

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW



ENSURING ACCOUNTABILITY AND INTEGRITY OF THE POLICE
SERVICE THROUGH AN EFFECTIVE OVERSIGHT MECHANISM IN
LESOTHO

A mini-dissertation submitted in partial fulfillment of the requirements of the degree of Master of
Laws (LL.M.)

By

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DECLARATION

I **Paseka Pascalis Mokete**, solemnly declare that this mini dissertation has not been submitted for a qualification in any other institution of higher learning, nor published in any journal, textbook or other media. The contents of this dissertation entirely reflect my own original research, save for where the work or contributions of others has been accordingly acknowledged.

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DEDICATION

To late my parents Ntate Mokete and 'M'e 'Mapapiso Mokete, for the virtues of life they inculcated in me. They have been courageous and resourceful in my entire life.

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I thank the management of the Lesotho Mounted Police Service (LMPS) particularly Commissioner of Police Mr. Holomo Molibeli, for allowing me to enrol with the National University of Lesotho and broaden my horizon in the field of Law. This has been a sagacious decision taken indeed notwithstanding the seriousness of the police service duties which requires full time concentration for the management and devising strategies to combat various heinous crimes which are prevalent in the Kingdom of Lesotho.

I thank whole-heartedly my supervisor Dr. Itumeleng Shale for the guidance throughout this work. She helped me navigate as I went through this research. Her exposure in the human rights field played a pivotal role to make my work a great success.

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ABSTRACT

The Lesotho Mounted Police Service is characterised by unremitting brutality where the majority of people die in custody and get seriously injured without the perpetrators being brought to book either criminally or disciplinarily. It is the purpose of this research to enquire into the effectiveness of the Police Oversight Authority to curb the prevalence of human rights violations within the LMPS and hold them legally accountable for their misconduct. The research analyses the features of the efficient Independent Police Oversight mechanisms in other jurisdictions and finds out how the issues pertaining to police misconduct are effectively handled. It also explores the obligation imposed on the police management to report serious police conduct such as deaths in police custody to the oversight body. Furthermore, it shows how police management is mandated to implement the oversight recommendations on instituting disciplinary measures against concerned police officers as well as assisting the oversight bodies with the information that may be required for investigating police serious misconduct.

It has been established that the Police Oversight Authority is not effective enough to hold police officers accountable for misdeeds and also to ensure that they perform their duties professionally. PCA is not accessible to the public, has no follow-up mechanisms in place to ensure that its recommendations have been implemented or complied with, does not publicise its report and as such its defective performance cannot be scrutinised by anybody. In a nutshell, the study answers the questions as to why there is a continuous violation of fundamental human rights and reigning culture of impunity within the LMPS as well as what can be done to remit such recurrences.

LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|--------|--|
| CAT | Convention Against Torture |
| CID | Criminal Investigation Division |
| CJ | Chief Justice |
| COMPOL | Commissioner of Police |
| DIPCA | Danish Independent Police Complaints Authority |
| GBH | Grievous Bodily Harm |
| GCR | General Complaints Register |
| ICCPR | International Covenant on Civil and Political Rights |
| ICD | Independent Complaints Department |
| IOPCA | Independent Office for Police Complaints |
| IPCA | Independent Police Complaints Authority |
| IPCC | Independent Police Complaints Commission |
| IPID | Independent Police Investigation Directorate |
| IPOA | Independent Policing Oversight Authority |
| LMPS | Lesotho Mounted Police Service |
| LSHC | Lesotho High Court |
| MCCO | Maseru Central Charge Office |
| NPS | National Police Service |
| OC | Officer Commanding |
| PC | Police Constable |
| PCA | Police Complaints Authority |
| PHQ | Police Headquarters |
| PSA | Police Service Act |
| RCTS | Robbery and Car Theft Squad |
| SAPS | South African Police Service |
| SOU | Special Operation Unit |
| SSU | Special Support Unit |
| UDHR | Universal Declaration of Human Rights |
| UNDOC | United Nations Office of Drugs and Crime |

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CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 Background and rationale

The Lesotho Mounted Police Service (LMPS) is established in terms of section 147 of the Constitution of Lesotho as amended. It exercises its statutory mandate in terms of an Act of parliament.¹ Its general core functions include upholding of the law, preservation of the peace, protection of life and property, to detect and prevent crime, to apprehend offenders, bring offenders to justice and for other associated purposes.² In general, police play a vital role in providing security and maintaining the rule of law. In the exercise of their duty, they are given a monopoly to use force as well, which may present an opportunity to violate human rights. Strong and uncontrolled power carries with it a risk of misuse in the form of police brutality, deaths in police custody, torture and ill-treatment, extrajudicial killings, enforced disappearances and excessive use of force, including in cases of demonstrations or labour dispute protests. Therefore, it is crucial that the police institution is held accountable to the society and the public.³ Accountability requires that the police act within the boundaries of the law and within international standards. Those who break the laws must face consequences through internal disciplinary systems and criminal law.⁴

There is a perpetual outcry of high prevalence of human rights violations by members of the LMPS in the performance of its duties.⁵ People die during police interrogations, unlawful detentions, excessive use of force while dispersing riotous crowds,⁶ engage in acts of corruption

¹ Police Service Act No. 7 of 1998 (PSA 1998).

² *ibid*, s 4.

³ [Report \(humanrights.dk\)](#) > accessed on the 16 January 2023.

⁴ Sankar Sen, *Enforcing Police Accountability Through Civilian Oversight* (SAGE Publications Inc, New Delhi 2010) 9.

⁵ see *Ramakatsa and Others v Commissioner of Police and other* (Constitutional Case No. 22/2018) at paragraph 81, the Constitutional Court said; ‘... view of the disturbing public outcry about increasing deaths of suspects in police custody, the time has come for a judicial response by laying down the following guidelines for the Lesotho Mounted Police Service, Prosecutors and the Magistrates Court:’

⁶ Muleya Mwananyanda, ‘A dangerous pattern of human rights violations, including torture, unlawful killings, and excessive use of force by members of the security forces in Lesotho has been a common feature of the past five

and other predicate offences without a successful investigation of perpetrators who are implicated in these uncanny activities. This situation creates a culture of impunity as there is lack of deterrent effects to members of the police and there is also erosion of trust by members of the public, as the Police Complaints Authority (PCA) seems to be inefficient in dealing with matters alleged to have been perpetrated by the police officers. There is a perception that police investigations regarding complaints against their colleagues is clouded by the ‘conspiracy of silence’ and it is believed that this is the most significant difficulty in the process of bringing the police to book.⁷ Sakoane CJ expressing his discontentment in the manner in which police treat suspects in custody had the following words to say in *Kabelo Ratia v Learned Magistrate Rantišo and Others*:⁸

It is a matter of shame that the applicant had been tortured and forced to eat his faeces by the Matela Police and nothing was done to bring them to book. This type of conduct bespeaks of the most despicable, sadistic behaviour and savagery to which men and women in uniform have stooped, contrary to their oath under the Police Service Act No.7 of 1998. The police have reached the worst of police brutality even surpassing the Gestapo and apartheid police. This record must not be allowed to remain in the annals of the history of the Lesotho Police Service. The Commissioner and the Police Authority must act.⁹

This depicts a reigning culture of impunity in the LMPS, lack of deterrent measures to potential committers of these crimes and erosion of public trust. Members of the community, whose rights have been infringed usually lodge civil claims against the Commissioner of Police (COMPOL) who is in most invariably held liable for compensation under vicarious liability.¹⁰

The objective of this study is to recommend an effective mechanism to be employed in order to address issues pertaining to police misconducts which seem to be ineffective due to some bottlenecks in the current system. Circumvention to impediments that the PCA encounters in the investigations of police misconducts are going to be explored. The study further highlights the benefits of taking actions against the police’s misconduct in order to hold each individual police officer accountable for his or her wrongdoings. It also spotlights the impact of turning a blind

years’ Amnesty International (28 September, 2022) 1 <<https://www.amnesty.org/en/latest/news/2022/09/lesotho-authorities-must-tackle-police-brutality/>> accessed on 14 December 2022

⁷ Anthea J. Jeffery, *Riot Policing in Perspective* (South African Institute of Race Relations, Johannesburg 1991) 158.

⁸ CRI/REW/23/2019

⁹ Ibid

¹⁰ Ibid (n1), s 76.

eye to the police mischievous behaviour. The study seeks to infuse a sense of accountability and professionalism to the police officers in the performance of their duties as well as instilling of deterrence in cases of deviant behaviour happenings.

1.2 Statement of the research problem

LMPS is frequently blamed for recurring violations of fundamental human rights and commission of different kinds of crimes without being successfully investigated and brought to book.¹¹ Human rights violations and acts of criminality which are committed by members of this institution seem not receive the attention they deserve.¹² There is a gap in dealing with the human rights violations decisively, especially in some situations where other police officers are unwilling or reluctant to set investigative processes into motion. The problem is that crime investigative powers are vested into the LMPS, which may decide not to investigate criminal cases even when human rights violations have come to the institution's knowledge. COMPOL may decide not to investigate the matter or refer it to the PCA on account that the concerned police officers are justified in doing so. For example, killing of an armed suspect who is resisting lawful arrest,¹³ or any act that the COMPOL may feel that taking action will jeopardize the function of the police service as a whole. These problems are caused by the fact that there are limitations in the law that empowers the oversight body to receive and launch investigations once there is an allegation of commission of crime and or human rights violations by members of

¹¹ Muleya Mwananyanda, Lesotho: Authorities must tackle police brutality, torture and unlawful killing before and after election' Amnesty International News (Johannesburg, 28 September 2022); 'It is the duty of the police to protect the public, yet Lesotho's track record of police brutality shows that the public have much to fear from their law enforcement officers. It is time for the Lesotho authorities to take a zero-tolerance attitude to unlawful killings, torture and other ill-treatment by their security forces and ensure that those suspected to be responsible are held to account. Victims must be provided with access to justice and effective remedies,' [Lesotho: Authorities must tackle police brutality, torture and unlawful killings before and after election - Amnesty International](#) >Accessed on the 14 December 2022.

¹² The Editor, 'Police Brutality: Elephant in the room' *Lesotho Times* (Maseru, 2 February 2022); LESOTHO'S human rights record and in particular the issue of police brutality has been under local and international spotlight in recent years. Back in 2018, the African Commission on Human and Peoples' Rights (ACHPR) produced a damning report expressing concern over the 'persistent allegations of police brutality' in Lesotho. Its plea to the government to capacitate the relevant institutions to enable them to investigate allegations of human rights violations has so far fallen on deaf ears. [Police brutality: Lesotho's elephant in the room - Lesotho Times \(lestimes.com\)](#) > accessed on the 14 December 2022.

¹³ 'Although some members of the police were suspended for their actions, including the killing of Mokutoane, other members of the security forces remain in their posts despite ample evidence including research by human rights NGOs pointing to serious human rights violations.' :[Lesotho: Authorities must tackle police brutality, torture and unlawful killings before and after election - Amnesty International](#)> accessed on the 14 December 2022.

the LMPS. One of the limitations is that, the PCA has to wait until the matter has been referred to it either by the COMPOL or the Police Minister (Police Authority).¹⁴ The PCA's hands always remain tied even where there is a *prima facie* evidence of human rights violations as it only acts when the matter has been referred to it. Furthermore, even where a matter has been referred and investigations are completed by the PCA as well as having submitted recommendations to COMPOL; he may decide not to implement them as there is nothing that obligates him to act on the PCA's findings and recommendations. As a result of these, majority of human rights violations, commission of crimes and breach of discipline by members of the LMPS go un-investigated and no action is taken against them due to the existence of lacuna in the law and as such turns the PCA a useless entity.

1.3 Aims and objectives

- The aim of this study is to interrogate effectiveness of the PCA in the Kingdom of Lesotho in order to hold members of the LMPS accountable for their misdeeds. This aim will be achieved through the following specific objectives: To highlight the history, importance and characteristics of police oversight mechanisms globally.
- To counteract the PCA's functions in Lesotho against the international standards and determine whether it meets the characteristics of an effective police oversight. In this regard the study will entail a benchmark of the Lesotho's PCA against the effective police oversight mechanisms in other countries like the Republic of South Africa, Republic of Kenya, United Kingdom and Denmark in order to suggest what can be done to make PCA fit for purposes.
- To interrogate the limitations and hindrances in order to find reasons why despite the existence of the PCA since 2005, there is still a continuous human rights violation by members of the LMPS, excessive use of force, unlawful detentions, deaths in police custody at an alarming rate, without a successful investigation of perpetrators who are implicated in these activities.

¹⁴ PSA 1998, s 22(3).

- To make recommendations for the reform of the PCA in order to empower it so as to make it effective in the performance of its functions to hold LMPS members accountable.

1.4 Research questions

In order to achieve the objectives set above, the research attempts to answer the following questions:

- What are police oversight mechanisms, where do they originate from and why are they important?
- Does PCA suffer some defects and restrictions in the performance of its oversight mandate as compared to what other bodies do globally in dealing with police oversight issues?
- To what extent does PCA meet the characteristics of an effective police oversight mechanism which are used to hold police accountable for misdeeds world-wide?
- What can be done in order to make police officers in Lesotho to portray professionalism in the performance of their core mandate and how can the PCA be transformed in order for it to be effective in performing its oversight tasks?

1.5 Methodology

Mixed methodology will be used in order to achieve the objectives of this study and answer the questions posed. Information will be sought from different sources including the PCA in order to determine the number of cases reported and completed, recommendations made in respect of those cases as well as the implementation thereof by COMPOL or Police Authority. Legal framework that establishes the PCA in the Kingdom of Lesotho will be studied as well as other documents which informed the establishment and functions of this body. The library and internet sources as well as international treaties will be used as basis for the study. Moreover, a comparative desktop study will be conducted to find out how other countries effectively deal with police officers' wrongdoings and the benefits of effective police oversight mechanisms. These countries used for the comparative analysis are the Republic of South Africa on the establishment of Independent Police Investigation Directorate (IPID) in terms of the Independent

Police Investigative Directorate Act,¹⁵ the Republic of Kenya on the establishment of the Independent Policing Oversight Authority (IPOA) which is established in terms of Independent Policing Oversight Authority Act,¹⁶ the United Kingdom's establishment of Independent Office for Police Conduct (IOPC) in terms of Policing and Crime Act,¹⁷ and Denmark which has Danish Independent Police Complaints Authority (DIPCA) established in terms of section 1019 of the Danish Administration of Justice Act.

1.6 Literature review

A wide array of literature is available on the policing and police oversight mechanism in the Kingdom of Lesotho which shows how ineffective is the PCA in holding members of the LMPS accountable for their misdeeds. For example, African Police Civilian Forum,¹⁸ shows that the PCA lacks certain powers in order to execute its functions such as search and seize exhibits or power to summon police offices, limited power to receive complaints directly from the public because of referral process that is in place between the PCA and COMPOL. There is also an observation that there are uncountable recommendations made by PCA, but there seems to be no action taken by police to implement the same by police management. Similar view has been expressed by Kiptanui,¹⁹ in that PCA has been established with the sentiment that it is supposed to be independent in holding police accountable for wrongdoings and ensure integrity in policing. However, its powers are limited to the matters given to it by the COMPOL.²⁰

The United Nation Office on Drugs and Crime (UNDOC) has published a compilation on how countries have to approach issues of police oversight.²¹ For instance, there are practical tools that are developed by UNODC to support countries in the implementation of the rule of law and

¹⁵ No. 1 of 2011

¹⁶ No. 35 of 2011

¹⁷ c. 3 of 2017

¹⁸ An Audit of Civilian Oversight in Africa (African Minds 2008) < [An Audit of Police Oversight in Africa - African Policing Civilian Oversight Forum - Google Books](#)>accessed on 24 July 2023.

