



**NATIONAL UNIVERSITY  
OF LESOTHO**

**THE USE OF MORDEN DAY TECHNOLOGY IN THE POLICE SERVICE OF  
LESOTHO IN A BID TO CURB POLICE BRUTALITY**

**Rethabile Khumalo**

(Student No.201500371)

**Supervised by: Mr. K. Mohau**

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## DECLARATION

By submitting this dissertation, I declare that the entirety of the work contained therein is

my own, original work, that I am the authorship owner thereof (unless to the extent

explicitly stated otherwise) and that I have not previously in its entirety or in part

submitted it for obtaining any qualification.

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Rethabile Khumalo

National University of Lesotho

June 2020



## DEDICATION

I dedicate this project to the Almighty God, who has been my source of strength in times I was weak, my inspiration to go on and most importantly, the only reason why and how I made it this far in my academic journey.

## **ACKNOWLEDGEMENTS**

My utmost regards go to my parents, Matsepo Khumalo and Elliot Khumalo who have laid the foundation for my education. Thank you for pushing me throughout the years, I know your prayers have gotten me this far and I hope you are proud of me.

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# Table of Contents

DECLARATION.....	i
DEDICATION.....	ii
ACKNOWLEDGEMENTS.....	iii
<b>1 Introduction.....</b>	<b>1</b>
1.1 Police and Coercive Powers.....	1
1.2 Historical Development of the Lesotho Mounted Police Service.....	2
1.3 An overview of the oversight mechanisms of the LMPS.....	3
1.4 Challenges of the Police Complaint Systems and Accountability.....	5
1.5 Aims and Objectives of the study.....	9
1.6 Research Methodology.....	10
1.7 Chapter Breakdown.....	10
<b>Chapter 2.....</b>	<b>12</b>
<b>2. Introduction.....</b>	<b>12</b>
2.1 Police Accountability.....	13
2.2 Defining police brutality.....	14
2.3 Police Brutality in Lesotho.....	14
2.3.1 Victims of Police Brutality in the Country.....	15
2.4 Legal Framework.....	16
2.5 Legislation and police policy prohibit torture and cruel, inhuman and degrading treatment or punishment.....	16
2.6 Police are trained in Human Rights.....	18
2.7 Conditions of Police Lockups/holding cells.....	18
2.8 The Importance of Police Technology.....	19
2.9 What Can Be Done.....	20
2.10 Conclusion.....	21

<b>Chapter 3</b>	<b>22</b>
<b>3. Introduction</b>	<b>22</b>
<b>3.1 Vehicle Tracking Technology</b>	<b>22</b>
<b>3.2 CCTV (Closed-Circuit Television)</b>	<b>23</b>
<b>3.2.1 Access to Images</b>	<b>25</b>
<b>3.3 Audio and Video recording of interrogation</b>	<b>26</b>
<b>3.4 Computerized Booking Process</b>	<b>28</b>
<b>3.5 The TASER</b>	<b>29</b>
<b>3.6 Other Methods of Police Monitoring (Preventive Monitoring)</b>	<b>30</b>
<b>3.6.1 Independent Custody Visiting Scheme</b>	<b>31</b>
<b>3.7 Conclusion</b>	<b>33</b>
<b>Chapter 4</b>	<b>34</b>
<b>Conclusion and Recommendations</b>	<b>34</b>
<b>References</b>	<b>37</b>
<b>Websites</b>	<b>40</b>

# Chapter 1

## 1 Introduction

Police forces play an important role in every country and in all democratic societies. The police force is one of the organs of the state responsible for the proper administration of justice and maintenance of law and order, thereby providing a safe environment which guarantees the respect and enjoyment of basic rights by all citizens. Maintenance of such an environment is only possible if the state, its institutions, and the citizenry respect the basic principles of democracy and the rule of law. The enforcement of law and order by police forces in every country is based on the constitutional and legal system of the respective states. Police forces are subject to the provisions of national constitutions and those laws regulating human rights

Human rights principles indicate clearly that every person is equal before the law, and deserves the equal protection of the law. Being a member of the police force does not make one, or the force itself, above the law. All major human rights instruments, such as the Universal Declaration of Human Rights stipulate the right to equality before the law, equal protection of the law, non-discrimination, the right to liberty, human dignity and the security of the person, and the right to protection against cruel, inhuman and degrading treatment or punishment. These rights suffer when police forces cease to operate in accordance with the law, when they wrongly view themselves to be above the law, or are not accountable to society.<sup>1</sup>

### 1.1 Police and Coercive Powers

The police have extensive powers, which they may use to preserve or undermine the safety, liberty and rights of citizens. "Thus, police power is a double-edged weapon. It represents liberty and oppression. Depending on the character of the society, the police may exercise their powers of surveillance for proactive crime prevention, arrest, investigation, search, seizure, interrogation, detention, bail and prosecution to

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<sup>1</sup>AN AUDIT OF POLICE OVERSIGHT IN AFRICA: 2008



promote or to undermine the safety, freedom, rights and dignity of citizens.”<sup>2</sup> Realising this double-edged nature of police powers and discretion, governments in different countries have introduced various measures and processes to ensure that police do not abuse their powers with immunity. However, those measures have not eliminated police misconduct due to political culture and ineffectiveness of accountability mechanisms in different nations.<sup>3</sup> In a democratic society, police powers should be exercised for the development of democratic atmosphere and culture and in accordance with the rule of law and due process. However, given the nature of police work and culture, the lure to use coercive powers to achieve illegitimate goals is extensive. The most difficult problem in the political and administrative management of the police in any nation is that of ensuring effective deterrence against police misuse of their enormous powers, especially in the light of the high levels of indiscernible and discretion that are embedded in police work.<sup>4</sup>

## **1.2 Historical Development of the Lesotho Mounted Police Service**

“The Lesotho Mounted Police Service was established under the British Administration in October 1872. It was known as the Basutoland Mounted Police. The Police force was made up of the strength of 110 men who were the sons of the local chiefs. At the time, the duties of the police were mainly to support and protect magistrates and to act as interpreters. In 1878, the police adopted military ranks and structure. By 1957, the size of the police had grown to 519. Adapting to modern challenges in fighting crime, the police developed specialized units such as the Special Branch and Signals, the police mobile unit and the stock theft and criminal investigation department. The return of democracy to Lesotho in 1993 brought about reforms for the police. The police were moved from the authority of the Ministry of Defence of Home Affairs and the Constitution of 1993 placed the responsibility for law and order with the Lesotho Mounted force, which later changed its name to the Lesotho Mounted Police Service.

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<sup>2</sup> Alemika, E.E.O. 2003 “Police, Policing and Rule of Law in Transitional countries”

<sup>3</sup> The authoritarian political culture in several African nations encouraged impunity rather than accountability and contribute to widespread police misconduct.

<sup>4</sup> Alemika E.E. O 2003 “Police Corruption and Insecurity in Nigeria”

There was a faction fight in the LMPS in 1995 which, as Matlosa says, was a manifestation of “the contradictions between the past culture of a politicized force under an authoritarian regime and the new culture of a professional service under a democratic order.” According to Matlosa, three main objectives were introduced to bring about reform. These were the 1997 White Paper on Police reform, the Police Service Act, and the five-year development plan for the LMPS for the period 1998 to 2003. The Act provides the legal framework for reform and a new vision for the police. The White Paper sought to build a professional Police Service able to discharge its law and order functions without political bias and in partnership with communities. The White paper expressed a commitment to an effective, efficient and accountable police service, as well as to enhance internal discipline and to build trust and confidence in the police. Its three strategic goals were the reduction of crime, improvement of service to the public, and the efficient management of police resources.”<sup>5</sup>

### **1.3 An overview of the oversight mechanisms of the LMPS**

Section 147 (1) of the Constitution of Lesotho 1993, decrees that “there shall be a Police Force for Lesotho responsible for the maintenance of law and order in Lesotho”. The constitution protects a number of fundamental rights and freedoms including the right to life, personal liberty and freedom from torture or inhuman or degrading treatment or punishment. It also contains a requirement that arrested persons be brought before court within 48 hours of their arrest. Section 22 affords aggrieved individuals the opportunity to approach the High Court for redress in the event that their rights have been violated or are under threat. The High Court is empowered to make “such orders, issue such process and give such directions as it may consider appropriate” for the purpose of enforcing or securing the enforcement of the rights under threat. Chapters XII and XIII of the constitution concerning the Ombudsman and the police service, respectively, also contain provisions that have implications for police accountability.

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<sup>55</sup> The police as friend and helper to the people: AFRICAN POLICING CIVILIAN OVERSIGHT FORUM (APCOF) 2011

“There has been introduced a number of have independent policing oversight mechanisms, revision of the police training syllabus to include human rights, and training new police recruits on the UN Convention Against Torture. The Police Service Act of 1998 (Police Act) provides for a number of oversight mechanisms including an Inspector of Police, an independent Police Complaints Authority and a Civilian Directorate of Policing. Section 21 of the Police Act establishes an Inspector of Police that has responsibility to monitor the effective and efficient functioning of the police service. The inspector also makes recommendations to the Minister responsible for the police in regard to the performance of the police service. The Act also provides for a civilian Directorate of Policing that is tasked with overseeing the police and incorporating a standards control component. It serves as a link between the office of the Inspector of Police and the Minister. The Ombudsman Act of 1966 governs the terms of office of the Ombudsman, as provided by article 134 of the Constitution. It defines the powers of the Ombudsman and the procedures for filing a complaint with the Ombudsman.

The Police Act sets out processes for discipline of police officers. A complaints and Discipline Section receives and investigates complaints concerning police abuses of power.

The Criminal Procedure and Evidence Act of 1981 provides for the correct procedures concerning arrests, use of search warrants and seizure of property. The law requires the police to obtain a warrant prior to making an arrest. Suspects must be informed of the charges against them within 48 hours of arrest and their families must be notified of their detention. In practice however, the police do not always comply with these requirements.

