, engaging in theft or fraud, and unlawful murder.

Program	Related projects, subsidiary programs and program activities managed in a coordinated manner to obtain benefits not available from managing them individually.
Project	A temporary endeavor undertaken to create a unique product, service, or result.
Protection	Protection is the array of benefits that accrue to people in poverty through a strengthened justice system. People are protected from violence when the justice system acts as a deterrence to perpetrators; is attractive for victims to report crimes and pursue cases; performs well on those cases; and has the confidence of key stakeholders.
Prosecutor	An individual authorized by the government to initiate and pursue a court case against a suspect.
Qualitative Data	Data typically gathered in a semi-structured or unstructured manner that describe something and is expressed narratively
Quantitative Data	Structured numerical data that measure a specific program indicator or variable and can be expressed in numbers, ratios or proportions
Reliance	People's Reliance is a measure of vulnerable people's dependence on the justice system to protect them from violence. Reliance implies that vulnerable people find usefulness in the system
Research	Systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.
Risks	An uncertain event or condition that, if it occurs, would have a positive or negative effect on a project's objectives.
Significance	When the difference between two data points is larger than can be reasonably explained as a chance occurrence. For example, usually the data points are from a sample and we are looking to make conclusions about whether that change is real at population level.
Stakeholder	Any person, group, or institution that could have an interest or be affected (positively or negatively) in IJM's program or results.
Stakeholder Analysis	A technique to identify and understand the needs and expectations of major interests inside and outside the project environment.
Stakeholder Mapping	A tool used to visualize relational links between stakeholders and prioritize stakeholder engagement.
Sufficient evidence	Adequate evidence presented in a case that allows the court to make a verdict.
Survivor	An individual who is confirmed or suspected to have experienced victimization, as defined by local law, or has been under imminent threat of that violence. IJM's uses the term "victim" interchangeably with the term "survivor" with communicating with specialized audiences
Survivor case participation gap	Survivors who did not participate through scheduled justice processes as required, neither directly nor through legal representation
Target	The level of achievement expected in order for results to occur. E.g. 50 successful rescue operations completed.
Validation	The process of proving a data point or data collection tool is correct and officially acceptable or approved. Validation demonstrates the data is true.
Victim	An individual who is confirmed or suspected to have experienced victimization, as defined by local law, or has been under imminent threat of that violence.
Victim relief	Relief occurs when victims are no longer in a situation of abuse or under imminent threat of victimization.

ANNEX 6

Performance SIs that measure JS outcomes* [RED: KPI 3 indicators]	Baseline result (%) or not collected (NC)	Level of JS Performance based on the % result or not applicable (NA) [See table below]	If the SI was not collected, provide an "estimate" of the level of JS Performance based on the baseline qualitative results	Briefly explain why this "estimate" was given to the SI. What did the qualitative data show about this area of Performance?
ILED				
IC3 - Statements Taken	NC	NA	1	There are several PAP cases where witnesses have opted not to proceed with providing evidence and/or become hostile providing adverse testimonies that have undermined prosecution of PAP cases. The long durations that cases take have put-off some witnesses and sometimes also provided opportunity for accused persons to allegedly identify and intimidate or disappear witnesses
IC4 - Non-testimonial Evidence (Case Files)	NC	NA	2	There is indication that Investigating Officers (IOs) also collect, in most instances, potential non-testimonial evidence - physical or digital evidence with potential to provide proof of an element of the crime or with other significant probative efficacy
IC5 - Completed Forensic Analysis	NC	NA	1	The study noted nonetheless that independent institutions outside NPS (especially IPOA) seem to lack adequate specialised expertise for forensic analysis and as such depend largely on NPS (DCI). Besides causing delays, the reliance on NPS for various aspects of investigations has sometimes led to loss of evidence or inability to collect and consider crucial evidence necessary for investigations within reasonable timelines
IC6 - Appropriate Lines of Inquiry	NC	NA	3	The study got the indication that investigative officers generally have considerable independence and follow up on logical, reasonable, and relevant lines of inquiry in the processes for investigating PAP cases. Most of investigative officers consulted indicated ability to collect evidence across the board without undue influence from superiors, other CJS actors or other influence from the public or political elite. They indicated that they independently and lawfully identify and seize evidence, ensure prudent documentation ensuring its integrity - preventing alteration or tampering.
IC7 - Investigations Resulting in Arrests	NC	NA	2	For instance, out of a total 2,373 PAP complaints investigated by IPOA between 2021 and 2024, only 463 cases were submitted to ODPP for decisions to charge (signifying completion of investigations). Between 2023 and 24, the number of police arrested and charged were 9 (Table 19)