¹⁹ Lagat Emmanuel Kiptanui, 'Effectiveness of Civilian Oversight on Law Enforcement by National Police Service in Kenya: A Case of Independent Policing Oversight Authority' (Master of Science in Governance, Peace and Security, African Nazarene University Nairobi 2022).

²⁰ Ibid (n 19) 38.

²¹ A Handbook on Police Oversight and Integrity, United Nations Office on Drug and Crime. Series Criminal Justice Handbook Series (United Nations Publications 2011).

the development of criminal justice reform.²² It aims to assist countries in their efforts to develop effective systems of oversight and accountability within their law enforcement authorities and enhance police integrity which is an integral part of policing in general.²³ The Kingdom of Lesotho established the PCA in 2005. This research draws inspiration from the UNDOC practical tools as they are the standards against which the effectiveness of the PCA is benchmarked. Morgan and Smith have also given views that complaints system against police serves variety of purposes which include deterring police misconducts in general, to control or remove deviant officers, to help maintain public confidence, to satisfy individual complainants and what reporters of police misconducts must be wary of.²⁴ Their work is therefore used in this research to illustrate the police oversight bodies' objectives which have to be taken into consideration when such are established. These are compared to what prompted establishment of the PCA and what it has done since its establishment.

Any transgression of the law has to be dealt with decisively in order to deter potential wrongdoers from committing similar criminal acts. The same goes when police officers are suspected to have breached the law such as torture of detainees. Snyman states that the purpose of punishment is to deter society as a whole from committing crime. The belief is that the imposition of punishment sends out a message to society that crime will be punished.²⁵ In order to deter police officers from engaging into acts of criminality, they must be subjected into a sort of punishment which follows their misconducts. This means that for every offender, there must be a punishment clearly spelled out in clear terms that for the commission of a particular crime and breach of discipline, certain consequences will definitely follow. The current research is therefore based on Snyman's theory on the purpose of punishment. This theory is used to illustrate that police officers in Lesotho will desist from human rights violations when they are aware that commission of such is followed by punishment.

²² These tools include:

- Enhancement of police integrity and the integrity of policing.
- Dealing with complaints about policing (receipt, investigation and follow-up).
- Setting policing priorities and encouraging policy input, including from outside the police.
- Inviting external review, including from independent actors.

²³ Ibid.

²⁴ Rod Morgan and David J. Smith, *Coming to Terms with Policing: Perspective on Policy*, (Routledge 1989)174.

²⁵ Carel R. Snyman, *Criminal Law* (4thed LexisNexis 2006)12.

Jeffery, describes that investigating misconducts that are alleged to have been committed by the police requires a great deal of effort to overcome the resistance. There is what is termed ‘conspiracy of silence’ within the police organisation which is the perception that police officers always protect their colleagues where there is an allegation of misconduct.²⁶ It further states that it is extremely difficult to take actions against police as there is an apparent reluctance on the part of the police to testify against their colleagues.²⁷ Investigations against police misconduct are a mammoth task and as such PCA must be prepared to expect the existence of these impediments and be ready to overcome them during the course of its investigative tasks. Furthermore, there is nothing in the LMPS statutes that obligates police officers’ cooperation with the PCA investigations on police matters and providing evidence in the human rights violations or commission of crimes as well as breach of discipline.

Karmen elaborates that victims of crime are the consumers of police service as their direct experiences can greatly influence police-community relations and they can become bitterly disappointed with the police performances who are ostensibly committed to serve and protect them, if these officers are slow to arrive, disbelieve their accusations, conduct superficial investigations and do not solve their cases by making arrest and recover stolen property.²⁸ Where LMPS fails to attend to public reports, a perception may be created that it is a waste of time to report crime to the police and as such those who breach the law may continuously commit crimes undisturbed as they may not be detected and apprehended.

Police officers are vested with unfettered powers to enforce the law as well as use physical force in the performance of their duties which include among others; to protect the fundamental liberties and rights of society. Yet the delegation of same powers simultaneously provides a potential for their abuse.²⁹ Gottschalk³⁰ describes effectiveness of police oversight mechanisms

²⁶ Ibid (n 7)149.

²⁷ Ibid 150

²⁸ Andrew Karmen, *Crime Victims – An Introduction to Victimology*, (5thed Thomson Wadsworth 2004)153.

²⁹ Peter Gottschalk, *Knowledge management in Police Oversight: Law Enforcement Integrity and Accountability* (Brown Walker Press 2009)27.

³⁰ Ibid.

as a vital tool to help police to achieve its goals as well as common crimes and misconduct that police officers are too fond of committing. This author states that ‘law enforcement agencies that reduce problematic officer behaviour will enjoy greater trust among citizens and thus receive greater cooperation from citizens in programs and actions designed to reduce crime and investigate crime.’³¹ These include misconducts include; corruption, abuse of power, sexual misconduct, prisoner mistreatment, evidence manipulation extortion and unauthorised disclosure of information which harm individuals and society. There must be a mechanism in Lesotho with which police conduct is monitored, along with the way in which a lack of integrity, dishonesty and corruption may manifest themselves within LMPS.

Hain, Humphy and Rose-Smith, state that inquiries against conduct of the police tend to take a lot of time as they have to be thorough.³² These authors warn that complaints against police must be approached with great circumspection as they are likely to be found not guilty for commission of crime or breach of discipline due to the fact that a police officer against whom a complaint has been made will vigorously defend himself in court proceedings. Cases that deal with claim for compensations in the incidences where police are alleged to have violated fundamental human rights will be looked into.³³ These illustrate the LMPS human rights violations proclivity and as a result, call for immediate and robust investigative measures. The study will also rely on numerous articles and newspaper reports about acts of police brutality as well as thesis on domestic implementation of international human rights standards against torture in Lesotho. These will clearly indicate that there is a dire need for effective police oversight mechanisms in the Kingdom of Lesotho. There are efforts that were made to ensure that police officers conduct their affairs in an accepted and accountable manner. The 1997 White Paper on police reform, expressed a commitment to maintain an effective, efficient and accountable police service as well as to enhance internal discipline and to build public trust in the police.³⁴ PCA has been purposely established to deal with police misconduct and enhancement of police morality and legitimacy. What has become apparent is that nothing has been achieved as yet taking into

³¹ Ibid 15.

³² Peter Hain, Derek Humphy and Brian Rose-Smith, *Policing the Police Volume 1* (John Calder Publishers Ltd 1979)102.

³³ Officer Commanding Mafeteng Police Station v Tjela C of A (CIV 45/2020) and Kabelo Ratia v the learned Magistrate Rantšo and others CRI/REV/23/2019.

³⁴ [APCOF Lesotho proof 4.indd](#)> accessed on 19 November 2022.

account the perpetual police brutality, human rights violations coupled with reigning of impunity within the LMPS.

Despite the existing studies indicating constraints on holding police accountable and ensuring integrity, such as referrals by COMPOL and Minister of Home Affairs and COMPOL's power to decide which complaints to be investigated as well as the nature of information to be disclosed to PCA,³⁵ there is a gap that has been filled by this study regarding police obligation to receive and transmit serious incidences that are alleged to have been committed by police to the police oversight body within stipulated timeframes as well as duty to assist and cooperate with the investigations. The oversight body may be able to investigate the matter that comes to its knowledge or act on its own initiative, seize exhibits, effect arrests and take suspected persons to court for prosecution of their criminal cases as opposed to the current arrangement. The COMPOL is also mandated to implement the police oversight's recommendations within thirty days and institute internal disciplinary matters where recommendations have been made in that regard. COMPOL has to submit a report to the minister where he has failed to implement the said recommendations.

1.7 Chapter Break-down

This research is divided into five chapters. Chapter one contains an introduction and background of the study, which states the scope under which the study is based. This chapter states the current situation in Lesotho as regards prevalence of human rights violations in Lesotho. It further states the statement of the research problem, aims and objective of the significance of the study and measures to be taken to reform the current laws in order to cater for effective police oversight mechanisms which are intended to ensure police accountability. Research methodology and the literature review are also contained in this chapter.

Chapter two contains a discussion of the rationale for establishment of police oversight mechanisms and circumstances that led to their evolution. Importance of police oversight mechanisms in holding police accountable for misconduct is also discussed. It further deals with

³⁵ Amanda Diesel, Themba Masuku, Morasa Tshelo and Sean Tait, 'The Police as Friend and Helper to the People' (African Policing Civilian Oversight Forum 2011) < [APCOF Lesotho proof 4.indd](#) > accessed on July 2023.

the importance of ensuring public accessibility to the oversight bodies, police cooperation in the investigation of complaints against police as well as duty to divulge and assist the oversight in the performance of its duties. Inherent challenges that the police oversight bodies are normally faced with in the performance of their functions, the police oversight bodies scrutiny and reporting of achievement. It then discusses the recommendations to the effectiveness of the police oversight mechanisms.

Chapter three discusses good practice of oversight bodies. Effective police oversight institution features for accountability purposes. It also focuses on a comparative study of Lesotho PCA with other oversight bodies in countries like Republic of South Africa, United Kingdom, Denmark and Republic of Kenya. The chapter also discusses code of conduct of police officers whereby every police officer is expected to align with during the performance of duties.

Chapter four discusses police oversight mechanisms in the Kingdom of Lesotho whether it addresses issues pertaining to police wrongful conduct effectively. PCA complaints procedure and public accessibility challenges will be discussed. Its performance indicators, performance scrutiny, and achievements reporting to the National Assembly are looked into. Impediments in the investigation of the police misdeeds which include cooperation to provide information and assist in the collection of evidence by LMPS, power to search and seize document, power to interview police officers as well as power to call upon any person who may assist in the investigations. Cooperation by institutions to provide evidence to the PCA when e carrying out its investigative tasks.

Chapter five contains a conclusion as to whether there is an effective oversight mechanism in Lesotho in order to hold members of the police service in Lesotho accountable for misdeeds. It further contains recommendations that are made for reforms in the Police Service Act 1998 in order to make the PCA effective and efficient in dealing with matters of human rights violations and any other transgressions as well as eradication of criminal acts and human rights violations in Lesotho.

CHAPTER TWO

EVOLUTION OF POLICE OVERSIGHT MECHANISM

2.1 Introduction

Police officers as the law enforcement agents enjoy special powers to use in the performance of their statutory mandate. These powers include to arrest and detain people who are suspected of having committed crimes. Furthermore, they are empowered by law to use force while effecting lawful arrest in order to overcome resistance that may be exhibited by the arrestees. It is reported that there is a wide-spread of police and other law enforcement officials' involvements in the systematic abuses of human rights and cover-ups in the event that such violations are reported or have to be investigated.³⁶ This still persists even under the instructive of the provision that police have taken oath of office to oppose and investigate criminal activities.³⁷ The oath that is taken by police states explicitly that they will not engage into acts of criminality including corruption or bribery.³⁸ It is this conscience that binds them to perform their duties faithfully and in accordance with the law. The question that has to be interrogated is: what has to happen in the event that police officers themselves have committed crimes they have undertaken oath to investigate, preserve and prevent? Can the police organisation be competent to investigate any misconduct committed by police effectively and impartially?

There are numerous institutions that may be used to hold police accountable. These include, the parliament portfolio committees, where the police management may be summoned to appear before such committees and respond to certain questions that may be asked by the parliamentarians or as questions directed to the minister responsible for police who is expected to give a full account of any complaint against police as well as actions taken. The other institution is the ombudsman, where it may undertake investigations against police where there may be a complaint against police failure to attend to public reports. The judiciary may also act as the police oversight, where they may pronounce certain conduct of the police as unconstitutional or having violated rights of individuals. All these ensure that police work harmoniously with the

³⁶ Cephas Lumina, 'Police Accountability and Policing Oversight Mechanism in Southern African Development Community' (2006)15 African Security Review 92.

³⁷ Article 8 of the Code of conduct for law enforcement officials.

³⁸ Michael Tongry, *The Oxford Handbook in Criminology and Criminal Justice* (2014 Oxford University Press) 306.

community and as such build a trust. In addition to these, police officers should be accountable public servants who work collaboratively, transparently, and fairly with all of the communities they serve.³⁹ This accountability is ensured through independent police oversight mechanisms which is the focus of this chapter. The chapter is divided into six sections which explore the rationale for establishment of police oversight mechanisms, their importance, accessibility, challenges and recommendations on how they can best address the challenges facing them.

2.2 Rationale for Establishing a Police Oversight

The perception is that police officers are incapable of investigation themselves impartially. This is because there is what is called a ‘conspiracy of silence,’⁴⁰ where police officers have tendencies of protecting one another in case they are to be subjected into criminal investigations. Once they commit crimes against the community they are supposed to serve and protect, the relationship between the police and community becomes tainted and as such they have to be held accountable. Most invariably, police officers commit serious crimes which make their investigations doubtful whether they may be transparently and impartially done by police themselves and finally brought to book. Even though the expectation is that police should be the ones to investigate their colleagues, it is not desirable to entrust the investigative duties to the same group that is accused of committing crime. It cannot be expected even under stretch of imagination that police will keep their own house in order.⁴¹ Neither courts as external guardianship nor the government will succeed in policing the police. It has been demonstrated that police require strong measures which have no connection whatsoever with the police in order to hold them accountable.⁴² Jeffery states that;

This simple approach has now been found wanting, as numerous inquiries have demonstrated the vulnerability of policing to corruption and misconduct. While the large majority of officers are usually untouched by exposes of corruption, there can be little doubt that constant vigilance and strong measures are required to prevent misconduct becoming widespread and entrenched in police organisations.⁴³

³⁹ [Promoting accountability - Transforming the System Transforming the System](#)> accessed on 2 February 2023.

⁴⁰ Jeffery JA, *Riot Policing in Perspective*, South African Institute of Race Relations (1991) 158.

⁴¹ Prenzler Timothy Lewis, ‘Civilian Oversight of Police in Australia (1999) Trend and Issues in Crime and Criminal Justice <[11258.pdf \(griffith.edu.au\)](#)> accessed on 12 April 2023.

⁴² Ibid.

⁴³ Ibid (n 24).

Apart from this, Convention Against Torture (CAT)⁴⁴ is instructive that as it mandates as thus; ‘State party shall ensure that its competent authorities proceed to a prompt and impartial investigation whenever there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.’ There are also a number of legal international legal instruments which place a duty to states to ensure that human rights are being protected from abuse of police powers. These include Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Right (African Charter). It follows therefore that police officers are highly unlikely to act impartially in the investigation of their colleagues who are suspected of having committed crime. The police oversight will generally ensure that the police officers are held accountable for the performance of their tasks and prevent them from continuing engaging into such activities to the detriment of people they are meant to protect.