The Police Complaints Authority is an oversight body that monitors questionable police conduct and addresses grievances against the police. It was established in 2003 and became fully operational in 2005. The Authority is empowered to investigate complaints of police misconduct and make recommendations of disciplinary action to the commissioner of Police and for prosecution to the Director of Public Prosecutions. However it is limited by the fact that it cannot receive complaints directly from the public, since complaints from the public are referred to

it from the police.

The office of the Ombudsman, which is established by section 134 of the Constitution and reports to Parliament, investigates violations of the rights of citizens by public and private sector agencies. The powers and functions of the Ombudsman are defined in the Ombudsman Act of 1996 and the main function of the Ombudsman is to receive and investigate allegations of injustice from aggrieved persons against government agencies and statutory corporations or officials and employees of such organisations, and to recommend remedial action where he or she finds that a complaint has been proven. In the event of non-compliance, the Ombudsman is required to make a special report to Parliament.

The Defence Commission (although abolished by the First Amendment to the constitution), had responsibility for the appointment, discipline and removal of members of the Defence Force, members of the Police Force and members of the Prison service. The Commission decided on the appointment of the Commissioner of Police and the latter is responsible for the administration and discipline of the police "subject to any direction of the Defence Commission." In this way, the Commission may hold the police accountable.

The Ministry of Justice, Human Rights and Rehabilitation has a Human Rights Unit whose functions include disseminating information on human rights for law enforcement agencies and other interested groups. Providing human rights training for law enforcement agencies and other interested groups and monitoring domestic legislation to ensure its compatibility with international human rights instruments.

The courts and the Constitutional offices of the Attorney-General and Auditor-General can also hold the police to account. Under the Constitution, the courts are empowered to decide cases including those involving violations of constitutional rights and to make appropriate orders for enforcement of such rights.

The Attorney-General heads the Directorate of Public Prosecutions and is required to take necessary legal measures for the protection and upholding of the constitution and other laws of Lesotho. The constitution gives the Director of Public Prosecutions the responsibility of instituting and undertaking criminal proceedings against any

person, including errant police officials.

A number of non-governmental organisations also act as accountability mechanisms. These organisations include the Transformation Resource Centre (TRC). Women and Law in Southern Africa (WLSA), and the Lesotho Council of NGOs (LCN). The TRC advocates for, amongst other things, reform of the police service in order to reduce incidents of police brutality and abuse of power.<sup>6</sup> There is also the Human Rights Council established under the sixth amendment to the Constitution which is yet to come into operation.

#### **1.4 Challenges of the Police Complaint Systems and Accountability**

Police complaint systems, whether internal or external, independent or not, are mainly responsive measures. Such measures are aimed at rectifying the grievances of complainants or victims of police misconduct. They are also expected to discourage specific accused of misconduct and the general population of police officers who are expected to learn from the discipline apportioned to their colleagues punished for disorderly conduct. Police complaint systems provide opportunities for improvement of grievances against police officers engaged in misconduct or abusive behaviours. They provide opportunity for the public to hold police officers and departments accountable for their conduct.

Several factors work against police oversight in Africa in general. They include the colonial and post-colonial legacies of authoritarian rule; lack of autonomy of policing institutions because of the prevalence of patrimonial rule, lack of appropriate normative and legal frameworks; weak institutional capacity.<sup>7</sup>

“Morden organised police forces in Africa were the creation of colonial rulers from the mid-nineteen centuries. The forces were established to enforce law and maintain order so that the colonisers could dominate the colonised with either minimum resistance from the colonized or through effective repression. Police forces and policing under the colonial rule were not aimed at satisfying the needs of the

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<sup>6</sup> AN AUDIT OF POLICE OVERSIGHT IN AFRICA: 2008

<sup>7</sup> Alemika, E.E.O. 1993 “Colonialism, state and Policing in Nigeria” *Crime, Law and Social Change: An International Journal*, 20, 187-219

indigenous communities. The colonial police forces in Africa were deployed as occupation forces to suppress resistance against colonial rule and threats against the person and possessions of the colonisers.<sup>8</sup>

After independence, post-colonial rulers appropriated the privileges of the colonisers and failed to restructure inherited institutions, including the police. Patrimonial or personal rule rather than democratic governance rapidly became entrenched in most African countries after independence. As opposition to post-colonial authoritarian rule intensified, the rulers also strengthened their grip on the armed forces and other security agencies. Leaders of these institutions owe their tenure to the head of the government. In this environment, neither the rulers nor the head of these agencies desire relative autonomy of the police forces. This is because autonomy will mean that political leaders will have less control over the forces. Similarly, the heads of police forces will lose immunity from lawless policing. In essence, autonomy will undermine impunity by both rulers and the police forces.”<sup>9</sup> Given the continuing legacy of authoritarian government and policing, there is no political will to ensure effective oversight and accountability of the police.

“The absence of democratic rule in most African countries, until political reforms aimed at establishing multi-party democracy began in the early 1990s, undermined the development of normative and legal frameworks for police oversight and accountability. Notwithstanding recent adoption of multi-party forms of government, former authoritarian rulers are still in power in many African nations. Thus, democratic transition remains feeble in the majority of African countries. This poses a challenge to police oversight of police forces, which served and continue to serve as handmaidens of the political rulers on the continent.

Another important challenge to police oversight and accountability in Africa is pervasive lack of capacity and resources. African police forces lack the capacity required for policing increasingly complex societies. In particular, their control, command, composition, training, remuneration, equipment and deployment render them ineffective. Lack of capacity and resources is visible in such critical areas as

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<sup>8</sup>ibid

<sup>9</sup> Alemika, E.E.O 2003 “Police, Policing and Rule of Law in Transitional Countries”

crime prevention, surveillance, intelligence, investigation and apprehension of offenders. This handicap engenders inefficiency and lack of trust in the police to promote security and safety.”<sup>10</sup> Lesotho is not excluded from these problems. It is no secret that the government of Lesotho has “gone under” as there are no resources for the functioning of the state. We are highly dependent on loans and monetary assistance from the more developed countries.

In Lesotho, there are statutes that permit the use of reasonable force by the Police. This is section 5(2) of the Constitution of Lesotho which provides that force can be used in order to effect arrest or to prevent the escape of a person lawfully detained, in order to suppress a riot, insurrection or mutiny and in order to prevent the commission by that person of a crime. Further, section 32 of the Penal Code Act 2010, allows the use of force that is necessary and reasonable in effecting an arrest or preventing crime. In addition to this, the Internal Security Act of 1984 allows a police officer at a protected place to use force to stop, detain, search, or remove a person.

“The police service in any country is usually permitted to use force in the execution of their functions. These provisions are widely framed, and allow for the use of lethal force in respect of any violence, defense of property or the commission of a criminal offence, regardless of the seriousness of the criminal offence or violence perpetrated by the deceased person. The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials require the police to exercise restraint and use force only in proportion to the seriousness of the offence, and the legitimate object to be achieved. The police must also exercise minimize damage and injury, and must take steps to preserve life.”<sup>11</sup> The Lesotho Mounted Police Service has also adopted the United Nations Code of Conduct for Law Enforcement.<sup>12</sup> Article 3 stipulates that ‘law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their

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<sup>10</sup> AN AUDIT OF POLICE OVERSIGHT IN AFRICA: 2008

<sup>11</sup> Adopted by the Eighth United Nations Congress on the Prevention of crime and Treatment of Offenders, Havana, 27 August-7 September 1990: Article 5.

<sup>12</sup> The UN General Assembly adopted the Code of Conduct on the 17/12/1979 Under Resolution 34/169.

duties'.<sup>13</sup>

The Criminal Procedure and Evidence Act, no. 9 of 1981 regulates the use of force, and makes provision for its use in the case of a person suspected of committing a serious crime. Section 42(1) outlines circumstances under which use of lethal force can be used during arrests. The Act provides that: "when any peace officer or private person authorised or required under this Act to arrest or assist in arresting any person who has committed or is on reasonable grounds suspected of having committed any of the offences mentioned in part II of the First schedule, attempt to make the arrest, and the person whose arrest is so attempted flees or resists and cannot be apprehended and prevented from escaping by other means than the peace officer or private person killing the person so fleeing or resisting, such killing shall be deemed justifiable homicide."

This provision is very widely framed by authorising the killing of a suspect who attempts to flee, rather than allowing the use of lethal force which although it is potentially lethal, does not necessarily result in the death of the suspect. This provision grants the police and private persons, very wide discretion to use, and potentially abuse their power.<sup>14</sup>

There are no functional policies that eradicate all forms of unnecessary violence against the public when exercising use of force by the police. These policies may include the use of CCTV to monitor the treatment of suspects in police custody. The Police service of Lesotho is in need of constant surveillance over the functions they perform as officers of the law. There is urgent need for legislation concerning the use of such technology and any other technological advancements used in the Police services. Including such policies in the Police Service of the country can decrease risk factors for persons detained by the police.<sup>15</sup>

The Baltimore Police Department in the United States of America has issued Policy

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<sup>13</sup> Ibid.

<sup>14</sup> The police as friend and helper to the people: AFRICAN POLICING CIVILIAN OVERSIGHT FORUM (APCOF) 2011

<sup>15</sup> Monitoring Police Custody- A practical guide; January 2013



1117<sup>16</sup> to ensure the safety of persons taken into custody, and when appropriate, to process them in accordance with the federal, state, and local laws, as well as the rules and regulations of the department.