IC8 - Investigations Filed	NC	NA	2	Some IOs interviewed indicated however that many PAP cases do not end up in court or filed with prosecutor's office and in fact largely deemed disciplinary or administrative to be dealt with by IAU
IC9 - Time to Complete Investigations	NC	NA	1	The average time taken for investigations for most PAP cases to be completed is considerably long. The general observation is that amount of time elapsed between the collection of evidence and the receipt of the forensic results in most cases is so long as to jeopardize integrity of cases and assurance of justice for victims
AVERAGE LEVEL FOR ILED SIs			Mean (2), Mode (2) and Median(2) = Low	
Legal				
LC1 - Referred Cases Resulting in Legal Cases	NC	NA	1	The proportion of PAP cases considered criminal and taken through judicial process remains low. According to IPOA records seven (7) PAP cases led to convictions of accused police officers between 2021 and 2024. This is compared to 8,851 complaints registered, 2,373 cases investigated, and 463 submitted to ODPP over the same period. This translates to 19.5% of referred cases resulting in legal cases
LC3 - Pre-trial Custody	NC	NA	NC	Not available in the report
LC5 - Accused Convicted	NC	NA	1	Whilst several PAP cases go through the CJS annually, the rate of conviction of police officers on charges related to PAP remains very low. Foremost, the majority of PAP cases appear to be dealt with administratively (through IAU and other internal NPSC mechanisms). The proportion of PAP cases considered criminal and taken through judicial process remains low. According to IPOA records seven (7) PAP cases led to convictions of accused police officers between 2021 and 2024. This is compared to 8,851 complaints registered, 2,373 cases investigated, and 463 submitted to ODPP over the same period. As such, convictions in PAP related cases also remain few.
LC7 - Time to Final Judgment	NC	NA	1	Victims of PAP and witnesses cite long time taken through the CJS as a discouraging factor limiting their willingness to participate through the process till determination of cases. In most cases longer than 3 years to conclude. In Kenya, a criminal case should ideally reach final judgement within 3 years in a trial court and 1 year in an appellate court, according to a timeframe set by the judiciary to ensure access to justice and efficiency.
LC8 - Types of Final Judgment	NC	NA	NA	.According to IPOA records seven (7) PAP cases led to convictions of accused police officers between 2021 and 2024. This despite the high number of cases(2373) investigated out of which 463 were referred to ODPP to prosecute. This is an indication that majority of PAP cases ends up being acquittals.
LC9 - Overturned Convictions	NC	NA	4	Convictions in PAP cases overturned through appeals are also reportedly few

AVERAGE LEVEL FOR LEGAL SIs			Mode(1), Mean (2),Median (1) = Low	
Aftercare				
AC2 - Restoration Rate	NC	NA	1	It is not clear the extent of restoration for victims of PAP. Court rulings may proffer restorative benefits to victims of PAP when cases are concluded but the extent to which this happens is not apparent. There are institutions of government and other stakeholders that have mandates or may participate in elements towards restoration of victims. For instance, some judicial officers have attempted to reconcile parties in PAP cases post-conviction
AC3 - Case Management Provision	NC	NA	2	It is notable that victims of PAP in Kenya seldom receive case management support. What exists are notable cases of pro-bono legal support sometimes provided to victims mostly facilitated by non-state actors mostly NGOs working in the CJS sector in Kenya like IJM, Amnesty International, Haki Africa, IMLU among others
AC4 - Trauma-informed Interactions (based on victim interviews, observations or providers)	NC	NA	1	Training on Trauma-informed Interactions to JS actors has been ongoing through the support of IJM, However, there are significant gaps with regards to capacity of CJS actors in terms of training to handle victims of PAP in a trauma-informed manner. This can be remedied by enhancing SOPs to ensure appropriate care is provided
AVERAGE LEVEL FOR AFTERCARE SIs			Mean (1), Mode (1) and Median (1) = Very low	

*The 16 Core SIs in the table measure key Performance outcomes of the three pillars of the JS (ILED, Legal and Aftercare). The other 7 Core SIs (IC1, IC2, LC2, LC4, LC6, AC1 and OC2) are not included as they are output-like indicators (#s) and do not measure overall JS performance.

ANNEX 7

Performance Standardized Indicators achievements (based on IJM Kenya reports)

Casework achievements by IJM recorded during the year 2023 and part of 2024 (quarters 1 and 2) are as highlighted in table 1 below. More cases were handled in year 2024 than in 2023 with significant casework outcomes being reported in 2024 including 12 victims relieved, 9 police suspects charged, 8 perpetrators restrained, and 3 police officers being convicted. The increased prosecution of police officers who abuse their power especially by our government partners (mainly IPOA) is contributing to deterrence and is a clear demonstration that the CJS system continues to hold police accountable for their misconduct. During the same period the program supported training of 258 and 155 government partners in 2023 and 2024 respectively. ODPP, IPOA, IAU and DCI officers were trained on TIC, investigations and prosecutions, Decision to Charge guidelines among other areas.

Table 1: List of PSI tools linked with corresponding achievements

Tool	Standardized Indicator	Achievement	
		2023	2024*
Casework Tool	IC2 (#23) - Total Victims Relieved	5	12
	LC2 (#25) - Total Suspects Charged	0	9
	LC4 (#24) -Total Perpetrators Restrained	0	8
	LC6 (#11) - Total Perpetrators Convicted	3	3
Training Tracking Tool	OC1 (#37) – Total Trained: # of persons trained.	258	155
Trauma-Informed Care -Interview Tool	AC4a (69): Percentage of victim interactions with the justice system that are trauma-informed, based on victim interviews		
Assessment of Survivor Outcomes Tool	AC1 (#12) – Total Restored: # PAP victims restored	6	2
	AC2 (#12) – Restoration: % PAP victims restored	100%	100%
Government Data Tool	IC1 (#1) – Registered Incidents: # of registered incidents of PAP	5798	2261
	LC1 (#18) – Referred Cases Resulting in Legal Cases	-	-
	IHR7 (#28) – Investigative Unit Budget (in KES)	9,26,738,002	1,041,000,000
	IHR6(#27) – Cases per Investigator	-	-

*FY2024 numbers only covers quarters 1 and 2

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