It is axiomatic that leaving the investigation task to police where police officers are implicated in the commission of crimes is a huge mountain to climb and as such will not yield expected results. The police when investigating alleged misconducts reported against their fellow colleagues may not be as transparent as it will be influenced by the peer pressure and loyalty to the police organisation. They may decide to turn a blind eye to the incompetence or corruption of colleagues and draw the blue curtain around them; they choose the value of loyalty to peers over other values such as quality service to the community.⁴⁵ This means that, police officers have tendencies to protect one another where an allegation of misconduct or commission of crime is made against them.

This calls for an independent body that will investigate them impartially and hold them criminally accountable. The idea behind the independent oversight of police is to benefit not only those making complaints against police officers but the community and even departments

⁴⁴ Article 12 thereof.

⁴⁵ George L. Kelling, ‘Perspective on Policing - Accountability and Community Policing (1988)7HLJ<[Police Accountability and Community Policing \(ojp.gov\)](#)> accessed on 20 February 2023.

themselves that it is served by people of good morals and integrity.⁴⁶ Accountability aspect of the police conduct is defined as a system of internal and external mechanisms which is aimed at ensuring that police carry out their duties appropriately and are held responsible if they fail to do so.⁴⁷ In the absence of such systems in place, police will continue engaging into acts of brutality with impunity they will not be deterred by consequences to follow. The oversight systems are meant to uphold police integrity and deter misconduct and to fix or enhance public trust in policing.⁴⁸ This means once public knows that any complaints against police will be treated in a professional manner; they will not hesitate to report such misconduct and the police as well will conduct the policing affairs professionally.

It is therefore apposite that any complaint against police misconduct be investigated impartially and effectively so as to provide assurance for both police institutions and the public that any allegations which are committed by the police will be thoroughly investigated. Any misconduct or omission by the police will be properly dealt with so as to have trust in the justice system by the public and those who report police wrongful conduct. These can be best done by independent oversight bodies with the objective of exposing police misconduct, protection of citizens against police abuse of power, providing police accountability as well as encouraging monitoring and disciplinary measures within the police organisation as well as enhancing police integrity which safeguards police from misusing their powers and abusing their rights and privileges they have in the performance of police duties.

2.3 Importance of Oversight Mechanisms

In most countries, the police organization is the only state body that is empowered by law to use force in the performance of their mandate such as effecting arrest, detain people suspected in the commission of crime. This monopoly has to be used sparingly in order to achieve a certain purpose. The use of force by police has to be commensurate with the desired objective of overcoming the resistance to lawful arrest and prevention of offenders from fleeing who cannot

⁴⁶ [Police oversight boards are proliferating, but do they actually work? - ABC News \(go.com\)](#) > accessed on the 18 February 2023.

⁴⁷ Ibid (n 18).

⁴⁸ Ibid.

be arrested by any other means.⁴⁹ When the police service performs its policing functions effectively and efficiently, democracy will be enhanced. It is the duty of the independent police oversight to provide assurance to the public that allegation against police misconduct or neglect of duty will be properly dealt with.

It is therefore important that any allegation against the police's involvement in the commission of crime be investigated independently in order to avoid any conflict of interest when the police officers are the ones investigating one of their own. Once police are involved even when the investigating officers are drawn from a different region or district other than the one a suspect is normally deployed, the perception will be that there will be unbiased and impartial handling of the matter. Victims of police misconduct must have a trust in the systems and as such public confidence in the independent body will be enhanced.

Police in a democratic dispensation must be accountable when they violate lives and civil rights, but their accountability is broader than this. They are accountable for how they attempt to protect the public and how they achieve in terms of public safety. Police in a democracy should be accountable for their behaviour and they should be accountable to multiple mechanisms. If mechanisms that seek to hold them accountable are strengthened, the public can get robust democratic policing. Buren states categorically that;

There is no independent review of citizen complaints against the law enforcement agency that citizens finance. No matter how well an internal investigation is done, its exclusivity raises questions. No matter how well run a police department may be, the lack of outside review can erode confidence. It can breed suspicions about cover-ups, which can erode public confidence in police. Such erosion of public confidence can be the best news the criminal element in our communities ever hear.⁵⁰

It goes without saying that well functioning police organization, must have a public confidence in the performance of its duties.

⁴⁹ Section 42 of the Criminal Procedure and Evidence Act No. 9 of 1981.

⁵⁰ Brenda Anna Buren, 'Evaluating Citizen Oversight of Police' (2007) < [Evaluating Citizen Oversight of Police \(remotexs.co\)](http://remotexs.co)> Accessed on the 16 April 2023.

Police oversight mechanisms ensure among others that police exercise their powers within the confines of the law and also for the benefit of public interest. It ensures that there is no reigning impunity against criminal activities that are committed by the police such as corruption, violations of human rights, police brutality and above all it enhances public trust and confidence in the justice system of which police force forms part. The independent oversight body must investigate the crimes that are alleged to have been committed by the police and take them to court for prosecution purposes and be ultimately punished in order to mark the societal outrage and revulsion. It was held in a Canadian case of *R v Forcillo*,⁵¹ a police officer had responded to an emergency call when he shot and killed one Sammy Yatim who was brandishing a knife on aboard of a streetcar. Justice Edward Then said; ‘When a police officer has committed a serious crime of violence by breaking the law which the officers is sworn to uphold, it is the duty of the court to firmly denounce that conduct in an effort to repair and affirm the trust that must exist between the community and the police.’⁵² The exercise of powers by the police must be controlled to the extent in which it is authorised by law. The use of power beyond what is expected to achieve a desired aim, will be punished

Good policing requires public cooperation in order to fight crime effectively. Members of the public may be witnesses and victims of crime and they can provide the police with relevant information. Public trust will build legitimacy for effective policing. This may be achieved through establishing a system of civilian oversight. Accepting a civilian scrutiny is a hallmark of a democracy which is intended to protect the rights of individuals against police violations.⁵³

2.4 Oversight Accessibility and Cooperation with Investigation

The police oversight bodies will be unable to perform their mandate effectively if those who are to assist in the carrying-out of its tasks do not have access to it. As it is important that citizen participation is required for policing, it applies on all fours with the oversight bodies in carrying out its mandate. There must be no hindrances for individuals who want to meet the oversight

⁵¹ 2016 ONSC 4850.

⁵² Ibid at paragraph 95. It was emphasized that the punishment should not be taken to reflect adversely on the well-deserved reputation of the Toronto Police Service, nor to diminish the respect and support that individual police officer deserve for the dangerous and important work they do and the professionalisms with which they discharge their responsibility. Police are entrusted with the use of firearm within the limits prescribed by criminal law.

⁵³ Article 1 of the International Code of Conduct for Public Officials (General Assembly Resolution 5150).

bodies in order to lodge their complaints against the police and provide evidence. The oversight body must be the platforms in which victims and concerned individuals, who feel unfairly treated by police, resort to and report their matters for investigation purposes. People must have a place to go and report the police misconduct especially when the internal police investigative mechanism is not of assistance to them. The oversight must also be able to call upon any person to assist in the investigation against police misconduct and there must be a sanction imposed for any person who refuses to assist the body or withhold information unreasonably.

For an oversight body to work effectively, it must have police cooperation, have access to the information in the custody of police as well as to be able to be provided with necessary information which is needed for investigation. There must be a mutual understanding between the police and the oversight body.⁵⁴

It follows therefore that the oversight access to police information and records must benefit the police and the community as well. This is similar to the finance auditors who always have access to the accounts books in order to ensure that funds that have been allocated to an organization are properly expended. It is therefore imperative that police should report and cooperate with the investigations that involve crimes that are alleged to have been committed by the police conducted by the independent oversight bodies. ‘Willingness on the part of the police to cooperate with these independent institutions will contribute to their legitimacy, as it will show that they are refraining from interfering in complaints investigations.’⁵⁵ This will be an indication that police accept that they are bound to be investigated whenever allegations are made against them.

2.5 Independent Police Oversight Challenges Investigation

Investigating an allegation that is alleged to have been committed by the police is not easy at all. The body has to be familiar with all the police duties and procedures that have to be followed in the performance of their duties. The other challenge is associated with the cooperation of the

⁵⁴ Ibid (n 45) Buren states that; ‘When police agencies initiate citizen oversight, it is likely that a non adversarial relationship rooted in cooperation rather than conflict will lead to mutual trust and more sophisticated interaction and involvement in the complaint process. In essence, police agencies may realize through experience that they can trust citizens to participate fully and competently in the complaint process’

⁵⁵ Ibid (n 18)34.

witnesses and police officers to disclose information which may implicate the police officers who are under investigation. Gottschalk observes that there is a code of silence that exists within the police force which makes investigation extremely difficult. Police officers even when they can provide evidence, they do not do so for fear of reprisal threat from group members or fear of being ostracized.⁵⁶ The independent oversight bodies may be denied access to the police registers and forms such as detainees' registers, inspection of detention cells critical information. For example, in a situation where an investigation has been launched to ascertain whether a person has died in police custody as a result of police negligence or direct conduct, it is not easy for independent body to get necessary information. Brimoh⁵⁷ who is the Director of investigation at the PCA illustrates the frustration her office encounters each time they try to get hold of information for investigation purposes. A pathologist cannot release a post-mortem report to the PCA but only to the police who may be linked to the cause of deceased's death. It may be a mammoth task to get cooperation from the police officers as regards the conditions of the deceased who is a subject matter of inquiry.

The members of the public may be reluctant to file complaint against police because they fear of being victimized by the police. Some members of the public regard police officers as being rude to them or intimidate them and as such, they do not want to do anything to do with them even where they have committed crimes. The police officers may sometimes try to encourage witnesses or victims not to lodge cases and resort to alternative dispute resolution mechanism.

Other police who may be witnesses in the incident under investigation by the independent body, may refuse to testify or give information regarding what had happened due to the inherent conspiracy of silence that exist within the police organizations. Police officers have inside information, understand the criminal justice system processes, they are also often in a position to shield themselves from detection. This on its own places a difficult task on the independent body to detect and hold them accountable. Police officers are well-versed in the criminal justice system, are familiar with the mechanics and weaknesses of investigations and may know the

⁵⁶ Petter Gottschalk, 'Knowledge Management in Police Oversight – Law Enforcement, Integrity and Accountability (Brown Walker Press 2009) 24. 'This creates impenetrable barriers to prevent outsiders from scrutinising or challenging the conduct of the group or individual members. They fear of being shunned or labelled by peer group.'

⁵⁷ Interview with Ntebohelong Brimoh, Director of Investigations, Ministry of Police and Public Safety, (Maseru, 10 January 2023).

people conducting the investigation.’⁵⁸ Oversight bodies find it very difficult to investigate police misconducts or any allegation.

A number of analysis agree that police investigations of complaints against their colleagues is clouded by the conspiracy of silence and believe that this is the most significant difficult in the processes of bringing the police officer to book. An expert on security issues points out that a policeman who testifies against another policeman is regarded as a traitor and is ostracized from his circle of friends. This is a particularly powerful sanction, for the police force is a cohesive and ‘close-knit family’ with a strong camaraderie, the exclusion from which may a devastating blow.⁵⁹

The independent body may find it difficult to get police officers as witnesses where one of them is being investigated.

Another challenge the oversight body may be faced with challenge that may be brought by the police unions who may block the investigations by securing courts interdict in order to protect their members from prosecution. The unions are financially powerful because of the contributions they always get from members’ subscriptions. They are able to secure services of the good lawyers who may be engaged to shield the investigations against police. These problem in totality portray the difficulties the oversight bodies get in the effort to hold police officers accountable

2.6 Recommendation of Independent Police Oversight bodies

There are numerous misdoings that police are capable of committing in the performance of their daily police duties which erode public confidence and tarnish the image of the police organization. These include corruption, falsification of information required for prosecution, intimidation of witnesses, unauthorized disclosure of information, evidence manipulation, extortion, police brutality, and so on.⁶⁰ Police officers suffer from the known “rotten apple theory” as individual deviant behaviour is likely to influence the other and before we know it the entire organisation is completely engulfed and involved in human right violations. Police works

⁵⁸ Ibid page 51

⁵⁹ Ibid (n 7) 158.

⁶⁰ Tim Prenzler and Carol Ronken, ‘Models of Police Oversight: A Critique, Policing and Society’ (2010) An International Journal <<https://doi.org/10.1080/10439463.2001.9964860>> accessed on 22 May 2023.

involves continuous interactions with criminals who know how to manipulate systems in return for immunity from arrest and prosecution. In the execution of their duties, police officers enjoy low level of supervision and high levels of discretion which they use to evade detection⁶¹. Sometimes they may give explanation that the matter is still under investigation or there is insufficient evidence to implicate a person alleged to have committed a crime. These flimsy excuses particularly that are normally advanced by the police when one of them is suspected for human rights violations, calls for independent oversight body to initiate the investigations.

In order to address these misconducts and hold police accountable, an independent oversight body should have complete discretion in the performance or exercise of its functions and not to be subject to the control of either a minister or police organization. The independent oversight body must account or provide achievements reports to the parliament periodically and be able to be scrutinized by the parliamentary portfolio committees to ensure that it performs its mandate accordingly. The periodic reporting must also highlight the challenges the independent oversight body is experiencing so as to call for assistance by the executive or even the parliament. This may assist it to get resources that it needs for performance of its functions effectively as well as amending the provisions of the statutes in order to remove the barriers in the execution of its mandate.

The body must be independent and separate from the police department and have its own budget established in terms of the statute. It must receive sufficient funding to carry-out its functions effectively. Appointment of its staff must be based on merits following a fair and transparent recruitment processes, which has no affiliation whatsoever with party politics.

In carrying out its investigative tasks, an oversight body must have a law which gives it power to act autonomously. It must be able to compel witnesses and police officers as well to cooperate with the investigations as well imposing sanctions for non-compliance with the assistance that may be sought by the body in carrying out its duties. It must be able to receive complaints directly from the public or be able to act at its own initiative once information comes to its knowledge that there are suspected misconduct by police. The guidelines for formation of independent oversight bodies suggest that the body must meet the following criteria;

⁶¹ Ibid.

In countries with independent police complaints body, it is generally accepted that this body needs to have the power and the capacity to carry out investigation autonomously, rather than delegating investigations to the police. The authority of an independent complaints body would be severely jeopardized if their function was only to receive complaints without being able to act on them.⁶²

The inclusions of these features in the formation of an independent oversight body will serve its intended objectives and it is believed to be effective efforts to hold police officers accountable for their misdeeds. Hence the next chapter discusses these recommendations in detail as good practices derived from international standards and from other jurisdictions.

⁶² Ibid (n 18) 52.