The DESCHUTES County Adult Jail has also issued the CD-5-5 Policy<sup>17</sup> to fingerprint and photograph all inmates booked into the jail in order to maintain criminal record and verify identities, according to federal, state, and local identification requirements. This is a much needed policy to be included in the laws of Lesotho which govern the custody of suspects by police. This is so because taking photographs of suspects before they are thrown into jail or police cells will give information about the status of the suspect before and after he/she was taken into custody. It will provide light as to whether the police have abused the person or not, this policy implementation will put a restraint on the police officer's will to use excessive force because he/she will have it at the back of his mind that there shall be evidence of his misconduct.

## **1.5 Aims and Objectives of the study**

The aim of this study is to look at how technology can be used in the Police service of Lesotho in a bid to curb the rising rates of police brutality in the country. Technology has been adopted in many policing agencies worldwide as it is becoming more apparent that the benefits of such products outweigh the costs substantially. The use of technology in criminal justice will allow police officers to be proper crime fighters and further ability to protect and serve. The use of police technology will help police officers help themselves by putting a restraint on them and their will to commit crimes of abuse upon the public.

Secondly, the aim of this study is to observe how other jurisdictions have incorporated police use of technology in their legislation in a bid to be accountable to the public. Finally, this study aims to determine whether these laws or policies governing police use of force are effective and have reduced the number of cases

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<sup>16</sup> 1 August 2016

<sup>17</sup> CD-5-5 Jail Operations: November 17, 2017

involving police brutality.

## 1.6 Research Methodology

This study undertakes a rigorous theoretical research approach in the sense that emphasis is placed on contributions from the literature review, books, journals, articles, newspapers, case laws, scholarly articles on the impact of technology in the police systems of other jurisdictions and or any other study related to the topic under review.

This research is based on technological systems that minimize police brutality and how new technological systems used in police work could reduce police misconduct. Secondary data is used in this research as a primary research method to collect and analyze data. Much of the data used in this paper will be gathered from the internet.

## 1.7 Chapter Breakdown

In order to achieve the objectives above, this study is structured into four chapters.

**Chapter 1-** This chapter consists of an introduction and a brief historical development of the Lesotho Mounted Police Service. It also states the problem, the objectives of this study and the methodological design of the dissertation.

**Chapter 2-**This chapter includes literature review on the topic at hand, it defines what police brutality is, the existing literature on police brutality cases in Lesotho and other jurisdictions, what the law is on the subject(nationally and internationally), and how police technology can be used to reduce the escalating rates

**Chapter 3-** Different kinds of police technologies that can be used in police work are defined in this chapter and how these can be used to reduce police brutality in the country. It also includes a brief look at the costs that may incur in acquiring this type of equipment and the budget of the LMPS and suggests alternate forms of resources to acquire it.

There is also a comparative study into how different jurisdictions have implemented such technological advancements and whether or not they have been effective.

**Chapter 4**-This is the concluding chapter of the dissertation, and based on the findings revealed by analysis of police brutality and technology, policy recommendations for reducing police brutality by using police technological systems are made.

## **Chapter 2**

### *Literature Review*

#### **2. Introduction**

“One of the most effective means to prevent torture and other ill-treatment by the police involves the use of technological surveillance in places of detention to monitor the treatment and conditions of persons deprived of their liberty. In order to comply with the police’s mandate, law enforcement officers are provided with a series of powers, including the powers to stop people, to conduct searches, to detain persons, to investigate and to use minimum force under certain conditions. In carrying out these functions, there are risks of abuse of police powers. Thus, proper and impartial monitoring of police conduct is essential.”<sup>18</sup> Various authors and scholars have added their opinions and analysis of the use of technology in policing to combat police abuse of power.

“Communities are calling for greater transparency and accountability on the part of police. Police officers have the difficult and admirable job of providing crucial services to the communities they protect and serve. Their job sometimes puts them in harm’s way and may require the use of force. Accordingly, police officers must operate with the highest standards of professionalism and accountability. Every member of the public should be able to live, work, and travel confident in the expectation that interactions with police officers will be fair, operate consistently with constitutional norms, and be guided by public safety free from bias or discrimination. Unfortunately, today, too many people are not confident in that expectation and do not trust fair police-community interactions.”<sup>19</sup>

“Technology has been considered a significant driver to law enforcement strategies and tactics for as long as can be remembered. In the 20<sup>th</sup> century, the introduction of the telephone, the automobile, and two-way radios created seismic shifts in what police do, pushing departments toward a strategy of rapid response to citizens’ request for police assistance. These technological capabilities provided closer connections and information sharing between police and the citizens they serve. Now, in the 21<sup>st</sup> century, powerful technological advancements have emerged, including closed-circuit television, in-car cameras and predictive policing software. The proliferation of computer technology, communication technology, and other major technological advancements over the last several decades have made numerous technologies available to law enforcement officers that were virtually unheard of by their predecessors. Many departments are implementing these and other technologies to increase efficiency and improve outcomes, especially in times of diminished resources and enhanced public attention on and scrutiny of law enforcement tactics and outcomes.”<sup>20</sup>

## **2.1 Police Accountability**

Police accountability systems are particularly relevant in Lesotho, this is because of the high rising cases of police brutality in the country. The challenge of effective

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<sup>18</sup> Monitoring Police Custody- A practical guide: 2013

<sup>19</sup> Police Use of Force: An Examination of Modern Policing Practices; Briefing Report, November 2018

<sup>20</sup> Research on the Impact of Technology on Policing Strategy in the 21<sup>st</sup> Century: May 2016

police accountability however, is universal and confronts all democracies around the world. "Given the complexities of police work, the difficult conditions in which police officers have to work and the huge powers which they wield, it is necessary to have both internal and external accountability systems. Internal accountability mechanisms should form part of the day-to-day management and functioning of the police organisation, while external oversight bodies are critical for ensuring transparency and public legitimacy through ensuring that the police act in accordance with social norms and legal frame works." The main focus of this study is on mechanisms (technological systems) that can be adopted in the police service of Lesotho to offer transparency and accountability to the public. One of the reasons why police accountability is so critical is because police officers have substantial discretion about when to use a range of specific police powers, this means that they will be in a position to decide when to use lethal force, when to enter private homes or buildings, and when to stop, search, arrest and detain people. Therefore accountability mechanisms are essential to protect civilian liberties against police abuses and to ensure that the police use their powers to enforce the law in a fair and just manner. In a democracy the way in which the discretionary powers of the police are used should be monitored to ensure that no one, not even the law enforcers themselves, are beyond the reach of the law.<sup>21</sup>

"Police accountability in a democracy requires structures and systems to operate both internally (within the police) and externally (from outside of the police). To ensure that policing within communities is effective and that police abuses are kept to a minimum, the responsibility has to remain primarily with police managers. It is they who are involved in the day to day challenges of policing and who will ultimately have the greatest impact on the performance and conduct of their subordinates. It has been argued that, " it is clear that external mechanisms of police accountability can only be effective if they complement well developed internal forms of control".<sup>22</sup> It is a fundamental principle of a democratic society that the police should be held to account for their actions. Accountability includes both what the police do and how they perform. Individual-level accountability involves the conduct of police officers with respect to lawful, respectful, and equal treatment of citizens. Its procedures fall into two general categories: internal and external. Procedures that are internal to law enforcement agencies include controlling officer conduct through written policies, routine supervision, regular performance evaluations, and the investigation of allegations of misconduct, and early intervention systems."<sup>23</sup> This paper focuses on internal accountability procedures that can be implemented in the police service of Lesotho, in order to retain good relations with society by being accountable and transparent.

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<sup>21</sup> Strengthening Democratic Policing in South Africa: Enhancing and Coordinating the Internal and External Accountability Systems of the South African Police Service: 2005

<sup>22</sup> (Jones, 2003:603)

<sup>23</sup> Police Accountability: Current Issues and Research Needs, 2006

## 2.2 Defining police brutality

"Police brutality occurs when members of a police service use force unlawfully. Essentially, therefore, brutality is the unlawful abuse of the capacity to use force. It refers to the intentional use of verbal attacks or excessive force directed towards a country's citizens by the police force. This excessive force may be physical or in the form of psychological intimidation. Police brutality is highly evident in many countries all over the world especially in the news where such cases are reported. It is seen as a form of police misconduct which involves sexual abuse, police corruption, false arrests and political repression. Many countries have allowed their police force to use force in apprehending the suspects and also in protecting themselves. They are however supposed to use reasonable amounts of force in controlling any situation and in accomplishing their goals. Police brutality always violates the suspect's constitutional rights and it should be stopped."<sup>24</sup>

In South Africa 2013, eight South African police officers tied a Mozambican national to the back of a police van and dragged him for 400 meters leading to his death. The officers were filmed tying Mido Macia to the back of the van that dragged him inhumanly along a Johannesburg street. This incident happened just a year after some police officers opened fire on striking mine workers killing 34 in the process. The South African Human Rights Commission's Kayum Ahmed condemned the act saying the death of Macia has put into the spotlight the violence and brutality of the police force.<sup>25</sup>

Globally, police violence has become entrenched in policing styles in the occupational setting of the police and Lesotho is no exception. Suspects and witnesses experience extreme violence and cruelty, including being suffocated, or a plastic bag might be put over his or her head, restricting his or her breathing and a tube down the throat or strangulation may also be used.<sup>26</sup>

## 2.3 Police Brutality in Lesotho

The rapid increase of torture incidents and the deaths of suspects in police custody has firmly focused the international spotlight on Lesotho's human rights records with some key development partners such as the United States government openly warning the government of Lesotho of a looming suspension of critical development assistance if corrective measures are not taken.<sup>27</sup>

Lesotho was also on the SADC agenda as regional leaders wanted to gain an understanding on the progress and obstacles that have resulted in delays in

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<sup>24</sup> (socyberty.com, 2010)

<sup>25</sup> The Rise and Rise of Police Brutality in Africa, Kajuju Murori: April 6<sup>th</sup>, 2016.