CHAPTER THREE

INTERNATIONAL STANDARDS ON EFFECTIVE INDEPENDENT POLICE

OVERSIGHT

3.1 Introduction

There are internationally accepted standards of establishing the independent police oversight mechanisms which are meant to overcome the challenges that are inherent with this task. These mechanisms are meant to ensure that the police misconducts are impartially and effectively investigated in order to hold them accountable for their misdeeds.⁶³ Puddister and Danielle hold the view that; ‘External and civilian oversight of the police can be essential to investigate and respond to allegation of police criminality and impropriety.’⁶⁴ This means whenever there is an allegation of police involvement in the commission of a crime, there is always a perception that the investigation by another police officer will not be appropriate. A civilian law enforcement agency may be suitable to investigate the matter which includes reporting of police conduct to the oversight body freely and without some bottlenecks by members of the public. There is a view that this oversight machinery may be independent in the sense that it has no link whatsoever with the police management, such as appointments of its personnel which is regulated by an independent statute different from the one used to appoint police force members.

The statute may make it mandatory for police officers to report serious cases which are likely to tarnish the image of the police organisation and these may include; any deaths that occurred in police custody or any deaths that are linked to the police conduct, corruption by police officers to the oversight within stipulated time frames. Police officers are further mandated to assist the oversight with its investigations and provide necessary information when they are requested to

⁶³Puddister, Kate and Danielle McNabb, (when the Police Break the law: The Investigation, Prosecution and Sentencing of Ontario Police Officers.’ (2021)3 Canadian Journal of Law and Society 381. This means community trust and confidence in the police begin to be doubted once a member of the organization is suspected of having committed a crime. There is a need for an independent agency that will be trusted to investigate and bring the suspect to court.

⁶⁴ Ibid.

do so. Not only should the oversight body be able to investigate the conduct complained of, they may be able to supervise the police internal disciplinary measures and be able to overrule and take over any actions taken where it feels they are not properly handled.⁶⁵ In addition to this, the oversight may be able to make follow-ups on recommendations that are meant to be implemented by the police service. The oversight must be able to publicise its achievement and challenges for public scrutiny.

3.2 Good Practice of the Police Oversight Bodies

In order for the police oversight bodies to work effectively and be able to investigate complaints against the police, there must mechanisms in place to ensure that the complaints are lodged easily. These include the reporting system about misconduct which must not be hindered or fees be demanded in the filing of a complaint. The office of UNODC ⁶⁶ states that the; ‘In addition to ensuring that the members of the public can file a complaints directly with the police, there should be alternatively such as the possibility of filing with a body that is independent of the police or prosecutor’s office.’⁶⁷ This approach protects complainants against police intimidations which normally make it impossible or difficult for public to report about police misconduct. There are best practices that have to be followed in the reporting of complaints against police which include the following:

- Discouraging people from making complaints
- Refusing to accept complaints against police
- Refusing to records complainant’s statement on relevant registers
- Falsifying information on the register
- Twisting or distortion of facts
- Denying complaints opportunity to elevate up his dissatisfaction about action taken.
- Informing the complainant about the progress regarding his complaint

⁶⁵ Mary Seneviratne, ‘Policing the Police in the United Kingdom’ (2004)4 Policing & Society 329.

⁶⁶ UNODC, ‘Handbook on Police Accountability, Oversight and Integrity: Criminal Justice Handbook Series’ (2011 United Nations Publication).

⁶⁷ Ibid at page 34.

It is a good practice to have the independent oversight body to oversee the activities to the police and share similar responsibilities with the police institution management. Not only should the independent oversight receive complaint reported to them, it is a good practice to be able take or start investigation on their own initiative without necessarily been told to do.⁶⁸ Information may come to their knowledge in various ways which include media reports about police misconduct or just their own observation.

Other than submitting reports before the parliamentary portfolio committees, which may not receive public attention, it must be a regular practice to publicise the information for the public consumption either on monthly or quarterly basis so as it will be know that there is something that the oversight body is doing. ‘The aim is to establish, restore or enhance public confidence, to disclose the number of complaints received, the nature of the complaints and their consequences, including numbers of officers who have been disciplined or criminally charged.’⁶⁹ This information sends a clear message to the police officers that their conduct will be dealt with and also the public will surely have trust in the system that their report are being acted upon.

3.3 The Features of an Effective Police Oversight

In order to have an effective oversight, it must be possible for the complainant or an aggrieved or concerned person to be able to lodge complaint directly with the oversight body. There must be not hindrances or bottlenecks in the complaint processes. The oversight body staff must be able to interview the complainant and be able to provide progress as regards the status of the matter under inquiry.

In addition to this the oversight body must be able to make some follow-ups and provide feedbacks to the complainants. This will enhance the relationship the body will have with the community who will continue providing assistance in order to root out corruption and violation of human rights by police. As it is not easy to report anything about the police, providing feedback will undoubtedly be enhanced. If complainant never hears about the outcome of their

⁶⁸ Ibid 36. Sometimes information may come to the authority by way of general concern by public over the local radio station or even a can that has been lodged before the court. The oversight body must be able to follow it up.

⁶⁹ Ibid.

complaint, they can be demoralized, frustrated and can lose confidence in the system that is believed to be in place to address complaints against the police.⁷⁰ It is imperative to have a standard procedure in place whose aim is to inform the complainant about the progress taken in the follow up of the complaint made with the authority. In this way, the public will have a trust that police officers do not commit breach with impunity.

Not only the oversight must be able to make follow ups, it must be able to investigate complaints lodged with the body and take necessary steps to bring those who are implicated into book. The investigation serves several purposes such as establishing the veracity or otherwise of the complaint, guide in the decision making and prevention of damage to the reputation of the organisation when the truth is known about the allegation that has been levelled against a particular police officer. In other words, the investigation may establish that the complaint was false or vexations or malicious against certain police officer or that there was no such incident that took place.

In order to establish the involvement of the police in the complaint made with the authority, the police officers and witnesses must be compelled to assist in the investigation as well as providing documents such as registers evidencing for example in case a person has died in custody that indeed there was such as person who was arrested and detained. On in cases of allegation of police accepting bribery at the road, schedule of duties to prove that indeed one police officer was on duty at that particular place at a material time. ‘In cases where the complaint is about the victim who died as a result of police action, the burden of proof falls on the police to explain how the complainant was injured in custody.’⁷¹ This means police are the one to assist in the investigation of any allegation that took place in the vicinity of the police area.

3.4 The Police oversight body in other Countries

There is a general concern regarding perpetual human rights violation by the police officer in the performance of their duties and the police management seem reluctant to bring those who are

⁷⁰ Ibid (n 58) 36.

⁷¹ Ibid.

involved into book. The idea of citizen or independent police oversight mechanisms has been suggested and adopted by majority of the countries world-wide. These oversight mechanisms are known as independent, external and civilian oversight mechanisms whose mandate is to ensure that police are scrutinised by non-police entities.⁷² These institutions exist notwithstanding the existence of the police internal mechanisms which are commonly known as complaints and discipline units and investigate allegation of misconduct and disciplinary matters within the police organisations.⁷³ These separate sections have been established in many jurisdictions to investigate police complaints in the government department which is responsible for policing sometimes with the aim of eradicating and tackling corruption within these organisations. There are countries that have been selected in order to check how their police oversights perform their mandate as well as their effectiveness. These are Republic of South Africa, United Kingdom, Denmark and Republic of Kenya.

3.4.1 Republic of South Africa

After the Republic of South Africa transitioned from Apartheid regime into Democratic system in 1994, there was a need to transform its police force from racist ideologies which had a trade mark of perpetual oppression and gross human rights violations to the police service which operate under democratic rule. In order to ensure that there is respect of fundamental human right and accountability of civil servants including police, the government found it fit to establish mechanism of police accountability. This mechanism was created to instil answerability by the members of the police service for their misdeed. Independent and external machinery was formed to receive serious complaints of abuse human rights abuse by South African Police Service (SAPS) as an integral constituent of accountability system.⁷⁴ Unlike its processor the Independent Complaints Department (ICD) which was formed in terms of the South African Police Service Act, which gave an impression of the link or somehow a connection to the SAPS, the Independent Police Investigation Directorate (IPID) was established in terms of Independent

⁷²Graham Smith, 'International Police Complaints Reform' <[Microsoft Word - SMITH_CPTat25_240315 \(coe.int\)](#)> accessed on 13 May 2023.

⁷³ Ibid.

⁷⁴ Julie Berg, 'Civilian Oversight of Police in South Africa: From the ICD to IPID' (2013)14 Police Practice & Research 144.

Police Investigation Directorate Act.⁷⁵ Among the serious cases that it is mandated to investigate includes:

- Death in police custody or as a result of police action
- Complaints related to the discharge of a firearm
- Rape by a police officer (whether on or off duty)
- Rape of any person while is in custody
- Complaints of torture or assault
- Corruption which the Executive Director can initiate
- Any referral matter that the Minister or Secretary of the Civilian Secretariat for Police

In addition to this the IPID can investigate any offences on receipt of a complaint which it can refer to SAPS or cases relating to systematic corruption with service delivery linkage.⁷⁶

One peculiar aspect of investigation processes IPID has in the execution of its mandate is to receive report of any incidence from the SAPS within the 24 hours of being aware of the act or its occurrence. The SAPS is also mandated to submit a written report to IPID with 24 hours of the knowledge of the incident. The IPID Act further compels the members of the SAPS to cooperate with the IPID investigations including making police officers available for interviewing and providing affidavit, production of documents that may be required for investigation purposes. Above all these, the National Commissioner is mandated and compelled to take disciplinary measures within 30 days if IPID recommends such an action. Furthermore, the National Commissioner is required to submit progress report quarterly to the Minister of Police as well as submitting a report once the disciplinary measures are finalised.⁷⁷ As an indication of the seriousness of this body, it is an offence and penalty is attached for any police officer who fails to assist in the investigation when he is required to do so. This clearly shows that issues of police accountability and mischief are not tolerated in the Republic of South Africa taking into account the mechanisms that are in place to address such.

⁷⁵ No. 1 of 2011.

⁷⁶ Ibid (n 47) 149.

⁷⁷ Ibid.

3.4.2 *United Kingdom*

There are factors that influenced the establishment of the police oversight body in the United Kingdom. The authorities in the country have found it imperative to have a mechanism in place to deal with police misconduct issues in order to avoid recurrence of similar incidences. These incidences included death of many people as a result of unprofessional and discriminatory approaches in policing issues. Following the Brixton uprising between black students and Metropolitan Police,⁷⁸ where police were accused of brutalising and targeting black community.⁷⁹ The murder of Stephen Lawrence Inquiry in 1999,⁸⁰ which was led by Sir William Macpherson uncovered major failings in the crime investigation and treatment of victims of crime by police. According to Menter and Walker, the case demonstrated among others that neither perpetrators of the crime convicted, nor disciplinary measures taken against the police for errors portrayed in the investigation of the matter.⁸¹

As a reaction to these findings, the Independent Police Complaints Commission (IPCC) was established in terms of the Police Reform Act 2002 which was amended by the Policing and Crime Act 2017. Its core mandate includes independently investigating most of the serious cases. Receive referral cases which were initially investigated by the police where members of the public may indicate some dissatisfaction. Like IPID in the republic of South Africa, the Police are obliged (mandatory referral) to refer to IPCC incidents where a person has died or injured seriously from direct or indirect contact with the police and it is believed that the death or injury is attributable to the police conduct.⁸² In addition to this, IPCC can act on its own initiative or upon the information received from whistle-blowers. Apart from that it can come into play where it may call upon any case to be referred to it if it appears that the matter is sensitive and there is

⁷⁸ John Izbicki, 'Opinion' (2006) *Education Journal* 18.

⁷⁹ where according to Izbicki that riot ensued when the two policemen went to the assistance of a black young man who had been stabbed with a knife got confronted with swam of black and white angry youths

⁸⁰ Stephen Lawrence was murdered on 22 April 1993 in an unprovoked racist knife attack in Eltham, South London. The Inquiry into his murder led by late Sir William Macpherson uncovered major failings in the police investigation and the way Stephen Lawrence's family and his friend Duwayne Brooks were treated.

⁸¹ Ian Mener and Maggie Walker, 'How Would a Well-Educated Young citizen react to the Stephen Lawrence inquiry? An Examination of the Parameters of the Current Models of Citizenship Education' (2000)11 *Curriculum Journal* 101.

⁸² *Ibid* (n 39) 61.

serious concern regarding public confidence into the system of investigation.⁸³ Similar to what IPID can do, IPCC refers the case to Crown Prosecutor for criminal persecution or recommend disciplinary measures against the police concerned.⁸⁴ Where there is no compliance with, IPCC can overrule and takes the matter up and proceed with the disciplinary actions against the police.

3.4.3 Denmark

Denmark is one of the countries in the world which ranks very low in the corruption involvement according to Corruption Perception Index in 2020.⁸⁵ It has established the Danish Independent Police Complaints Authority (IPCA), which handles investigation of criminal cases against the police officers, considers and decides complaints against police misconduct. 'It is thoroughly independent, as it has no ties either with the Police, Prosecutor or Ministry of Justice. 'It is manned by jurists and investigators who are employed by the authority headed by Police Complaints Council.'⁸⁶ In cases which have penal element in them, such as police violence, unlawful searches or complaints about valuables disappearing while in police custody, they are investigated and handed over to the District Attorney who may decide to press criminal charges or not.⁸⁷ At least it may take cases for prosecutions rather than returning them back to the police like the PCA in the Kingdom of Lesotho. The Danish IPCA does not effect arrest, instead it refers matters back to the local Commissioner in order for him to take necessary actions. Its mandate mere is inquisitorial in nature in that it makes inquiries as to whether did police did the conduct complaint of so that police should handle the complaints not the IPCA. It has a referral element even though it is independent and has no connection whatsoever in the carrying out of its investigative tasks.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Alexandra Zamfirache, 'The representation of CPI, for the countries in the European Union, as of 2020, shows that Denmark is the least corrupted country in the European' (2021) 14 Union'Bulletin of the Transilvania University of Brasov 165 < [Business Ethics. Corruption Perception Analysis | Bulletin of the Transilvania University of Brasov. Series V: Economic Sciences \(unitbv.ro\)](#)>accessed on 22 May 2023.

⁸⁶ Lars Holmberg, 'In Service of the Truth? An Evaluation of the Danish Independent Police Complaints Authority' (2019) 16 European Journal of Criminology 511.

⁸⁷ Ibid

3.4.4 *Republic of Kenya*

The police oversight body in Kenya is established in terms of The Independent Police Oversight Authority Act.⁸⁸ Unlike majority of African countries except the Republic of South Africa, Kenya is another country in Africa that has civilian police oversight body that is independent. The Constitution of Kenya establishes the National Police Service,⁸⁹ whose objectives are clearly spelled out as among others to include a strive for the highest standards of professionalism and discipline among its members. It is the duty of the NPS to prevent corruption and promote and practice transparency and accountability among its members as well as complying with standards of human rights and freedoms.⁹⁰ Its core mandate is to enable National Police Service (NPS) to strive the highest standards of professionalism and discipline, prevention of police corruption as well as promotion of transparency and accountability.⁹¹ The IPOA primary functions include among others the following;⁹²

- To investigate deaths and serious injuries caused by police action and recommend disciplinary action or prosecution with the intent of prevention impunity and enhancing accountability
- To investigate police misconduct based on complaints from members of the public and it may refer cases to appropriate bodies, such courts including seeking intervention to ensure that its recommendations are implemented.
- Monitor, review and audit investigations and actions by the internal affairs of the police so as to independently verify that their internal police systems deal with complaints against officers fairly and effectively and if necessary take over the investigation if not satisfied with the internal affairs unit's interventions.
- Inspect detention facilities of NPS to ensure that they meet standard and treatment of suspects and detainees are in line with the principles laid down in the Kenya Constitution.

⁸⁸ No. 35 of 2011.

⁸⁹ Article 243.

⁹⁰ Article 244 clearly what the roles of the National Policing Service in the Republic of Kenya is and how it has to maintain the highest standard of competence and integrity of its staff as well as the respect of human right and fundamental freedoms.

⁹¹ Ibid (n 16) s 5. This gives effect to Article 244 of the Republic of Kenya Constitution.

⁹²Ibid s 6. See also Kempe Ronald Hope, 'Civilian Oversight of the Police: The Case of Kenya' (2020)93 The Police Journal 167.

- Monitor and investigate policing operations and deployment to ensure that policing is conducted for the benefit of the people of Kenya, and where excessive use of force and abuse of power is detected, independent investigations and remedial action is recommended.
- Take all reasonable steps to facilitate accesses to the Authority’s services by the public.
- Publish findings of its investigations, monitoring, reviews and audits and provide recommendations for improvement of the functioning of the NPS.

Hope states that; ‘Based on the IPOA’s functions and operational powers, and given the types of civilian oversight models, it falls into the category of an investigation of civilian oversight of the police.’⁹³ The features of the IPOA indicate that there is a democratic control of police powers which guarantees protection of human rights of individuals as well as accountability for misdeeds.

3.5 Code of Conduct of Police Officers

Despite the existence of the police oversight institutions to ensure that the police organisations perform their duties diligently and professionally with the accountability mind, there is also the Code of Conduct for law enforcement officials. These are the guidelines for police in the performance of their statutory mandate which indicate that they must be wary of boundary lines beyond which they must not cross. These are the resolutions of the General Assembly resolutions 34/169 of 17 December 1979. Article 2 of the code states in explicit terms that; ‘in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.’ Force may be used sparingly to the extent it is necessary for the performance of duty. Section 24(2) of the Police Service Act authorises police officers to use arms such arms as have been authorised by the Police Authority, and the use of such firearms must be for performance of duties not anything else. This includes in situations where one has to effects arrest and uses for to ward off the attack against the arrester.⁹⁴ Torture or cruel, inhuman or degrading treatment must not be tolerated even under tiny margin.

⁹³ Ibid (n 61)

⁹⁴ See section 32 of the Penal Code Act No. 6 of 2010.

Police officers as law enforcement officials must shun away from acts of torture and brutality and avoid instigating it. It goes to corruption as well which has to be rigorously opposed. The adherence to the code of conduct of law enforcement officials may, reduce act of police brutality and as such improve police legitimacy as well as public trust.

3. 6 Conclusion

The independent oversight mechanisms have something in common; they are able to conduct independent investigations where there are serious misconducts that are alleged to have been committed by the members of the police service. It is able to exercise its own discretion as the regards the nature of decision to take against concerned police officers, which include sending the matter to the prosecuting authority for criminal trial or forward recommendation to the police management for internal disciplinary actions. In the exercise of its powers, it acts without the interference or intrusion by the police management or any other person. In order to perform this task effectively, the appointment of staff to man the independent oversight body may be drawn from people with highly knowledgeable in matters of investigation.

CHAPTER 4

THE POLICE OVERSIGHT MECHANISM IN THE KINGDOM OF LESOTHO

4.1 Introduction

There are features of the independent police oversight mechanisms which prove to be effective in order to hold police officers accountable for their misconduct and ensure that they perform their policing duties professionally. The questions that has to be interrogated is whether PCA meets the similar features which enable it to perform its mandate effectively to address the glaring police brutality in the Kingdom of Lesotho and other misconduct. This chapter focuses on the establishment of the PCA and its main functions in dealing with complaints against the members of the LMPS. Further that it looks at its performance indicators starting from the time it has officially given mandate to investigate police conduct. Lastly the chapter looks at some cases before the courts which show the nature of police misconduct that LMPS is normally claimed for damages caused.

4.2 Establishment of the Police Complaints Authority

In the Kingdom of Lesotho, there are few institutions which oversee police operational activities with little impact. These institutions include the Courts of Law, Ombudsman, Police Complaints Authority and Parliamentary Portfolio Committee of Law and Public Safety. The Courts of Law sometimes make some remark when they pronounce themselves on the police behaviour towards the public they are employed to serve. For example, the High Court in the case of *Kabelo Ratia v Rantšo*,⁹⁵ Sakoane CJ had the following words to say; ‘This type of conduct bespeaks of the most despicable, sadistic behaviour and savagery to men and women in uniform have stooped contrary to their oath... This record must not be allowed to remain in the annals of the Lesotho Police Service. The Commissioner and the Police must act.’⁹⁶ The question that comes into one’s mind is what is expected of the police commissioner and the Minister responsible of police? What happens when the courts’ remarks fall into death ears?

⁹⁵ CRI/REW/23/2019.

⁹⁶ Ibid at paragraph 16.

Once would think that the expectation of the Chief Justice when making these remarks was that either the Commissioner of Police or Minister of Police will be taking referral steps of the matter to the PCA for investigations to be conducted. It however lacks power to deal with matters of this nature effectively other than making some recommendations which may not be implemented after investigations. In order to support this assertion the Chairperson of the PCA Doctor Mahlape Morai is quoted by the Reporter Newspaper⁹⁷ having said that; ‘After recommendation, there is nowhere the law allows us to make a follow-up on our recommendation or even be aware when our recommendations are instituted’ This is because the PCA in terms of section 22(5) read with section 22(6) is bestowed with limited investigative powers which include calling upon a person to give evidence and produce certain documents. It is an offence punishable by fine of M500 which is equivalent to about \$26 for any person who fails to comply with the summons issued by the PCA and assist in the investigations. What is even boggling is that no person can be summoned to assist with the PCA investigation, where the Commissioner of Police certifies that it is not in the public interest that such information be disclosed. The inference that is drawn from this provision is that in conducting its investigations regarding matters that involve allegations against police, the Commissioner of Police still has a say in the manner in which investigations are to be conducted. What happens when the Commissioner of Police is the one who is being investigated? This creates a paradoxical situation indeed as the purpose of the independent police oversight means the body must be independent from internal police department procedures. As Lumina puts it; ‘Independence of the oversight is designed to enhance the credibility or legitimacy of the complaints process in the eyes of the community.’⁹⁸

In the Kingdom of Lesotho, the PCA deals with referral complaints, its findings are recommended to the Minister of Police to decide to implement them or not. There is no mechanism to ensure that these recommendations have indeed been implemented or not. This on the face of it renders the PCA a toothless bulldog. Sakoane CJ remarked in *Kabelo Khabanyane v Commissioner of Police* that; ‘As presently constituted, the Police Complaints Authority does not bite simply because in the first place it was never intended to bite. It lacks power to directly

⁹⁷ ‘Malirata Latela, ‘PCA Startling Admission on Police ‘The Reporter (Maseru, 3 May, 2022) <[PCA startling admission on police - The Reporter Lesotho | Fresh News, Daily](#)> accessed 16 May 2023.

⁹⁸ Ibid(n 32)

receive complaints from the victims – let alone the power to investigate and prosecute.’⁹⁹ Apart from this, where the oversight body cannot do anything regarding holding police officers accountable due to its inability to do so because it lacks expertise or it is not in the better position handle the matter, such task must be delegated to the internal mechanisms of the police where the oversight plays monitoring of the disciplinary processes only. The two institutions must have mutual supportive mechanisms in place so as to root out acts of police brutality.

4.3 Complaint Procedures

In terms of the 22(3) of the Police Service Act, PCA investigates complaints from the members of the public about the conduct of a member of the Police Service. This shows that it has no power to investigate matter even those which are already in the public domain as long as they are not referred to it. For example, where there is a media report or outcry that certain members of the community were brutalised by police, the PCA hands remain tied until a referral has been made. In order to illustrate this assertion, Doctor Shale in her PhD Thesis,¹⁰⁰ tells an incident of one Tšeliso Thatjane, who was arrested and assaulted on suspicion of having stolen DVD, and the matter attracted media both local and international. Even though the victim did not lodge civil case against Commissioner of Police for torture, neither LMPS, PCA nor Ombudsman did anything about this matter.

Even when a person goes to PCA offices and reports about the conduct of the police members, there is absolutely nothing that it can be done unless the referral procedure has not been followed. A victim or a whistle-blower, who goes to the PCA’s office and reports the matter, he is interviewed in order to establish the nature of complaints he has. Once they get a feeling that it is a complaint against police misconduct, he has to be directed to the office of the minister of police so as the latter can officially refer the matter back to PCA. This was revealed by Brimoh, who stated that sometimes they tell the Minister to expect someone who complains about the

⁹⁹ Ibid at para 37. This also shows the inability of the criminal justice system to deal with prevailing police brutality and failure on this part to hold them accountable.

¹⁰⁰ Itumeleng ‘Mamokhali Shale, ‘Domestic Implementation of International Human Rights Standards Against Torture in Lesotho’ (PhD thesis, University of Witwatersrand, Johannesburg 2017).

police conduct. They even prepare a written referral directive for the Minister to append signature before forwarding the same complaint to PCA so as the matter becomes formal.

Unlike in other jurisdiction where similar institutions have power to act on their own initiative, the PCA has nothing akin to that. There is nothing in the law that suggests that the Commissioner of Police having obligation to refer matters of serious in nature to PCA such as deaths or serious assault perpetrated by police to people in custody. This indicates that public outcry about prevailing police brutality and plethoric deaths linked to police conduct and reigning culture of impunity observed by the courts, referral by COMPOL suggests the opposite view.¹⁰¹ This means the Commissioner of Police can sit with the very serious matter without referring it to PCA and nothing can be done to compel him to start investigation regarding such an incident. Unlike in other jurisdictions, where the Chief of Police is expected to take disciplinary actions against police officers who are implicated in the violations of human right or criminal activities like the South Africa does.

Notwithstanding all these, there is nothing in the form of an order of the court that has been done to compel the COMPOL to refer matters to PCA for investigation purposes. The only thing that has been done by the courts is making some remarks when delivering judgments are being handed down that COMPOL has to investigate these acts of brutality and bring the perpetrators to book.¹⁰² A writ of mandamus may be obtained to force him investigate the police brutality

¹⁰¹ Sakoane J in *Kabelo Ratia v Rantšo CRI/REW/23/2019*, shared the view that police brutality is rife in Lesotho and actions have to be taken., at para. 18 of the judgment; this despicable conduct completely destroys the image of the police as a service and constitutes a negation of humanity and a spit in the face of the values of our constitution. It is not a mere disciplinary offence but a serious crime. A police officer who engages in such a conduct is nothing but a criminal in uniform. He must be rooted out without much ado and face the full might of the law.

¹⁰² See also for example in *Tjela v Commissioner of Police C of A (CIV) No. 45; [2020] LSAC 23 (23 May 2021)* the Court of Appeal said; ‘we depreciate the escalating incidence of police brutality the culprits must be prosecuted to protect the rule of law.’ In the same vein, in *Khabanyane v Commissioner of Police & Others [2023] LSHC 11 Civ (2023)*, S.P. Sakoane said; ‘the call is directed to the Commissioner of Police, Director of Public Prosecutions and the Attorney General as the triumvirate bearing the constitutional duty to protect the rule of law by investigating, prosecuting and not defending the indefensible. A similar call was made in *Ratia v Magistrate Rantšo and Another CRI/REW/23/2019; [2019] LSHC 13 (11 September 2019)*, but nothing was done to bring the culprits to book.

matters as it is the LMPS mandate to investigate crime,¹⁰³ however this may not be a panacea to the problem as there will be no assurance that unbiased investigations will be conducted.

4.4 PCA Performance Indicators

Other than reports that PCA makes to the Police Minister, there is nothing like reporting before the Parliament or even to the public of what it is doing. There are no public reports that can be accessed regarding cases that were referred to PCA, that were investigated successfully, recommendations made to the minister and what those recommendations were if any, as well as whether there were some challenges that it encountered in the performance of their tasks. This means PCA performance cannot be gauged and its strengths, weaknesses and impediments in the performance of its mandate are not and cannot be known by people who get victimised by the police. Worst still, the public knows absolutely nothing about its existence and the role it plays in the investigations concerning police officers' misconduct. In a nutshell, there are no performance indicators.

Despite the unavailability of official data regarding PCA's performance, that is referrals received, matters investigated and report submitted to the minister according to the dictates of the Police Service Act, The Chairperson on the 3rd of May, 2023 provided the list of cases that was compiled by the Director Investigation indicating the progress made on each of these them. Table 1 below shows the number of cases that were received starting from January 2005 to March 2022. The first column shows serial number of the matter received in a given month. Each month starts with the new number. For example, during the month of January 2005, the first matter that was received was allocated Register number, 01/01/2005 and the last serial number of matter received is 06/01/2005

¹⁰³ Ibid (n 14) s 4.