<sup>26</sup> Police brutality in South Africa- understand- saferspaces

<sup>27</sup> <https://ls.usembassy.gov/remarks-by-ambassador-rebecca-gonzales-on-compact-development-grant-agreement-signing-ceremony=february-20-2019/>

implementing multi-sector reforms. The reforms including security sector reforms to improve the human rights situation in the country were recommended by SADC in 2016. The torture allegations have focused the spotlight on the police for brutality against civilians with the African Commission on Human and People's Rights (ACHPR) report expressing concern over the persistent allegations of police brutality in Lesotho and called on the government to capacitate the relevant institutions to enable them to investigate allegations of human rights violations. "the government should incorporate the promotion and protection of human and people's rights in all its actions as well as in the legal, policy and institutional reforms which would be initiated as a result of the ongoing national dialogue," the ACHPR report states.<sup>28</sup>

The 2017 Auditor General's report shows that the police had paid 7 million Maloti in damages to torture victims (post 2018). The chairperson of the public accounts committee of parliament was quoted as having told the commissioner of police that officers who torture people in their custody will in future have to pay damages from their own pockets (post 2018).<sup>29</sup>

### 2.3.1 Victims of Police Brutality in the Country

There are many cases of police brutality in the country on the public. There were several reports that members of the Lesotho Mounted Police Service committed arbitrary or unlawful killings:<sup>30</sup>

1. For example, on February 8 2018, Botha-Bothe police killed one Terene Pitae. According to the press, police shot and killed Pitae and wounded two other villagers who protested the Kao Mine's failure to compensate and relocate villagers affected by mining operations. Although the constitution and law expressly prohibit such practices, there were several credible reports that police tortured suspects and subjected them to cruel, inhumane, or degrading treatment or punishment.
2. On March 31, the media reported that Maseqobela Mohale suffered a miscarriage after Matelile police repeatedly kicked her in the abdomen. Police also reportedly forced gang members to roll on the ground while kicking and beating them with clubs.
3. Thelingoane 'Mota- brutally shot and killed by known police officers at Korokoro in the outskirts of Maseru. When his corpse was found the head was ripped open and the brain was missing. No one has been arrested to date.

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<sup>28</sup> Lesotho: Rogue Police Officers Face the Music as Government Finally Acts on Brutality; Lesotho Times, 28 August 2019.

<sup>29</sup> Rights in Lesotho: citizen views on police abuse, media and personal freedom, gender equality Afrobarometer Dispatch No. 242

<sup>30</sup> <https://www.nwlesotho.co.ls/the-sins-of-police-laid-bare/>

4. Kamohelo 'Matli- he is a young male Mosotho man who was brutally tortured to death by known police officers at Botha-Bothe district in the north eastern part of Lesotho. No one has been held accountable to date.
5. Mosiuoe Raleababa- he is a seventy years old Mosotho male who was brutally tortured to death by known police officers at Maputsoe in the district of Leribe. No one has been held accountable to date.
6. Tau Khauoe- he is a young Mosotho man who was shot and killed execution style by known police officers in the vicinity of Maseru. No one has been held accountable to date.

There are many other cases of victims of police brutality in the country. The above mentioned cases are from July 2017 to October 2018, they are just a highlight of the increasing number of police brutality in the country as there has been a reported number of other cases in the year 2019. There has been no change or decrease in the number of cases of police brutality because there has been no action taken by the government of Lesotho to deal with the problem. Thus the next chapter will focus primarily on mechanisms that the country can adopt in order to deal with this problem.

## 2.4 Legal Framework

Lesotho has ratified several of the key international instruments on human rights, including:

- The international Covenant on Economic, Social and Cultural Rights and the International covenant on Civil and Political Rights.<sup>31</sup>
- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.<sup>32</sup>

At the regional level, Lesotho is party to:

- The African Charter on Human and People's Rights.<sup>33</sup>

## 2.5 Legislation and police policy prohibit torture and cruel, inhuman and degrading treatment or punishment

"The International Bill of Rights and the Convention against Torture and other Cruel,

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<sup>31</sup> Ratified on 9 September 1992

<sup>32</sup> Acceded to on 12 November 2001

<sup>33</sup> Ratified 10 February 1992



Inhuman and Degrading Treatment or Punishment (CAT), of which Lesotho is a party, prohibit torture and cruel, inhuman and degrading treatment or punishment, as does the African Charter. Article 2 of CAT provides that no exceptional circumstances may be involved as a justification for torture, whether this is a state of war, threat of war, internal political instability or any other public emergency.

The CAT imposes certain obligations on state parties, including taking legislative, administrative, judicial and other measures to prevent acts of torture, and ensuring that acts of torture are criminal offences under its criminal law (Article 2). Offences of torture should also be punishable by appropriate penalties (Article 4). The state party must also ensure that education and information regarding the prohibition of torture and other cruel, inhuman and degrading treatment or punishment are included in the training of law enforcement personnel. Article 15 also states that a state party must also take measures to prevent acts of other ill-treatment.<sup>34</sup>

Section 8 of the Lesotho constitution also prohibits torture or inhuman or degrading punishment or other treatment. The Constitution is the supreme law in Lesotho and it provides for the fundamental human rights and freedoms regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Fundamental rights include the right to life, personal security and the right not to be treated inhumanely. However some of these rights are limited to the extent provided for in the constitution, this section in the constitution adds that "nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Lesotho before the coming into operation of this Constitution". This clause limits the internationally inviolable right not to be tortured and leaves open the potential to inflict inhumane punishment, and should be amended.

The police regulations and guidelines are informed by Chapter II of the Constitution of Lesotho which provides for the protection of fundamental human rights and freedoms, and the prohibition of torture and ill-treatment. Section 10 (e) of the LMPS service Charter stipulates that 'the law enforcement officials shall not inflict, instigate or tolerate any act of torture or other cruel, or degrading treatment or punishment in any circumstances and shall refuse to obey any order to do so.'<sup>35</sup>

Despite ratifying these international and national instruments the reports by the office of the Ombudsman have indicated serious violations of human rights, particularly related to the detention of suspected criminals.<sup>36</sup> The report also showed that many police stations do not have detention facilities with the result that suspected criminals were detained using unconventional methods, for example,

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<sup>34</sup> The Police As Friend And Helper To The People: Assessing the Lesotho Mounted Police Service performance in terms of the Southern African Police Chiefs Cooperation Organisation (SARPPCO) Code of Conduct

<sup>35</sup> LMPS Service Charter. Police Headquarters Maseru.

<sup>36</sup> Ombudsman Report on the Inspection of Government Prisons and Hospitals in Lesotho, 2004.

cuffing them against motor vehicles, electricity poles and burglar gates. The report raises concerns and recommends that the government should repeal any laws governing prisons which were outdated and do not comply with regional or United Nations instruments regarding promotion and protection of human rights.<sup>37</sup> Civil society organisations have also reported that the use of physical assaults against detainees by the police appear to be common in order to extract confessions.”<sup>38</sup>

## 2.6 Police are trained in Human Rights

The LMPS provides human rights training for all cadets, part VI of the police training prospectus indicates that the basic training for all new recruits incorporates human rights training.<sup>39</sup> The LMPS training includes a six month basic course for cadets, followed by nine months of more advanced training. Human Rights training is incorporated into the basic training, using the Training Manual of Policing and Human Rights. The SARPCCO Human Rights Training Manual is also used as a training manual for new recruits and cadets. This manual deals with international standards, regional treaties and non-treaty instruments.<sup>40</sup>

Therefore “lack of knowledge” of Human Rights is not an issue with the police officers of Lesotho as they are provided training on these. The problem is that the police officers know that they are not being watched, they know that their actions during the course of duty are un-monitored and they therefore take advantage of this and commit horrendous crimes of abuse upon the public. ” Abuses by the police can occur for many reasons, not least because using force in accordance with the principle of proportionality is not an easy task; human rights violations may result from a flawed assessment of a given situation. Abuses can also occur when individual police officers take advantage of their powers by exercising excessive force to intimidate, extort information or for other reasons. It can also be- and this is the most challenging situation for supervisors of police seeking to address torture or other ill treatment, because there is a culture of impunity in a given context. In such cases, police officers who perpetrate human rights violations know that they will not be prosecuted or disciplined.”<sup>41</sup>

## 2.7 Conditions of Police Lockups/holding cells

“Issues described in the literature about treatment and conditions of persons in

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<sup>37</sup> Ibid.

<sup>38</sup> United Nations General Assembly (2010). Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with paragraphs 15(c) of the annex to Human Rights Council resolution 5/1: Lesotho. 8 February 2010

<sup>39</sup> LMPS (2003/2004). Police Training College Prospectus Maseru: Police Training College

<sup>40</sup> Policing and Human Rights: Assessing Southern African Countries Compliance, 2012.

<sup>41</sup> Monitoring Police Custody- A practical guide: 2013

police lockups include: detainee deaths, over-crowding in holding cells, very long stays in detention, beating and torture of detainees, inadequacy of holding cells due to their location and size, inadequacy or absence of provision of basic services such as health care, inadequacy of hygienic facilities, lack of separated cells for juveniles and other vulnerable detainees and inadequacy or lack of a monitoring system to ensure the safety of detainees. Police lockups are dangerous places because of risks of violence from fellow detainees or inhuman treatment and abuse by police officers.”<sup>42</sup> This is equally true for police holding cells in Lesotho, they do not conform to the international standards on Human Rights of detainees under police custody.” Although standards about how to humanely treat detainees are available in many police departments, some police officers perceive fair treatment of detainees to be undeserved and inappropriate.<sup>43</sup> They find themselves in a conflicted position in which they have a primary crime-fighting role, and an additional role of custodians of persons they think should be punished.”<sup>44</sup>

They abuse detainees because of reasons including unsound internal investigations, lack of effective external oversight systems, and an internal culture of cover-ups. Detainees may be tortured within the first hours in a lockup, where there is the least visibility on police actions, and officers have an immediate interest in securing a confession. It is often only after news of scandals of cases of torture or death of persons in police custody has hit the media that the general public may call for investigations and reforms.<sup>45</sup>

## 2.8 The Importance of Police Technology

“Today policing is more related to information technologies than ever. One aspect of this engagement is related to a new accountability model. Traditionally, police are bound by the terms and regulations defined by laws and departmental rules. Any violation occurring in this mechanism is investigated and judged by courts or the police hierarchies. Starting from the 1980’s, a new conception of police accountability has arisen in some western countries such as in Britain and Australia.”<sup>46</sup> This new approach has brought a new accountability perspective by adopting private sector administrative structures into public sector institutions.