Table 1. Progress on Complaints handled by PCA as at on March 2022

| REGISTER NO. | COMPLAINT LODGED BY | COMPLAINTS/DESCRIPTION | PROGRESS/STATUS |
|---------------------|----------------------------------|---|--|
| GCR-01/01/2005 | Lisa Ann Brennan – 22326814 | Bribery and threats by Police Officers at a road block between Leribe and TY | Not known |
| GCR-02/01/2005 | ‘Mapulane Mohlolo – 63103953 | Reluctance to investigate by Airfield Police Officers – Mr. Likate and Mr. Mohlapisi, Mr. Moerane and Mr. Kholo-Kholo of Maseru Urban Police. | Not known |
| GCR-03/01/2005 | Joseph Munsele – 58908193 | Reluctance to investigate the case of Joseph Munsele by Mabote Police. | Complaint withdrawn by the Complainant. |
| GCR-04/01/2005 | ‘Mamokone Dina ‘Matli – 58036021 | Reluctance to pay the debt of ‘Mamokone Dina ‘Matli by police officer Phatela (Police Headquarters – Souru). | Not known |
| GCR-05/01/2005 | Christopher Majoro | Escaping from police custody by detainee (Pitso Ground Police) | Not known |
| GCR-06/01/2005 | ‘Mahopolang Senekane | Disappearance of exhibits from police custody – Lithoteng Police Post | Complaint referred to the office of directorate. |
| GCR-01/02/2005 | Molikeng Thokoane | Reluctance of police to offer services – Morija Police | Complaint referred to police headquarters for intervention (complaints and discipline) |
| GCR-02/02/2005 | Leketa Makha – 58867449 | Reluctance to offer services – CID Mafeteng (Mafantiri) | Not known |
| GCR-03/02/2005 | Adv. Thulo Mahlakeng | Murder in custody – (Tsietsi Noko, Lehlohonolo Moabi and Lerato | Not known |

| | | | |
|----------------|--------------------------------|---|--|
| | | Lieta – Maputsoe and Hlotse Police | |
| GCR-04/02/2005 | Tumisang Ntsene – 58988263 | Assault and abusive language in police custody – Lithoteng Police, especially Shadrack and others. | Not known |
| GCR-01/05/2005 | ‘Mants’iuoa Rabolinyane | Reluctance to offer services – Thamae Police | Not known |
| GCR-02/03/2005 | ‘Makamohelo Chabana – 58727117 | Refusal to pay shoes purchased from ‘Makamohelo – Mabote Police Officer Mothibeli. | Complaint referred to the Director’s office for intervention. |
| GCR-03/03/2005 | ‘Mathapelo Ncheke – 58747491 | Reluctance to pay debt of ‘Mathapelo Ncheke – ‘Mats’obotsi Mosenene CEO Mabote Police Station | Not known |
| GCR-04/03/2005 | Sehloho Thulo – 22311429 | Reluctance to provide service and assault of Sehloho Thulo – Mahase and Pitso Ground Police. | Complaint referred to director’s office for intervention. |
| GRC-05/03/2005 | Morenakemang Nkhahle | Poor service delivery and abusive language to Morenakemang Nkhahle – Matela Police Post and Mabote Police Station | Not known |
| GCR-07/03/2005 | Mothabeng Rants’ili | Reluctance to investigate a case of Mothabeng Rants’ili – Airfield Police – Mr. Khahleli, Mr. Mohlapiso, Mr. Mokhele, Mr. Moerane | Complaint referred to police headquarters for intervention. (complaints and discipline). |
| GCR-01/04/2005 | Muwanika Muwanika John David | Reluctance to investigate a case of Muwanika Muwanika John David by Mafeteng Police | Not known |
| GCR-02/04/2005 | Teboho Matsetsela - 22785213 | Theft of exhibit M400.00 (four hundred maloti) of Teboho Motsetsela – ‘Me Kabelo a police | Complaint withdrawn by the complainant. |

| | | | |
|----------------|---------------------------|--|---|
| | | officer at Thamae Police Post | |
| GCR-03/04/2005 | Molelekoa Mahlomola | Tampering with evidence/ exhibits in order to distort evidence by Chobokoane – police officer at Central Charge office | Not known |
| GCR-04/04/2005 | Halejoetsoe Tau | Reluctance to offer services to Halejoetsoe Tau – Sehlabathebe Police at ha Paulosi | Not known |
| GCR-01/05/2005 | Thapelo Mosia - 58924088 | Unlawful arrest and assault of Thapelo Masia – Qhojeng and others – Maseru Central Charge Office | Not known |
| GCR-02/05/2005 | ‘Mamorena Akhente | Reluctance to offer services to ‘Mamorena Akhente – Pitso Ground Police | Not known |
| GCR-03/05/2005 | ‘Maseipati Molapo | Reluctance to offer services to ‘Maseipati Molapo – Mafeteng Police | Complaint referred to director’s office for intervention. |
| GCR-04/05/2005 | Paballo Monesa - 27000781 | Assault and torture while in police custody of Paballo Manesa by Lerothe Traffic Busstop, Moalosi Traffic Busstop, Masoabi Traffic Busstop and one unknown police officer, another police Traffic Busstop – Maseru urban | Not known |
| GCR-01/06/2005 | ‘Malineo Motheolane | Assault GBH of ‘Malineo Motheolane by Police officer ‘Musu and Police officer Lehana of ‘Muela Police | Not known |
| GCR-02/06/2005 | Neo Mosoeunyane | Malicious confiscation of property of Neo Mosoeunyane – Central Charge Office – Ranko and Thamae | Not known |
| GCR-03/06/2005 | Sekhoane Matjeane | Assault common and malicious injury to property; and failure to | Complaint withdrawn at PCA as there was a |

| | | | |
|----------------|---------------------------------------|--|--|
| | | investigate thereof of Sekhoane Matjeane by Mokhotlong Police by Trooper Molelle | case opened at Mokhotlong police station and it was given directives by the DPP—L/DPP/05/598. RCI 111/05/2005 |
| GCR-04/06/2005 | Letjama (4+1 driver) – 63024103 | Assault common and reluctance to offer services to Letjama – Dispol Mathaha – Mokhotlong | Not known |
| GCR-01/07/2005 | Moruthane Tumelo Moruthane – 22314991 | Failure to investigate of Moruthoane Tumelo by Morija Police and Pitso Ground Police | Not known |
| 02/07/2005 | Enia Peo Morojele – 63139411 | Reluctance to offer services and to investigate a stock theft case since 2000 of Enia Peo Morojele – Case referred to the Minister | Report sent to Police Authority for intervention. |
| GCR-01/08/2005 | Thapelo Sekotlo - 58700177 | Assault GBH and abusive language and robbery, kidnapping of Thapelo Sekotlo by ‘Mamonyake Mona – Palace of Justice police officer. | Not known |
| GCR-02/08/2005 | Police Authority | Malicious damage to property and assault GBH – Qacha’s Nek Police | Not known |
| GCR-01/09/2005 | Phakoe Manyala – 58850003 / 22313132 | Assault of Phakoe Manyala – Traffic Police in Maseru – Trooper Senthebane | Not known |
| GCR-02/09/2005 | Ralikhomo Ralikhomo | Assault GBH, abusive language, unlawful arrest and over detention | Not known |
| GCR-03/09/2005 | Phole Toloane | Assault common and malicious arrest of Ralikhomo Ralikhomo by a member of Roma and Raleqheka Police | Not known |
| GCR-01/10/2005 | ‘Mathabang Emma | Attempted murder and assault GBH of ‘Mathabang Emma Rapuleng by | Not known |

| | | | |
|----------------|------------------------------|---|---|
| | Rapuleng | Lance S. 'Mota of Mafeteng Police | |
| GCR-01/11/2005 | Liphumi Khoete | Assault common Liphumi Khoete by Roma Police | Not known |
| GCR-04/11/2005 | Keleng Lethoko | Death of Thabang Lethoko (murder) Police Headquarters – SOU | Not known |
| GCR-05/11/2005 | Mokone Nts'ohi | Assault common of Mokone Nts'ohi by Roma Police Pamo Motsoko, Lekhanya Motaung and others | Not known |
| GCR-01/12/2005 | Letele Phalatsi | Assault common and theft of money M640.00 (six hundred and forty maloti) of Letele Phalatsi – Police officer Mahase and two others | Not known |
| GCR-01/01/2006 | Raselonyane | Assault common of Raselonyane – Lithoteng Police – Ketelo Chofa and Shale | Not known |
| GCR-02/01/2006 | 'Mamotena Rapoeng – 58128994 | Arson by Police of operation | Not known |
| GCR-03/01/2006 | Lelingoana Ratiea – 27001587 | Assault, malicious arrest and over detention of Lelingoana Ratiea – Mohale /Molise | Complaint sent to the office of the directorate for intervention. |
| GCR-04/01/2006 | Lebohang Lefulebe | Assault GBH of Lebohang Lefulebe – Thamae Police – Posholi, Hloele and others. | Not known |
| GCR-01/02/2006 | Lucia Lefatle – 58036234 | Dispossession of a vehicle F0664 a navy blue Honda ballade in 2001 and passed over to the next person without and court ruling – Lucia Lefatle – Lefasa and Ntiee | Report sent to the Police Authority for intervention. |
| GCR-01/04/2006 | 'Mankileng | Assault common inhumane treatment unlawful arrest and over | Not known |

| | | | |
|--------------------|--|--|---|
| | Raposholi | detention of 'Mankileng Raposholi – Butha-Buthe CID Personnel | |
| GCR— 02/04/2006 | Thetso Mokoena – 58103305 | Unfair dismissal from the work as a shepherd and deprived of his ATM card and PIN of ThetsoMokoena – PHQ and Mofoka Police – Sgt. Makepe | Not known |
| GCR- 01/05/2006 | Thabo Nthimo – 58951940 | Malicious arrest and assault GBH of Thabo Nthi,o – Pitso Ground Police – CID – Trooper Tsiane | Not known |
| GCR- 01/07/2006 | Molete Maraisane – 58060462 / 22400226 | Assault common of Molete Maraisane – Mofoka Police Post – Trooper Mafeke, Trooper Lebona and Trooper Qaane | Not known |
| GCR- 01/08/2006 | 'Masam Tlebere | Assault of son in police custody of 'Masam Tlebere – Lithoteng Police – Mateane Molefi | Not known |
| GCR- 01/09/2006 | 'Matumelo Sethunts'a – 58845403 | Malicious arrest and assault of 'Matumelo Sethunts'a – Pitso Ground Police | No known |
| GCR- 01/11/2006 | 'Matiisetso Ralitjeleng | Murder of Khosi Ralitjeleng – Mabote Police | Report sent to the Police Authority for intervention. |
| GCR- 01/01/2007 | Mphalla Shao c/o Ombudsman 22316425 | Torture and assault Mphalla Shao – Thaba-Tseka Police – Sekhonyana, Rasethunts'a and Koloji | Not known |
| GRC- 02/01/2007 | Phetho Matla – 58120788 | Assault common of Phetho Matla – Pitso Ground Police | Report sent to Police Authority for intervention. it was later discovered that it has been sent to MCCO for investigation; SUPT Theko and SIO |

| | | | |
|----------------|---|--|---|
| | | | Rafolatsane discussed the matter. |
| GCR-01/02/2007 | Lerotholi Lerotholi – 58417694 | Torture and assault of Lerotholi Lerotholi – CID Pitso Ground – Nkhahle, Shale and others | Not known |
| GCR-02/02/2007 | COMPOL | Shooting at Setsoto stadium Likhopo and Lioli supporters | Referred to Police Authority for intervention. |
| GCR-01/05/2007 | Police Directorate and Police Authority | Assaults and torture at police station – Police Qacha’s Nek | Not known |
| GCR-01/06/2007 | Lisema Kanono - 58478493 | Assault and attempted murder of Lisema Kanono - CID | Not known |
| GCR-01/10/2007 | Police Directorate | Death of Samuel Mokoenyana | Report sent to the Police Authority for intervention. |
| GCR-02/10/2007 | ‘Matatolo Kapeisi – 58972563 | Murder of ‘Matatolo Kapeisi – Matela Police – Simone Pokothoane and Nooe Matiase and others. | Not known |
| GCR-01/06/2008 | COMPOL | Death of Mosiuoa Mosiuoa in police custody | Not known |
| GCR-02/06/2008 | Police Authority | Death of Peter Ntsane while resisting arrest by the police | Not known |
| GCR-01/08/2008 | Principal Secretary – Home Affairs | Police auctioned his vehicle illegally | Report sent to the Police Authority for intervention. |
| GCR-01/10/2008 | COMPOL | Death of Telle Secheche in police custody in Mafeteng | Not known |
| GCR-01/12/2008 | | Poor service delivery and sexual harassment | Not known |
| GCR-01/02/2009 | David Mochaba | Assault and unlawful arrest of David Mochaba of Sekamaneng – | Not known |

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| | | Police SSU in Semonkong. | |
| GCR-02/02/2009 | Khants'i Khama | Murder of Mosooanyane Moketa and one police officer 'Moso att Thaba Tseka | Not known |
| GCR-01/06/2009 | Senei Moshoeshoe | Murder Sekete Moshoeshoe at Sehlabeng sa Thuathe | Not known |
| GCR-02/06/2009 | Mojalefa Lenono | Unwarranted release of vehicle | Not known |
| GCR-03/06/2009 | COMPOL | Search without warrant People's Choice FM | Report sent to the Police Authority for intervention. |
| GCR-01/07/2009 | Thabang Motenalapi | Death of Thato Mahlehlele | Report sent to the Police Authority for intervention. |
| GCR-02/07/2009 | 'Mamoahloli Alinah Mohlominyane | Death of Moitlhahisi Mohlominyane | Report sent to the Police Authority for intervention. |
| GCR-03/07/2009 | Khoase Noha Seqhoe | Assault and malicious arrest of Ha Noha villagers | Report sent to the Police Authority for intervention. |
| GCR-01/10/2009 | Police Directorate | Death of NUL student and assault to others | Report sent to the Police Authority for intervention. |
| GCR-02/10/2009 | COMPOL | Torture/assault of Nokong Berea villagers | Report sent to the Police Authority for intervention. |
| GCR-01/04/2010 | COMPOL | Torture/ assault | Report sent to the Police Authority for intervention. |
| GCR-01/05/2010 | Police Authority | His van seized by the police and when it was returned to him some of its contents were missing. Compensation for loss of business | Report sent to the Police Authority for intervention. |

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| | | and missing contents (Mr. M. Nts'oeu) Traffic Police and Pitso Ground Police | |
| GRC-02/05/2010 | Nts'oeu | | Complaint sent to the office of directorate for intervention. |
| GRC-03/05/2010 | Letele | Unlawful arrest and assault of Letele by Police Leribe | Report sent to the Police Authority for intervention. |
| GCR-01/07/2010 | Raphael Lenea - | Damage to property and death of three people (Raphaele Lenea) – Maputsoe Police | Report sent to the Police Authority for intervention. |
| GCR-02/07/2010 | 'Marethabile Sephaphathi – 59493928 | Death of Thuso Taaso and police reluctance to arrest the suspect – Police officer at Matela and Maseru CID | Report sent to the Police Authority for intervention. |
| GCR-03/07/2010 | Daniel Vusumuzi - 59783334 | The police asked him to give them M1000.00 (one thousand maloti) and M100.00 (one hundred worth of petrol in return for his car keys and documents – Daniel Vusumuzi Nkosi – Police Headquarters | Not known |
| GCR-04/07/2010 | Police Directorate | Death of Mikael Makara Lebelo – Pitseng Police Station | Report sent to the Police Authority for intervention. |
| GCR-01/08/2010 | Mohale Bulane | Poor service delivery by Morija Police to Mohale Bulane | Report sent to the Police Authority for intervention. |
| 02/08/2010 | Tsae Villagers | Assault common by Pitseng Police to Thaba-Phats'oa, ha Tsae villagers | Report sent to the Police Authority for intervention. |
| GCR-01/10/2010 | Khants'i Khama | Shooting and killings at Motete village by Mokhotlong Police | Report sent to the Police Authority for |

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| | | | intervention. |
| GRC-02/10/2010 | Selone Rachere | Torture of Selone Rachere by SSU Police | Report sent to the Police Authority for intervention. |
| GCR-01/11/2010 | Raphael Lenea | Assault and damage to property of Raphael Lenea by Hlotse Police | Report sent to the Police Authority for intervention. |
| GCR-01/01/2011 | Thabelang Lerotholi – 58753215 | Assault and torture Ithabeleng Lerotholi by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-02/01/2011 | Police Directorate | Torture of villagers by Berea Police | Not known |
| GCR-03/01/2011 | Police Directorate | Poor service delivery to Mr. Malitse by Berea Police | Report sent to the Police Authority for intervention. |
| GCR-04/01/2011 | COMPOL | Service delivery on the case of car accident | Not known |
| GCR-01/05/2011 | COMPOL | Death of Pheello Molefi in police custody | Report sent to the Police Authority for intervention. |
| GCR-02/05/2011 | Police Directorate | Unsatisfactory investigation on a vehicle collision | Report sent to the Police Authority for intervention. |
| GCR-03/05/2011 | Police Directorate | Negligence of duty | Report sent to the Police Authority for intervention. |
| GCR-04/05/2011 | COMPOL | Assault common of Thabiso Monts'i by Mabote Police | Report sent to the Police Authority for intervention. |
| GCR-05/05/2011 | COMPOL | Assault common of Neo Tumahole by Mabote Police | Not known. |
| GCR-01/06/2011 | Police Directorate | Assault common of Thakane | Report sent to the |

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| | | Rampokanyo by Thamae Police | Police Authority for intervention. |
| GCR-02/06/2011 | Motlalentoa Hlehlisi | Assault common and torture of Motlalentoa Hlehlisi by Mofoka Police | Report sent to the Police Authority for intervention. |
| GCR-01/07/2011 | Lipetu Villagers | Torture of Lipetu villagers and murder by Leribe and SOU Police | Report sent to the Police Authority for intervention. |
| GCR-02/07/2011 | Thaba-Bosiu Villagers | Torture of Ntlokholo villagers and murder | Not known |
| GCR-03/07/2011 | Hlants'i Family | Death of Seabo Hlantsi of Ha Lejone by Lejone Police | Not known |
| GCR-04/07/2011 | Habofanoe's family | Death of Habofanoe of Sefikeng by Sefikeng Police | Not known |
| GCR-01/10/2011 | 'Mamathe Binyane | Shooting and injury to one 'Mamathe Binyane of Ha Mpiti Qachs'a Nek by Qacha's Nek Police | Report withdrawn from PCA (out of court settlement in progress). |
| GCR-02/10/2011 | Police Directorate | Poor service delivery by Thaba-Tseka Police | Not known |
| GCR-01/06/2012 | Tumelo Moruthoane | Poor service delivery | Complaint withdrawn from PCA (complainant advised to appeal and consult with Legal AID). |
| GCR-01/07/2012 | Police Authority | Assault and poor service delivery | Report sent to the Police Authority for intervention. |
| GCR-01/08/2012 | Police Authority | Death of Moeketsi Pesa by Mafeteng Police | Report sent to the Police Authority for intervention. |
| GCR- | Phanda Mofolo | Poor service delivery to Mr. Phanda | Report sent to the |

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| 01/10/2012 | | Mofolo by Thaba-Tseka Police | Police Authority for intervention. |
| GCR-02/10/2012 | 'Mathungthung Makhakhe | Failure to execute a court order for Mathungthung by Maseru Central Police | Complaint withdrawn from PCA and sent to the Master of The High Court. |
| GCR-01/11/2012 | Baba Mahanetsa | Baba Mahanetsa deprived his horse by Ramabanta Police | Report sent to the Police Authority for intervention. |
| GCR-02/11/2012 | Malefetsane Ts'ehla | Torture/assault of Malefetsane Tsehla by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-03/11/2012 | Thabiso Lekitla | Torture/assault by Masupha Molapo | Report sent to the Police Authority for intervention. |
| GCR-04/11/2012 | 'Malesia Lenka | Death of 'Malesia Lenka as a result of police action and poor service delivery by Lithoteng Police | Report sent to the Police Authority for intervention. |
| GCR-01/02/2013 | Litaolana Thetsane | Assault GBH of Litaolana Thetsane by SOU Mabote | Report sent to the Police Authority for intervention. |
| GCR-02/02/2013 | Mokheseng Thipe | Assault and torture of Mokheseng Thipe by Roma Police Mojakisane Ts'ukulu, Mots'oane and others | Report sent to the Police Authority for intervention. |
| GCR-03/02/2013 | Chilone Phakoane | Poor service delivery for Chilone Phakoane by Sehlabathebe Police | Report sent to the Police Authority for intervention. |
| GCR-04/02/2013 | Police Directorate | Sexual offence in custody – Mapholaneng Police | Report sent to the Police Authority for intervention. |
| GCR-05/02/2013 | Police Authority | Negligence by the police - 'Mathato Matthews – Central Charge office | Not known |

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| | | and Pitso Ground Department | |
| GCR-06/02/2013 | Police Authority | Assault by Berea Police – T. Lethole | Report sent to the Police Authority for intervention. |
| GCR-07/02/2013 | Rets’elisoetse Khalema | Service delivery to Rets’elisoetse Khalema – Morija/Mafeteng Police | Not known |
| GCR-08/02/2013 | Police Authority | Assault GBH poor service delivery and theft – Mofoka Police | Report sent to the Police Authority for intervention. |
| GCR-01/01/2014 | Motlalentsoa Malitse | Assault GBH Motlalentsoa Malitse | Report sent to the Police Authority for intervention. |
| GCR-01/03/2014 | Police Authority | Poor service delivery – Ramphefi of Motimposo – Mabote Police | Report sent to the Police Authority for intervention. |
| GCR-02/03/2014 | Jimmy Likhetse Moea | Assault GBH and murder of Songoane Moea by Quthing Police | Report sent to the Police Authority for intervention. |
| GCR-01/04/2014 | Police Authority | Poor service delivery CGPU Maseru | Report sent to the Police Authority for intervention. |
| GCR-02/04/2014 | Police Authority | Torture and poor service delivery – Mabote Police | Report sent to the Police Authority for intervention. |
| GCR-03/04/2014 | Police Authority | Torture and poor service delivery by Police Headquarters - Hlalele | Report sent to the Police Authority for intervention. |
| GCR-04/04/2014 | Police Authority | Assault GBH of Hape Nkopi and poor service delivery – Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-01/05/2014 | Police Authority | Poor service delivery by Mohale’s Hoek Police | Report sent to the Police Authority for |

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| | | | intervention. |
| GCR-01/06/2014 | PS / Police Authority | Alleged murder of Lethusang Ramosoeru by Sehonghong Police | Report sent to the Police Authority for intervention. |
| GCR-02/06/2014 | Police Authority | Alleged assault and poor service delivery to Motlatsi Mabitle and Moisoonyane Komisi by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-03/06/2014 | Lekoatsa Thoahlane | Poor service delivery to Lekoatsa Thoahlane – CID Pitso Ground | Report sent to the Police Authority for intervention. |
| GCR-04/06/2014 | Silone Rachere – 58442229 | Alleged assault of Silone Rachere of Morija Olice | Report sent Police Authority for intervention. |
| GCR-05/06/2014 | Thabo Griffiths | Assault GBH of Thabo Griffiths by Lithoteng Police | Report sent to the Police Authority for intervention. |
| GCR-01/08/2014 | Lekhoaa Mphana | Assault of Lekhoana by Mofoka Police | Report sent to the Police Authority for intervention. |
| GCR-01/09/2014 | Lira ‘Matli – 58860185 | Vehicle theft and arson .-Mohale’s Hoek Police and Maseru Police | Report sent to the Police Authority for intervention. |
| GCR-01/10/2014 | Thapelo Lefu - 56959327 | Poor service delivery to Thapelo Lefu by Matelile Police | Report sent to Police Authority for intervention. |
| GCR - 02/10/2014 | Naha Sello | Poor Service delivery to Naha Sello by Matela Police | Report sent to Police Authority for intervention. |
| GCR-01/06/2015 | Kalane Khoete – 58460277 | Assault GBH Kalane Khoete | Report sent to Police Authority for intervention. |

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| GCR-02/06/2015 | ‘Makhotso Julia Mokhethi – 63028795 / 50495720 | Assault common of ‘Makhotso Julia by Maseru Central Charge Office | Report sent to the Police Authority for intervention. |
| GCR-03/06/2015 | Tlali Sekolopata – 59675276 | Poor service delivery on a murder case of Tankiso Saka by Mohale Police | Report sent to the Police Authority for intervention. |
| GCR-04/06/2015 | Tlali Sekolopata – 59275276 | Poor service delivery to Tlali Sekolopata by Mabote Police | Report sent to the Police Authority for intervention. |
| GCR-05/06/2015 | Tsietso Letsapo – 59991973 | Murder of Lebohang Letsapo by Lithoteng Police | Under investigation. |
| GCR-06/06/2015 | Reginald Makateng – 59277110 | Poor service delivery on murder case of Keketso Makateng by Roma Police | Report sent to the Police Authority for intervention. |
| GCR-07/06/2015 | Ts’eliso Kheleli – 62099411 | Assault of Ts’eliso Kheleli RCTS | Report sent to the Police Authority for intervention. |
| GCR-08/06/2015 | ‘Mamoeti ‘Mahlalefo Tilo – 58056161 / 59780744 | Murder of Malakia Tilo by known people (poor service delivery) by Morija Police | Under investigation. |
| GCR-01/07/2015 | Mpho Phoofolo – 59500795 | Murder of Lebeoana Posholi and service delivery by Mapoteng Police | Report sent to the Police Authority for intervention. |
| GCR-02/07/2015 | Ts’upane Khoto | Assault of Ts’upane Khoto by ‘Muela Police | Report sent to the Police Authority for intervention. |
| GCR-01/08/2015 | Bakuena Leuta | Failure to assist with vehicle registration papers after the complainant lost originals of Bakuena Leuta by Police Mokhatla Mats’ela of Police Headquarters | Complaint withdrawn from PCA (private matter between complainant and Mats’ela). |

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| GCR-02/08/2015 | Hape Nkopi | Poor service delivery to Hape Nkopi by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-03/08/2015 | 'Malerato Hlalele – 56140579 | Refusal to release medical book of the son of 'Malerato HLALELE by Morija Police | Complaint withdrawn from PCA (out of court settlement). |
| GCR-01/09/2015 | Vuka Mosotho Villagers | Assault GBH and damage to property to Vuka Mosotho villagers by Leribe Police | Report sent to the Police Authority for intervention. |
| GCR-01/10/2015 | 'Masalemone Mohake – 63026278 | Assault and malicious arrest of 'Masalemone Mohale by Maputsoe Police | Report sent to the Police Authority for intervention. |
| GCR-02/10/2015 | Moeletsi Koakoatsi – 62344474 | Assault GBH of Moeletsi Koakoatsi by Tlokoeng Police - Mapholaneng | Report sent to the Police Authority for intervention. |
| GCR-03/10/2015 | 'Maneo Makhala – 57711750 | Assault and unlawful arrest of 'Maneo Makhala – Semonkong Police | Report sent to the Police Authority for intervention. |
| GCR-01/11/2015 | 'Malebajoa Lenesa - 64023910 / 56989109 | Poor service delivery to 'Malebajoa Lenesa by Matelile Police | Report sent to the Police Authority for intervention. |
| GCR-02/11/2015 | 'Mathapelo Mosiuoa – 58744562 | Poor service delivery to 'Mathapelo Mosiuoa by Mafeteng Police | Report sent to the Police Authority for intervention. |
| GCR-03/11/2015 | Phallang Nkati | Assault of Phallang Nkati by Quthing Police | Report sent to the Police Authority for intervention. |
| GCR-04/11/2015 | 'Mamohau Moalosi – 58940932 | Assault of Ramohau Moalosi by Quthing Police | Complaint withdrawn from PCA (the matter before the courts of law). |
| GCR-05/11/2015 | Mrs. Tiisetso Khoathane – | Malicious arrest, assault and theft of Mrs. Tiisetso Khoathane by | Report sent to the Police Authority for |

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| | 28700958 | Mafeteng Police | intervention. |
| GCR-06/11/2015 | Lesala Motjoka – 59341713 | Assault and death of Lephoqoane by “Muela or Qholaqhoe Police | Report sent to the Police Authority for intervention. |
| GCR-07/11/2015 | Lesala Motjoka – 59341713 | Assault and torture of Lesala Motjoka by Qholaqhoe Police | Report sent to the Police Authority for intervention. |
| GCR-01/04/2016 | ‘Malerotha Lerotha - +2773077075 | Death of Phomolo Lerotha by Leribe /Lejone Police | Report sent to the Police Authority for intervention. |
| GCR-02/04/2016 | Tefo Lion – 58666225 | Service delivery and death of ‘Musetsi Lion by Mabote Police | Complaint withdrawn from PCA due to lack of evidence. |
| GCR-03/04/2016 | Relutse Moloinyane – 59885830 | Poor service delivery (return of firearm) Relutse Moloinyane by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-04/04/2016 | Moshoeshoe Mampa - 58556744 | Murder of Vusi Mampa by Mofoka Police | Report sent to the Police Authority for intervention. |
| GCR-05/04/2016 | Khethang Mokhethi | Poor service to Khethang Mokhethi by Semonkong Police | Report sent to the Police Authority for intervention. |
| GCR-06/04/2016 | Majohannes Taole – 57316484 | Death of Nathanael Taole by Thamae Police | Report sent to the Police Authority for intervention. |
| GCR-07/04/2016 | ‘Makananelo Manesa | Poor service delivery to ‘Makananelo Manesa by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-08/04/2016 | Ts’oeunyane Likoto – 50580921 | Assault and over detention of Ts’oeunyane Likoto by Berea Police | Report sent to the Police Authority for intervention. |
| GCR- | Thabo Keitseng | Poor service delivery (stock theft) | Report sent to the |

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| 01/06/2016 | | of Thabo Keitseng by Mokhotlong Police | Police Authority for intervention. |
| GCR-02/06/2016 | Teboho Lekhanya – 58851580 | Poor service delivery in a road accident – Teboho Lekhanya- by Roma Police | Report sent to the Police Authority for intervention. |
| GCR-03/06/16 | Mohlahli Mphuthi | Poor service delivery to Mohlahli Mphuthi on stolen vehicle by RCTS | Report sent to the Police Authority for intervention. |
| GCR-04/06/2016 | ‘Musetsi Sejabakela Liaho – Letsitsi Tlelase | Assault/torture of ‘Musetsi Sejabakela CID | Report sent to the Police Authority for intervention. |
| GCR-01/07/2016 | Letsitsi Tlelase | Assault GBH of Letsitsi Tlelase by Mafeteng Police | Report sent to the Police Authority for intervention. |
| GCR-01/08/2016 | Pampiri Tsikoane – 58701035 | Assault GBH of Pampiri Tsikoane by TY Police | Report sent to the Police Authority for intervention. |
| GCR-01/09/2016 | Pheta Mahlelehle – 56939766 / 53306835 | Assault GBH of Pheta Mahlelehle by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-02/09/2016 | Molupe Mosito – 50570750 | Assault of Molupe Mosito by Hoohlo Police | Report sent to the Police Authority for intervention. |
| GCR-03/09/2016 | ‘Matlotlisang Mahlaha – 62008816 | Murder of Liketso Ephraim Mahlaha by Berea Police | Report sent to the Police Authority for intervention. |
| GCR-01/10/2016 | Kalosi Leqhae | Poor service delivery to Kalosi Leqhae by Morija Police | Complaint withdrawn from PCA (matter in the courts of law). |
| GCR-02/10/2016 | Teboho Porosente – 56115788 | Murder of Pitso Porosente by Mokhotlong Police | Report sent to the Police Authority for intervention. |