Chan<sup>47</sup> explains the outcomes and unexpected benefits of this new approach by saying:

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<sup>42</sup> Monitoring Human Rights of Persons in Police Lockups: Potential Role of Community-Based Organizations, July 2012

<sup>43</sup> Blauuw, Vermunt, & Kerkhof, 1996

<sup>44</sup> Dissel & Ngubeni. 2000; OPI,2006

<sup>45</sup> Monitoring Human Rights of Persons in Police Lockups: Potential Role of Community-Based Organizations, July 2012

<sup>46</sup> Chan, The Technology Game: How information Technology is transforming Police Practice, 2001

<sup>47</sup> Ibid.(p. 141)

"In policing, the new managerialism has transformed the traditional police force into organizations with 'mission statements', 'business plans', 'marketing strategies', and a new emphasis on 'crime management', 'customer service', and performance measures. Under this new order police are scrutinized internally by management systems, surveillance technologies, internal audits and investigations, and externally by "watchdog" agencies, public complaints systems and central auditors. In effect, information technology provides a tool not for the policing of citizens, but also for policing the police."

"The policing technology is not only limited to crime prevention purposes, but it also provides the capability of detecting misconduct. Thus, if we know the existing technologies that are used in police work, we may be able to identify additional technological solutions for dealing with police misconduct."<sup>48</sup>

The nature of police work involves wide-ranging authority with limited supervision.<sup>49</sup> Limited supervision may provide opportunities for misconduct. By using technological systems such as closed-circuit television (CCTV), vehicle tracking systems and the use of a police database /management information systems, police departments could not only strengthen their supervision over police officers, but also detect their misconduct/abuse of power.

According to Chan," information technology has given police supervisors a greater capacity to scrutinize the work of their staff. In her research on the impact of information technology on police practice, 55 percent of survey respondents admitted that information technology led to a closer scrutiny of their work by their supervisors. An officer in Chan's study supports this argument by saying "...this system allows supervisors to check where their cars are, what their officers are doing, how far they have got in their crime reports and whether they have done their job properly". Beyond this, these systems could also allow supervisors to detect corrupt transactions of an officer. Technology has contributed to reducing police brutality in two ways: by preventing it and by aiding in investigation. In the presence of cameras, vehicle tracking systems and computer monitoring software systems, police officers would be more reluctant to engage in misconduct on their part, because they would perceive the fact that their acts or transactions would be recorded. For this reason, these technologies are more related to the prevention side. On the other hand, the records obtained from these devices also provide evidence for internal investigations.<sup>50</sup>

There are many new policing technologies, but not all of them could be used for reducing police brutality. Therefore the next chapter focuses on the policing technologies that can be used to reduce police brutality. It is believed and generally proved in other jurisdictions that the use of these devices has significantly reduced officers use of force upon the public. Police officers feel that the government does

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<sup>48</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010.

<sup>49</sup> Withdraw & Dailey, 2004

<sup>50</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010.

not “care” about their bad actions or crimes of abuse upon the public and fails to detect and investigate such, then they are more likely to engage in acts of abuse. Using technological systems in police work such as cameras would remind officers the government does “care” about their actions and is closely monitoring them. With these systems the officers will receive the message that none of their crimes will go unpunished. In other words, if they do cross the line of integrity and commit crime, they will be detected and punished harshly.”<sup>51</sup>

## 2.9 What Can Be Done

“To ensure that all suspects detained and brought to a police station and the public in general are treated in accordance with their legal rights and Human rights as enshrined in the Constitution, there must be processes or systems in place that allow for external oversight of the care and treatment of suspects. Police have been granted extensive legal authority to arrest and detain suspects but these powers must be used lawfully. It is in the legal and professional interests of the Police Service that suspects are treated with respect and without excessive force and given all their appropriate legal rights in accordance with the law. The challenge of raising public confidence and trust in policing remains a central goal of all police forces. Therefore the introduction of procedures that serves to protect the legal rights of suspects and arrested persons, whilst allowing external scrutiny of the conditions and legality in which persons are detained, will help improve and change public perceptions. It will also afford protection of a citizen’s legal rights and treatment while in police custody.”<sup>52</sup>

## 2.10 Conclusion

Safeguards against torture and other forms of ill-treatment are rules and procedures that guide authorities to protect persons in police detention. Safeguards are practical and cost-efficient solutions to prevent abuse in custodial settings, where the risk of torture and other ill-treatment is highest. “safeguards can have important benefits for states. They prevent police abuse, of course, but they also professionalise the police and the judiciary; they inspire confidence in police and criminal investigation; and they reduce the number of failed prosecutions, wasted court time, and compensation that may need to be paid for unjust treatment. As a result, the operation of safeguards can improve the whole administration of justice.”<sup>53</sup>

Carver and Handley<sup>54</sup> found that safeguards in the first hours of detention contribute

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<sup>51</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010.

<sup>52</sup> Justice For All Nigeria, Monitoring The Treatment Of Suspects In Police Stations.

<sup>53</sup> H.E. Mr. Mohamed Auajjar, Minister of Justice, Kingdom of Morocco, 2017.

<sup>54</sup> Does torture prevention work? 2016

crucially to the reduction in the risk of torture and other ill-treatment in police custody. A holistic torture prevention strategy requires that practices designed to protect detainees from police torture and ill-treatment overlap and complement additional measures of prevention, including robust laws and review by independent monitoring bodies. In all cases, multiple safeguards should work together to ensure that gaps in protection are reduced.<sup>55</sup> Thus the next chapter focuses primarily on the types of safeguards that can be implemented by the government of Lesotho.

## Chapter 3

### *Types of Technologies and Usage of These Systems for Reducing Police Brutality (a comparative study)*

#### 3. Introduction

“Policing is about information, so new information technologies can be related to police work. Technological improvements in information systems during the 20<sup>th</sup> century have brought significant changes to policing.<sup>56</sup> The history of policing indicates that technology has taken a greater role in policing and modern policing has become more linked to technology. According to Chan “there is, every reason to expect that the latest round of technological change-the information technology revolution-would have an equally dramatic impact on policing.”<sup>57</sup>

“Today policing is more related to information technologies than ever. One aspect of this engagement is related to a new accountability model. Traditionally, police are bound by the terms and regulations defined by laws and departmental rules. Any violation occurring in this mechanism is investigated and judged by the courts or the police hierarchies. Starting from the 1980s, a new conception of public accountability has arisen in some western countries such as in Britain and Australia.”<sup>58</sup>

“Police technology is not only limited to crime prevention purposes, but it also

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<sup>55</sup> Convention Against Torture Initiative: CTI2024.ORG

<sup>56</sup> Chan, The Technology Game: How information Technology is transforming Police Practice, 2001

<sup>57</sup> Ibid.(p. 140)

<sup>58</sup> Ibid.

provides the capability to detect misconduct. There are many new policing technologies, but not all of them could be used for reducing police misconduct. Others might have an indirect effect on reducing misconduct by generating clear evidence for investigations. Some of them might have both direct and indirect effects.”<sup>59</sup>

### 3.1 Vehicle Tracking Technology

Vehicle tracking systems are used to determine a vehicle’s exact location using GPS (Global Positioning Satellites) technology or radio frequency (RF) technology. GPS is defined as “a satellite navigation system that uses position, velocity, and time to compute position. One of the uses of GPS is to track the exact location of vehicles.”<sup>60</sup> “GPS receivers on the surface of the Earth receive signals from satellites around the earth so the exact position of a vehicle, a car or a person that has the GPS receiver can be traced. The usage of vehicle tracking technology in police work varies. It is commonly used in police communication dispatch centres. The dispatch centres can determine the location of a police officer in real time by using the system, so this technology assists them in sending officers to emergency calls. The technology is also used in finding stolen cars. Law enforcement personnel can locate a stolen vehicle if there is a tracking device in the car. Furthermore, this technology also assists police officers in knowing where they and other patrols are located, so they can ask for help from the closest patrol if needed.”<sup>61</sup>

Besides its usage by dispatch centres in policing and in criminal investigations, vehicle tracking technology can also be used for detecting and investigating police misconduct. The technology enables police supervisors to observe every movement of a patrol car, so supervisors can find any misconduct clues by reviewing the location records of a police car. “For example, if an officer is routinely positioned in a specific location that is not assigned to him or her, then this might be an indication of corruption or misconduct.”<sup>62</sup> Using vehicle tracking technology in police work might help prevent and deter police misconduct. If the officers know that their location is not a secret and that their whereabouts are being monitored, it will put a restraint on the officer’s will to commit crimes of brutality upon the public. An example where vehicle tracking technology had been helpful was found in the Tampa Police Department (TPD). In 2008, after a 22 week investigation, a police detective of the TPD was fired and three other detectives retired because of corruption and dishonesty allegations. Internal affairs detectives had secretly tracked their colleagues through physical and

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<sup>59</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010

<sup>60</sup> Foster, R. E. (2005). Police Technology. New Jersey: Pearson Prentice Hall.

<sup>61</sup> Ibid.

<sup>62</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010

electronic surveillance, including GPS devices, and found that four Tampa police officers consistently billed the department for hours they did not work. Internal Affairs Unit investigators reviewed the official documents such as detectives' timecards, gas mileage receipts and surveillance records from the Criminal Intelligence Bureau. In addition to these documents, GPS tracking results constituted clear evidence that the officers had failed to work the scheduled hours on their timecards and they had been paid for the hours they did not work.

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### 3.2 CCTV (Closed-Circuit Television)

CCTV (closed-circuit television) is a video recording system that broadcasts on a private network for monitoring a variety of environments and activities.<sup>64</sup> "CCTV is often used for security purposes in public places such as banks, airports, government buildings, and convenience stores. The size of the network may change depending on the purpose of usage. In a convenience store for example, it may include a single camera, monitor and recorder. However, depending on the needs of the institution, hundreds of cameras might be used in a CCTV system.

Today, CCTV systems are also used for providing security in a city. In order to deter crime, detect traffic violations and provide critical evidence, an elaborate and extensive system of surveillance cameras are strategically placed around a city, and connected through a closed circuit television network. The cameras in different locations collect vital images from the streets, transfer them to the command centre, and provide valuable information and evidence for law enforcement officials after the evaluation process. The benefits of CCTV systems are not only limited to crime reduction or detection, these systems can also diminish or prove the claims of police misconduct." According to Foster, "video technology can record the actions of a police agency and potentially reduce false liability claims"<sup>65</sup>. Literature suggests that the usage of CCTV systems by state and local government agencies has increased notably in the past decade, and because of the flexibilities of CCTV's adaptation to different security systems, the usage of the system in policing will be increased in the future.<sup>66</sup>

"In order to prevent and investigate crime effectively the Turkish National Police (TNP) uses MOBESE (Mobile Electronic System Integration) technology in police work. Basically, MOBESE is the "city Information and Security System", which is a

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<sup>63</sup> (Tampa Bay Online, 2008)

<sup>64</sup> Foster, R. E. (2005). *Police Technology*. New Jersey: Pearson Prentice Hall.

<sup>65</sup> *Ibid*(p. 326)

<sup>66</sup> Kaya, O. (2009). *An Evaluation of the Mobile Electronic System Integration (MOBESE) and Electronic Traffic Control System (ETCS) in the IPD*. New York: John Jay College of Criminal Justice.



complex system that includes subsystems such as mobile vehicle inquiry system, CCTV systems to monitor crimes in cities, and Detention Room Improvement and Control Systems. The system was first established in Istanbul where it covers 952 offices, 3500 police vehicles, 150 mobile police station units, city and county control centres.<sup>67</sup> Favourable results of the system have been seen in recent years, so Turkish government decided to implement the system for other cities.

MOBESE technology not only assists police units in crime prevention and investigation, but also unveils police misconduct cases. For example, a police misconduct case in Antalya City was detected through MOBESE system cameras: Two police officers from Antalya Police Department were detected while having sexual intercourse with a prostitute under custody by CCTV cameras positioned in the detention room. The real <sup>68</sup>time images of the incident were recorded by the police command centre, and reported to the on-duty police chief. After reviewing the camera records of the detention room, the on-duty police chief raided the detention room and found that the officers had had sex with a woman who had been taken under custody for prostitution claims<sup>69</sup>.” The Antalya case mentioned above reflects the effectiveness of the system in detecting corrupt officers.<sup>70</sup>

“CCTV can be used for both monitoring the welfare of detainees and for preventing and detecting crime. Police forces should establish a policy stating the purpose of the CCTV system. The Independent Police Complaints Commission (IPCC) study on deaths in or following police custody recommends that police forces should make CCTV available in at least one cell in the custody suite, to be used when a detainee is identified as being at risk and, where available, that is fully operational. Police forces must decide which areas CCTV should cover. When establishing force policy for CCTV in custody suites, forces should consider having all cells fitted with CCTV.”<sup>71</sup>

CCTV can be used to record activity in the following areas:

- 1) Entrance to the custody suite
- 2) Access corridors to and from the rest of the police station
- 3) Holding areas
- 4) The charge room area
- 5) The custody officer’s desk in the charge room (it should provide separate

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<sup>67</sup> (Istanbul Police Department, 2003)

<sup>68</sup> Deaths in or following police custody: An examination of the cases 1998/99- 2008/09

<sup>69</sup> Hurriyet. (2008, 11 06). [www.hurriyet.com.tr](http://www.hurriyet.com.tr). Retrieved 10 12, 2009, from Polisler Grup Sex Yapti: <http://www.hurriyet.com.tr/gundem/10300967.asp>

<sup>70</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010

<sup>71</sup> Better Standards for Better Policing; College of Policing, 23 October 2013

images showing the officer's face/body, the detainee's face/body

- 6) Cell corridors
- 7) Entry to the interview rooms and;
- 8) Cell interiors (including detention rooms).

### **3.2.1 Access to Images**

"Forces must control access to images recorded on custody CCTV to protect the rights and dignity of individuals and to maintain the continuity of evidence. Force policy should ensure that:

- Screens for monitoring live images from cells are placed out of the sight of anyone who is not directly involved in monitoring the detainee's welfare
- Opportunities for accidental or casual viewing by detainees are minimised
- Facilities for playing back recorded images are housed in a separate area and operated only by trained staff and that all viewings are documented
- The CCTV monitoring area should itself be covered by CCTV and staff should be made aware that they are being recorded while performing this function.

Where images have been transferred to disc, cassette or any other medium, forces must use auditable storage systems. All systems must be self-checking to alert staff should the system cease recording. This is to ensure that recording is continuous and that gaps do not arise in the storage of video footage."<sup>72</sup>

The Worcester Police Department have implemented POLICY AND PROCEDURE NO. 700<sup>73</sup> the main purpose of which is to provide instructions and guidance relating to the obligations of police personnel in the transportation, handling and all other processing of prisoners that come into their official custody. Paragraph H of section II states that, every cell check shall be recorded by activating the electronic recording system called the Watchtour Monitor. This makes it hard for officers to commit crimes of abuse upon detainees, this kind of policy implementation would go a long way in the Mountain Kingdom and reduce the number of complaints against the Police service.

### **3.3 Audio and Video recording of interrogation**

"Recording of police interrogations acts to deter police from using violence, coercion, or other forms of ill-treatment in securing a confession, recording also protects police against false accusations of abuse or intimidation. It operates as a robust

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<sup>72</sup> Ibid.

<sup>73</sup> 09/13/2015

piece of evidence of the interview and the information divulged. Accompanying its use, clear and proper management processes should provide for access, storage, and destruction of recordings and data. Where audio or video recording is used, good practices encourage that the recording starts at the beginning of the interview, that all persons present are identified, along with the time and location of the recording, and that the interview is properly recorded in its entirety, including any breaks being noted. If recording is discretionary or incomplete, a risk remains that police abuse will simply shift to moments and areas not covered by these technologies (blind spots), and that incriminating recordings are lost or deleted. Certainly, audio and video recording of interrogation implies some financial costs, although the wide availability of different forms of cheap technology with video or audio recording possibilities makes this safeguard much more accessible than in the past. States using such technologies have also indicated that any costs are recovered through the time saved by police and judiciary in administration and court processes that are no longer needed.”<sup>74</sup> “As new methods of prevention (for example videotaping all interrogations) are discovered, tested and found effective, article 2 provides authority to build upon the remaining articles and to expand the scope of measures required to prevent torture.”<sup>75</sup>

“Video recording of interrogations helps protect the rights of suspects in the incidence of forced confessions since many government staffers are eager to quickly finish the case. The measure would help avoid unjust, false and wrong charges”.<sup>76</sup>

Following its ratification of the United Nations Convention against Torture (UNCAT) in 2016, Fiji embarked on reforms to raise the standards in the Fijian police and reduce the acknowledged incidences of assault in detention. As part of these reforms, Fiji purchased 30 video recording devices to be used in interrogation situations. With training, Fijian police were encouraged to become more familiar with the recording procedure and to see the <sup>77</sup>potential benefits. In 2006, the European Committee for the prevention of Torture commended the introduction of audio-visual recording in many police interrogations, finding that recording in the interrogation rooms of police stations may have been a contributing factor to reducing the amount of ill-treatment alleged by detainees.<sup>78</sup>

New Mexico requires state or local law enforcement officers to do the following, when reasonably able to do so, when conducting a custodial interrogation of

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<sup>74</sup> SAFEGUARDS IN THE FIRST HOURS OF POLICE DETENTION: Convention Against Torture Initiative, CTI2024. ORG

<sup>75</sup> CAT General Comment NO 2 on Art. 2 UNCAT

<sup>76</sup> Professor Su Wei, Chongqing Municipal Committee, CPC, PR China, 2017

<sup>77</sup> CRIMINAL PROCEDURE; CONFESSIONS (LAW); ELECTRONIC SURVEILLANCE; EVIDENCE; LAW ENFORCEMENT OFFICERS; INTERROGATION: Requiring Interrogations To Be Taped. By: Kevin E. McCarthy, December 4, 2007

<sup>78</sup> SAFEGUARDS IN THE FIRST HOURS OF POLICE DETENTION: Convention Against Torture Initiative, CTI2024. ORG

someone suspected of committing a felony:

- 1) Electronically record the custodial interrogation in its entirety;
- 2) If conducted in a police station, electronically record the custodial interrogation by a method that includes audio or visual or both if available; and
- 3) Include in the electronic recording the advice of constitutional rights required by law.

A law enforcement officer must comply with the above requirements unless he or she has good cause not to electronically record the entire custodial interrogation and must make a written or electronic record of the reasons for not doing so. Good cause includes, the electronic recording equipment was not reasonably available, the electronic recording devices failed and obtaining a replacement was not possible, the individual refused to be recorded or the statement was made in court proceedings<sup>79</sup> If electronic taping of police interrogations was a requirement by law in Lesotho, the police officers would be inclined to obey the law and not use excessive force or abuse suspects in their custody because they would know that their actions are being recorded on tape. Furthermore, forced confessions would be stopped as it would be clear on tape whether or not a suspect was forced to confess. Electronic recording of interrogations would go a long way in curbing police brutality in Lesotho. It would deter police officers' use of force upon individuals in a bid to obtain a confession and close a case if they knew that evidence or confession not caught on tape would be inadmissible in court. In *Commonwealth V. DiGiamattista*,<sup>80</sup> the Massachusetts Supreme Court held that a defendant whose confession is not electronically recorded is entitled to cautionary instruction with respect to the confession. In this case, DiGiambattista was convicted of burning a dwelling, with the conviction resting in large part on his confession to the police during an unrecorded interrogation at a fire station. On appeal, he contended that his motion to suppress the confession because it was not recorded should have been allowed, and that, even with the introduction of the confession, the evidence against him was insufficient because the state failed to present evidence corroborating the confession. In addressing the recording issue, the court began by noting that it had previously held that while failure to record an interrogation would not result in automatic suppression of a defendant's statement, the lack of recording was itself a relevant factor to consider on the issues of voluntariness and waiver.

In the case of *Stephan V. State*,<sup>81</sup> the state Supreme Court held that the unexcused failure to record custodial interrogation violates due process clause of the state constitution and any statement made in an unrecorded interrogation is generally

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<sup>79</sup> N. M. Rev. Stat. Sec. 29-1-16

<sup>80</sup> 813 N.E. 2d 516 (Mass. 2004)

<sup>81</sup> 711 P.2d 1156, 1158 (Alaska 1985)

inadmissible in court. In an earlier case (*Mallot V. State*,<sup>82</sup> the court informed law enforcement officials that it was incumbent on them to tape record, when feasible, any questioning of criminal suspects, as part of their duty to preserve evidence. The court stated that this was particularly true when the interrogation occurs in a place of detention.

“The electronic (i.e. audio and/or video) recording of police interviews represents an important additional safeguard against ill-treatment of detainees. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is pleased to note that the introduction of such systems is under consideration in an increasing number of countries. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions.”<sup>83</sup>

### 3.4 Computerized Booking Process

In the olden days, the recording of suspect’s names and the crime for which they were arrested for was handwritten, this is still so in Lesotho. But now virtually all booking records are computerized except in Lesotho. Mug shots are taken of suspects who are thrown into jail. Mug shots have a variety of possible uses, they can help to determine which of the two people with the same name was arrested. A mug shot can also help to establish a suspect’s physical condition at the time of arrest. The suspect’s physical condition at arrest can be relevant to a claim of police use of unlawful force or to whether the suspect had been in an altercation before being arrested.<sup>84</sup>

Booking is the process of checking the suspect’s identity, getting the suspect into jail and inputting the nature of the crime. It involves a number of steps:

- Taking down the names of the suspect and nature of the crime on a computer blotter
- Posing the suspect for a mug shot, which will be paired with his/her booking record
- Noting evidence of physical altercations with the police
- Removing the clothes of the suspect and personal items and replacing them

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<sup>82</sup> 608 P. 2d 737 (Alaska 1980)

<sup>83</sup> CPT Standards, p.9

<sup>84</sup> What Happens During Booking? Sara J. Berman

with jail-appropriate ones

- Using a computer or ink-based fingerprinting system and running them through a crime database
- Conducting a full-body search
- Checking state and national records for warrants pending against you
- Health screening
- Taking a sample of the suspect's DNA.<sup>85</sup>

Section IX of the Policy and Procedure No. 700<sup>86</sup> of the Worcester Police Department, paragraph A provides Booking Guidelines the main objective of which is that, the cell room operation is to effectively and efficiently process and maintain custody of persons arrested by the police while ensuring that the safety and well-being of personnel and persons in custody are maintained at all times.

Paragraph A states that "prior to removing the prisoner from the holding tank for the booking procedure, the booking officer shall notify Service Division personnel to activate the video to record the booking. The video must continue recording until the prisoner or detainee being booked is either placed in a cell, an interview room, brought to the Service Division, or in the case of an uncooperative person, returned to the holding cell. The video log in the Service Division office shall correspond to the digital/tape count and/or time.

### 3.5 The TASER

"The taser is a ubiquitous less-than-lethal force technology lauded for its ability to curb police officers' use of excessive and lethal force. It is a weapon that incapacitates subjects with 50,000 V that cause involuntary muscle contractions. In the United States of America, tasers are used by more than 17,000 U.S. law enforcement agencies and are la<sup>87</sup>uded as safe, effective alternatives to the lethal force that is at the heart of longstanding judicial and public concerns over excessive force.<sup>88</sup> Generally, the taser is a force option that can effectively subdue a suspect with a low probability of serious injury or death, although their use comes with small but meaningful risks.<sup>89</sup>

Given the attractiveness of the Taser as a safer, alternative, effective option for subduing suspects, research also considers how the taser is substituted for other

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<sup>85</sup> How the jail Booking Process Works; badboysbailbondsutah.com

<sup>86</sup> 09/13/2015

<sup>87</sup> Sousa et al. (2010)

<sup>88</sup> Obasogie and Newman 2018; PERF 2011

<sup>89</sup> Bozeman et al. 2009; Lin and Jones 2010; Mesloh et al. 2008ab; Strote et al 2010; Swerdlow et al. 2009; White and Ready 2007

types of force. Using a randomized field-training experiment, equipping officers with a taser changes their likelihood of using other force options: officers are less likely to respond to a deadly threat with their firearm if they have a taser. It is, at its core, one of several weapons that officers can use to ensure the survival emphasized by their training and the broader policing culture<sup>90</sup>. Tasers help officers prevent injury and death in perilous situations.

The intended goal and very design of the taser is to solve excessive use of force by police officers, albeit through electrocution instead of bullets or blunt force, it is precisely the taser's less-than lethal capabilities and officers' understanding of this technology as a safety-enhancing tool that contributes to its use in cases of excessive force that, even if non-lethal, are detrimental to public safety and police legitimacy.<sup>91</sup>

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers that the use of electric discharge weapons (EDW) should be subject to the principles of necessity, subsidiarity and proportionality, advance warning (where feasible) and precaution. These principles entail that, public officials to whom such weapons are issued must receive adequate training in their use. As regards more specifically EDW capable of discharging projectiles, the criteria governing their use should be directly inspired by those applicable to firearms.<sup>92</sup>

Law enforcement agencies initially introduced Tasers to provide officers with an option that they could use in circumstances where they would otherwise use lethal force. They were considered a weapon that would save lives."<sup>93</sup>

### **3.6 Other Methods of Police Monitoring (Preventive Monitoring)**

One of the most effective means to prevent torture and other ill-treatment involves unannounced and regular visits to places of detention to monitor the treatment of persons deprived of their liberty.

Effective preventive monitoring of police detention centres on regular and unannounced visits to police facilities to gather firsthand information; this information can then be used to identify and analyse factors that give rise to, or fail to prevent, torture, ill-treatment and other affronts to human dignity.<sup>94</sup> This may be done by:

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<sup>90</sup> (Sierra-Arevalo 2016; Skolnick 1966)

<sup>91</sup> Technological Innovation and Police Officers' Understanding and Use of Force, December 2018

<sup>92</sup> CPT standards, p.101

<sup>93</sup> Castro, H., 'Taser developers enjoy major success, 1 December 2004

<sup>94</sup> The approach of the SPT to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the OPCAT', UN Doc. CAT/OP/12/6, 20 December 2010, Guiding principle 5(2).

### 3.6.1 Independent Custody Visiting Scheme

These are volunteers who have a statutory role in ensuring the welfare of persons in police custody. They attend at custody centres to check on the treatment of prisoners or detainees, the conditions in which they are held and to ensure that their rights are observed.<sup>95</sup>

“The Scottish Police Authority has implemented this system and the responsibility for organizing and overseeing the delivery of ICVS lies with the Scottish Police Authority (SPA) in consultation with the chief constable. IVC can visit police custody facilities at any time and must be given immediate access to all custody areas unless doing so would place them in danger. According to section 22 of the Standard Operating Procedure (SOP) of the Police Service of Scotland,<sup>96</sup> a custody supervisor should not delay or deny access unless in the extreme circumstances. A full explanation must be given for the delay and the explanation recorded by the IVC in their report. Where there is a reasonable belief that there is a danger to the visitor or that access could interfere with the process of justice, the custody supervisor may limit or deny access to a specific prisoner.

Section 22 also provides that during a visit, the custody supervisor or member of custody staff must escort the IVC and advise them on any specific health and safety risks they may encounter. IVC may have access to all parts of the custody area and associated facilities such as food preparation areas and medical rooms. They may also, subject to the consent of the prisoner, speak with them about the adequacy of the detention facilities. It is the responsibility of the escorting officer to speak to the prisoner to outline the function of IVC, and to ascertain whether they are prepared to speak to them. IVC may review the de-personalised details of a prisoner’s custody record, but they may not view their medical notes. The role of the IVC is fundamentally interactive with both prisoners and custody staff and cannot be discharged remotely. Visitors should be able to ask the custody officer whether the CCTV is working and be given a demonstration if necessary. If the prisoner cannot speak English, the visitors may ask for an interpreter or use language line. This will be facilitated by custody staff as appropriate. Finally, at the conclusion of every visit a copy of the IVC’s report is left for the attention of the cluster inspector.”<sup>97</sup>

Research based on visits and inspection of police lockups in a few countries shows all sorts of excesses in the treatment of detainees.<sup>98</sup> Matters set out in the literature about treatment and conditions of persons in police lockups include: detainee

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<sup>95</sup> Ibid

<sup>96</sup> 20/12/2019

<sup>97</sup> POLICE SCOTLAND, Care and Welfare of Persons in Police Custody; Standard Operating Procedure, 20/12/2019

<sup>98</sup> Amnesty International. (1990, December). United States of America: Allegations of police torture in Chicago, Illinois. Retrieved from [www.chicagojustice.org/...torture...chicago-Police/Amnesty\\_International\\_Report\\_re\\_Allegations\\_of\\_Tor.pdf](http://www.chicagojustice.org/...torture...chicago-Police/Amnesty_International_Report_re_Allegations_of_Tor.pdf)



deaths; over-crowding in holding cells; very long stays in detention; beating and torture of detainees; inadequacy of holding cells due to their location and size; absence of provision of basic services such as health care; inadequacy of hygienic facilities; lack of separated cells for juveniles and other vulnerable detainees; and lack of a monitoring system to ensure the safety of detainees. Police lockups are dangerous places because of risks of violence from other detainees or inhuman treatment and abuse by police officers. Due to the fact that lockups are only temporary detention facilities, detained persons are not monitored as closely as they would be in a prison. Yet, there are high levels of detainee assaults, and higher numbers of detainee deaths than in prisons. More suspects die during the initial period of incarceration than in any subsequent period of pre-trial detention or post-conviction confinement.<sup>99</sup>

This is why it is very important for the government of Lesotho to implement Independent Custody Visiting Scheme to monitor the treatment of suspects in police custody as there is an increasing number of deaths of people who are under the detention of police officers in the country. This occurs as a result of torture and ill-treatment by police officers.

The United Nations endorsed Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,<sup>100</sup> which states:

- 1) Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons.
- 2) Law enforcement officials, in carrying out their duty shall, as far as possible, apply non-violent means before resorting to use force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
- 3) Whenever the lawful use of force and firearms is unavoidable, law enforcement shall:
  - a) Exercise restraint in such use and act in proportion to the seriousness of the offence and legitimate objective to be achieved;

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<sup>99</sup> Charles Hounmenou (2012) Monitoring Human Rights of Persons in Police Lockups: Potential Role of Community-Based Organizations, *Journal of Community Practice*, 20:3, 274-292, DOI: 10.1080/10705422.2012.700279

<sup>100</sup> Adopted by the Eighth United National Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 2008.

- b) Minimize damage and injury, and respect and preserve human life;
- c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- d) Ensure that relatives or close friends of the injured or affected persons are notified at the earliest possible moment.

### 3.7 Conclusion

It is very difficult to measure the effectiveness of technological innovations in confronting police brutality due to the fact that different jurisdictions use different kinds of technological advancements under different policies and laws in force in a particular state. This makes it difficult to analyze the overall effectiveness of such systems.

However, technological advancements have had both adverse and beneficial impacts on policing. For example, Tasers are controversial as the use of such has in some cases lead to death, research has found that "deaths associated with Tasers (CEDs) use often involve multiple CED activations (more than one CED at a time) or multiple five-second cycles from a single CED. "With good policies and training, policies on the use of Tasers would require that police officers evaluate the age, size, sex, apparent physical capabilities and health concerns of a suspect before using the device. Substituting CEDs for physical control tactics used by officers may decrease (with proper use), the chance of injury to suspects. As Tasers can be used inappropriately, "law enforcement executives can manage this problem with policies, training, monitoring and accountability systems that provide clear guidance and consequences to officers regarding when and under what circumstances Tasers should and should not be used."<sup>101</sup>

It would also be unfair to place the overall experience of other jurisdictions' use of such technological devices (whether bad or good), and put such expectations on our very own country's police services before we actually gain the experience ourselves. We can only use such experience as a guiding tool of trial and error and use it to our advantage by formulating policies that are based on these and come out on top. Lesotho's law enforcement, (The LMPS) has a long way to go in order to keep up with the times and move to a digital age, digitization of the police service of Lesotho will be critical to the development of our police service.

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<sup>101</sup> <https://nij.ojp.gov/topics/articles/police-use-force-impact-less-lethal-weapons-and-tactics>

## Chapter 4

### Conclusion and Recommendations

This paper focuses on the possibilities that digital technologies provide for mutually rewarding police-citizen relations and police accountability as these are sacred to a democratic policing. In Lesotho however, “years of colonial rule and post-colonial legacies of authoritarian rule, lack of autonomy of policing institutions because of the prevalence of patrimonial rule, lack of appropriate normative and legal framework, weak institutional capacity and pervasive insecurity have impugned on police-citizen relations and police accountability, and thus, policing outcomes.”<sup>102</sup> The services of the LMPS are dogged by challenges such as adversarial police-citizen relations and mutual suspicion and police misconduct. Mutual distrust in police-citizen relations is a symptom of, and contributes to below-par police performance. Other challenges limiting police effectiveness include an over-centralised administrative structure, poor oversight, police corruption and other ethical issues, poor funding as well as poor material and human resource endowment, worsen police-citizen relations and accountability.” Opportunities provided by digital technologies are desirable in addressing some of the issues.<sup>103</sup>

This paper contends that digital technology will help reduce the rising rates of police brutality in the country and it may provide wider arenas that can aid other efforts to repair the public image of the police.” Digital technologies enable deeper monitoring and oversight leverage over the police. Gaps in police-citizen relations and accountability can be alleviated by collective action and whistle blowing roles involving civil society, leveraging on the low cost of digital technology in serving as partners rather than consumers in policing efforts. Digital technology enables the coproduction of knowledge in which citizens bring to the relationship their knowledge about problems in their localities and support for police actions, while the police exercise concern for people’s rights and dignity, which are important elements

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<sup>102</sup> AN AUDIT OF POLICE OVERSIGHT IN AFRICA: 2008

<sup>103</sup> Digital policing technologies and democratic policing: Will the internet, social media and mobile phone enhance police accountability and police-citizen relation in Nigeria? March 2018

of democratic policing.”<sup>104</sup>

Technology contributes to the reduction of police misconduct in two ways: by preventing it and by aiding in investigation. In the presence of cameras, vehicle tracking systems and computer monitoring software systems, police officers would be more reluctant to engage in misconduct, because they would perceive the fact that their acts are being recorded. For this reason, these technologies are more related to the prevention side. On the other hand, the records obtained from these devices also provide evidence for internal investigations.<sup>105</sup>

This study seeks to contribute to existing literature by stressing the importance of technological systems in reducing police misconduct in general. It argues that police brutality can be curbed by technological devices and several types of technologies are discussed such as vehicle tracking systems, CCTV systems, computerized bookings, Tasers and audio and video recording. However, due to the research’s scope, a limited number of resources have been examined. A lot more research is needed to reveal the real effects of technology in reducing police brutality. This paper stresses the importance of new systems which could be employed or existing systems which could be adopted for preventing and investigating brutality in the LMPS.

Technological systems offered in this study may not only reduce police brutality, but they can also be used for strengthening supervision in police services. Officers become more vulnerable to corruption/misconduct under the conditions of little or no supervision.<sup>106</sup> However there might be difficulties in implementing these technological devices to police work. In Lesotho, lack of resources/funding is the biggest factor. The Government can however, redirect some of the public resources to the funding of the acquisition of these devices as the acquisition of these is for the benefit of public safety and good services. Another alternative is for more investment should be made in the training of police officers to appropriately interact with communities. Focusing on training and building trust will lead to less costly and more sustainable support to crime deterrence and reducing police misconduct.<sup>107</sup> It is a fundamental and constitutional right of every citizen of Lesotho to be protected from abuse, more especially from the enforcers of the law. Therefore the implementation of these technological devices is a fundamental need in order to protect human rights being abused in the country.

The LMPS therefore need to be trained on the use of non-lethal weapons and appropriate weapons should be issued to police officials. There must also be clear procedures which must be developed and adopted for the arrest, interrogation and interviewing of suspects and witnesses, and measures put in place to prevent torture and abuse of detainees and suspects. Furthermore, a policy and practice need to be

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<sup>104</sup> Ibid.

<sup>105</sup> Reducing Police Corruption: The Use of Technology to Reduce Police Corruption, May 2010

<sup>106</sup> Ibid.

<sup>107</sup> The Solution to Police Brutality: Digitization? By MAW; 2016

developed for the discharge of firearms, and an automatic review procedure adopted for incidents where people have been shot, injured or killed following the use of force.

The oversight bodies should also include a review of police use of force in their annual reports and make it the focus of special investigations from time to time. The prevention of torture must be included in the basic training of police officials. Officials must receive training on proper investigation and interviewing techniques which rely on the collection of evidence rather than on confessions.<sup>108</sup>

Legislation also needs to be amended to make torture a criminal offence and punishable with adequate harsh sentences. Most importantly, section 8 of the Constitution needs to be amended to delete the limitation on the right to torture. The prohibition against torture is non-derogable and indivisible in international law. By doing so, the LMPS would be in compliance with Article 4 of the Convention against Torture or other Cruel, Inhuman and Degrading Treatment or Punishment which the country signed and ratified. However the State has not signed and ratified the Optional Protocol to the convention (OPCAT), it is highly recommended the State does that and must take steps to put in place a National Preventive Mechanism to conduct oversight visits to places of detention.<sup>109</sup>

The Government of Lesotho should, in addition to the preventative measures implement an Independent Custody Visitors Scheme (ICVS). These are volunteers who have a statutory role in ensuring the welfare of persons in police custody. They attend at custody centres to check on the treatment of prisoners or detainees, the conditions in which they are held and to ensure that their rights are observed. This protects both prisoners and custody staff, and provides reassurance to the community at large.<sup>110</sup>

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<sup>108</sup> The police as friend and helper to the people: AFRICAN POLICING CIVILIAN OVERSIGHT FORUM (APCOF) 2011

<sup>109</sup> Ibid.

<sup>110</sup> Monitoring Police Custody- A practical guide, January 2013

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