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| GCR-03/10/2016 | Litsebe Tsiamé - 58606699 | Assault, death threats and poor service delivery to Litsebe Tsiamé by Mapoteng Police | Report sent to the Police Authority for intervention. |
| GCR-04/10/2016 | Tumelo Motsamai | Murder of Letsebang Motsamai – RCTS | Report sent to the Police Authority for intervention. |
| GCR-05/10/2016 | Sipho Daemane | Poor service delivery to Sipho Daemane by Mafeteng Police | Report sent to the Police Authority for intervention. |
| GCR-06/10/2016 | Letsitsi Tlelase | Death of Teke Tlelase – Mafeteng Police | Report sent to the Police Authority for intervention. |
| GCR-07/12/2016 | Maluti Community | Assault of Maluti community by Mokhotlong Police | Report sent to the Police Authority for intervention. |
| GCR-01/01/2017 | Rorisang Kheleli | Stock theft – Rorisang Kheleli by Sephapho Police Post | Report sent to the Police Authority for intervention. |
| GCR-02/01/2017 | Mahlabachane Lipholo | Unlawful detention of Mahlabachane Lipholo by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-03/01/2017 | Mphosi Lehloenya | Murder of Mphosi Lehloenya by Roma Police | Report sent to the Police Authority for intervention. |
| GCR-04/01/2017 | Api Api | Unlawful detention of Api Api by Thetsane Police | Report sent to the Police Authority for intervention. |
| GCR-05/01/2017 | Hlalele Hlalele | Torture of Hlalele Hlalele by LMPS QUTHING MOYENI | Complaint withdrawn from PCA by chairperson. |
| GCR-01/08/2017 | Lisebo Hlapi | Death of Khotsofalang Mohasi by Qacha's Nek Police | Report sent to the Police Authority for |

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| | | | intervention. |
| GCR-02/08/2017 | Seealemetse Mathe | Unlawful arrest, assault and torture of Sealemetse Mathe by Thetsane Police | Complaint withdrawn from PCA (matter before the courts of law). |
| GCR-01/09/2017 | Neo 'Mota – 58082967 | Death of Tlelingoane 'Mota by Mofoka Police | Report sent to the Police Authority for intervention. |
| GCR-02/09/2017 | Morapeli Rantho – 58453416 / 56281777 | Assault of Morapeli Rantho by Mofoka Police | Under investigation. |
| GCR-03/09/2017 | Ts'eliso Lethole – 59319914 | Poor service delivery to Ts'eliso Lethole by Sefikeng Police | Not known |
| GCR-04/09/2017 | Motlatsi Keketsi – 59514839 | Poor service delivery to Motlatsi Keketsi by Thetsane Police | Not known. |
| GCR-01/10/2017 | Thabiso Makosholo – 53885815 | Assault by one police officer Masunyane who was previously stationed at Lithoteng but currently at Thamae Police Station | Report sent to the Police Authority for intervention. |
| GCR-02/10/2017 | 'Makatlheho Sekonyela – 68689201 | Poor service delivery to 'Makatlheho Sekonyela by Pitso Ground | Report sent to the Police Authority for intervention. |
| GCR-03/10/2017 | Rantja Tolo – 56246407 | Assault of Rantja Tolo by Semonkong Police | Report near completion. |
| GCR-04/10/2017 | Makasela Tolo – 50273947 | Assault of Makasela Tolo by Semonkong Police | Report near completion. |
| GCR-05/10/2017 | Pheello Seala – 51735060 | Assault of Pheello Seala by Ramabanta Police | Report withdrawn from PCA due to lack of evidence. |

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| GCR-06/10/2017 | Kh'aene W. Tlali – 62100320 / 62195195 / 59100320 | Unlawful arrest of Kh'aene W. Tlali by Thaba-Tseka Police | Report withdrawn from PCA (matter before the courts of law) |
| GCR-07/10/2017 | Khotso Mohale – 58555788 | Poor service delivery to Khotso Mohale by Mafeteng Police | Under investigation |
| GCR-08/10/2017 | Tumelo Mothibe– 51695511 | Assault GBH of Tumelo Mothibe by Thabana-Morena Police | Under investigation |
| GCR-09/10/2017 | Monese Mothibe | Assault of Monese Mothibe by Mafeteng Police | Under investigation |
| GCR-10/10/2017 | Phillip Ts'epo Lipholo - 57857280 | Malicious arrest and assault Phillip Ts'epo Lipholo by Roma Police | Complaint referred to DSA office at NUL as the office is still handling the matter with Roma LMPS |
| GCR-01/11/2017 | 'Mamosa Mohapi – 58951235 | Poor service delivery to 'Mamosa Mohapi by Lithoteng Police | Complaint referred to Police Headquarters for intervention. (Complaints and discipline) |
| GCR-02/11/2017 | 'Mathapelo Mosao - 59104179 | Poor service delivery to 'Mathapelo Mosao – Pitso Ground Police Traffice Department | Under investigation |
| GCR-01/12/2017 | Jonas Makhotla – 59334044 | Poor service delivery to Jonas Makhotla by Thetsane Police | Report withdrawn by the complainant. |
| GCR-02/12/2017 | Mpeo Mahase – 63632188 | Poor service delivery involving confiscation of motor vehicle DRY401FS of Mpeo Mahase | Under investigation. |
| GCR-01/01/2018 | Pokane Lelosa – 5999336 | Poor service delivery – Car accident involving motor vehicle CP841 – Police Constable Ramatjilane and PC Sekake | Complaint referred to Police headquarters for intervention. (Complaints and discipline). |

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| GCR-02/01/2018 | Rammoko Lillane - 58834504 | Poor Service delivery to Rammoko Lillane by Roma Police | Report sent to the Police Authority for intervention. |
| GCR-03/01/2018 | Mohaila Jobo 'Mota – 63077740 | Poor Service delivery to Mohaila Jobo 'Mota by TY Police | Complaint sent to the Chairperson seeking referral. |
| GCR-04/01/2018 | Mokhele Thapeli – 53287896 | Assault of Mokhele Thapeli by TY Police | Report sent to the Police Authority for intervention. |
| GCR-05/01/2018 | Mathonkha Sekobi – 59333387 | Poor service delivery to Mathonkha Sekobi by Sefikeng Police | Complaint sent to the Chairperson seeking referral. |
| GCR-01/04/2018 | Teboho Molupe | Assault of Teboho Molupe by Mokhalinyane Police | Under investigation |
| GCR-02/04/2018 | Lefa Tsapi – 58006948 | Poor service delivery to Lefa Tsapi by Mabote Police | Complaint withdrawn from PCA by chairperson as complainant's phone was unavailable. |
| GCR-01/07/2018 | Rants'ebo Mohale | Assault of Rants'ebo Mohale by Mabote Police | Complaint under investigation. |
| GCR-02/07/2018 | Mohau S. Lehasa – 58509586 Ts'enoli Ts'enoli – 67142659 | Assault of Mohau S. Lehasa by Hoohlo Police | Report sent to the Police Authority for intervention. |
| GCR-03/07/2018 | Kopano Mothibeli | Assault of Kopano Mothibeli by Qacha's Nek Police | Complaint under investigation. |
| GCR-04/07/2018 | COMPOL | Police conduct concerning disappearance of the suspect named 'Makarabo Mojakhomo from police headquarters detention cells | Given other duties. |
| GCR-01/08/2018 | Mrs. Relebohile | Unlawful arrest theft common and | Complaint sent to |

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|----------------|--|---|---|
| | Koaeana – 51642619 | human trafficking of Mrs. Relebohile Koaeana by member of Pitso Ground | Chairperson for referral. |
| GCR-01/10/2018 | Molefi Toloane - 59776873 | Assault by Pitso Ground CID, of Molefi Toloane | Report sent to the Police Authority for intervention. |
| GCR-02/10/2018 | Zameka Makhetha – 51632745 | 6 counts of assault of Zameka Makhetha by Dele-Dele Police | Complaint under investigation. |
| GCR-01/11/2018 | Semakaleng Nkonyana | Assault of Semakaleng Nkonyana by Mabote Police | Report sent to the Police Authority for intervention. |
| GCR-02/11/2018 | Mokhele Thapeli | Unlawful arrest of Mokhele Thapeli | Not known. |
| GCR-01/02/2019 | Bosiu Molapo | Assault – 4 counts and murder of Bosiu Molapo by Qholaqhoe Police | Report sent to the Police Authority for intervention. |
| GCR-02/02/2019 | Mpiti Moshoeshe – 59875068 | Assault of Mpiti Moshoeshe by Pitso Ground Police | Report sent to the Police Authority for intervention. |
| GCR-01/06/2019 | Mats’eliso Sekonyela – 59120230 / 57180371 | Assault and over detention of Mats’eliso Sekonyela by Mabote Police | Complaint under investigation. |
| GCR-02/06/2019 | Ntsimane Mosoang – 63041822 | Poor service delivery to Mr. Ntsimane Mosoang by unknown police officer at Berea police station | Complaint withdrawn by complainant. |
| GCR-01/07/2019 | Khotso Rankoloko – 58491423 / 53427347 | Poor service delivery to Mr. Khotso Rankoloko by Morija Police and PHQ | Under investigation |
| GCR-02/07/2019 | Kenzani Mohapi – 57649507 | Assault of Kenzani Mohapi by Pitso Ground Police Traffic Unit | Under investigation |

| | | | |
|----------------|--|---|--|
| GCR-03/07/2019 | Maqelepo Maqelepo – 50665353 | Assault of Maqelepo Maqelepo by RCTS Police and Lithoteng Police | Under investigation |
| GCR-04/07/2019 | Sakhele Bobo | Poor service delivery to Sakhele Bobo by Mount Moorosi Police | Under investigation |
| GCR-01/08/2019 | ‘Malehlohonolo Pelea – 56688251 / 59087343 | Rape of ‘Malehlohonolo Pelea by Roma Police | Under investigation |
| GCR-09/08/2019 | Teboho Rakuoane 58989082 | Assault of Teboho Rakuoane by SOU Police | Report sent to the Police Authority for investigation. |
| GCR-01/10/2019 | ‘Matsietsi Lekhanya – 56148965 | Attempted murder of ‘Matsietsi Lekhanya by Lithoteng Police | Under investigation |
| GCR-01/11/2019 | Thabang Mabokoane – 57108817 | Assault of Thabang Mabokoane by Pitso Ground | Under investigation |
| GCR-01/12/2019 | Tebello Khoromeng – 58689114 | Poor service delivery and attempted murder of Tebello Khoromeng by Qacha’s Nek Police | Report sent to the Police Authority for intervention. |
| GCR-01/02/2020 | Thabang Fobo – 63138804 | Assault of Thabang Fobo by CID Pitso Ground | Report sent to the Police Authority for intervention. |
| GCR-02/02/2020 | Lereng Mapoko | Assault of Lereng Mapoko by Butha-Buthe Police | Report sent to the Police Authority for intervention. |
| GCR-01/09/2020 | ‘Mareitumetse 58517389 | Assault GBH of ‘Mareitumetse by Thaba-Tseka Police | Under investigation |
| GCR-02/09/2020 | Seisa Seisa – 57124454 | Assault and death in police custody of Seisa Seisa by Mapoteng Police | Under investigation |
| GCR-03/09/2020 | Khotso Tjemolane – 56779708 | Death of Thuso Tjemolane in police custody of Mafeteng Police | Under investigation |
| GCR-04/09/2020 | Fusi Mei – | Death of Fusi Mei’s brother by | Under investigation |

| | | | |
|----------------|----------------------------------|---|---|
| | 58144833 | Matela Police | |
| GCR-05/09/2020 | Fusi Mei – 58144833 | Damage of a car belonging to Fusi Mei by Pitso Ground Police | Under investigation |
| GCR-06/09/2020 | ‘Mathapelo Mosao – 59104179 | Poor service delivery to ‘Mathapelo Mosao by Pitso Ground Police | Under investigation |
| GCR-01/10/2020 | Lebohang Makhoali – 58800301 | Death in police custody of Lebohang Makhoali at Thamae Police | Report sent to the Police Authority for intervention. |
| GCR-02/10/2020 | Itumeleng Khubetsoana – 57686074 | Poor service delivery to Itumeleng Khubetsoana by Pitso Ground Police | Report sent to the Police Authority for intervention. |
| GCR-03/10/2020 | Lebona Molatoli – 50229022 | Assault of Lebona Molatoli by Pitso Ground Police | Report sent to the Police Authority for intervention. |
| GCR-04/10/2020 | Ts’eliso Lethole – 59319914 | Poor service delivery to Ts’eliso Lethole by Sefikeng Police | Under investigation |
| GCR-01/11/2020 | Phakiso Mokhoboheli – 56117938 | Murder of ‘Musi Mokhoboheli by Matelile Police | Under investigation |
| GCR-01/06/2021 | Kekeletso Mochaba | Attempted murder and damage to property of Kekeletso Machaba by LMPS Leribe | Under investigation |
| GCR-02/06/2021 | Kekeletso Mochaba | Damage to property of Kekeletso Machaba by LMPS Leribe | Under investigation |
| GCR-01/02/2022 | Makoatsi Sello – 67083970 | Assault and murder of Mokoatsi Sello by Quthing Police | Under investigation |
| GCR-01/05/2022 | Liau Maine – 59556544 | Assault GBH Liau Maine by Hoohlo Police | Under investigation |
| GCR-01/06/2022 | Neo Mafoso – 53210190 / 69093579 | Assault GBH of Neo Mafoso by Mohale’s Hoek Police | Under investigation |

| | | | |
|----------------|--------------------------|--|---------------------|
| GCR-01/07/2022 | Ts'abo Sello 57045929 | Assault GBH of Ts'abo Sello by Thetsane Police | Under investigation |
| GCR-02/07/2022 | Makutoane - 59774675 | Murder of Kopano Francis Makutoane by Roma Police | Under investigation |

Table 1 Analysis of information

Although the PCA was established in 2003, it started operating formally in 2005.¹⁰⁴ It appears that it has handled about 267 cases of which majority seem to have been lodged by members of the public as compared to either COMPOL or Police Authority. Roughly the complaints involve the following:

| Conduct | Total Number |
|--------------------------------|---------------------|
| Assault | 86 |
| Assault GBH | 24 |
| Death linked to police conduct | 57 |
| Unlawful Arrest | 20 |
| Unlawful Detention | 8 |
| Poor Service Delivery | 69 |

Eleven (11) of these cases seem to have been referred by COMPOL of which only one (1) referral was made the period of 2017 to 2022. This concerns the disappearance of one 'Makarabo Mojakhomo who disappeared while in police custody and surfaced in Republic of South Africa having been provided with protection by Amnesty International. As regards progress made or their statuses, about 144 of them seem to have been sent to either Director or Police Authority for intervention. It seems there is no specific action to be taken by certain authorities when such cases reach their respective offices for action. Unlike in the Republic of South Africa, the provision of the statute clearly states timeframes in which authorities are expected to act upon receipt of complaints. There is nothing in the statute that mandates officers to perform a certain task within specified periods. This can be cured by enacting a specific legislation that directs authorities to act on recommendations and report periodically to

¹⁰⁴Ibid (n 18) 63.

parliament. Those that are directed to the Directorate are those which concern service delivery by LMPS.

As regards investigations, once they are completed, the recommendations are sent to the Minister for his onwards actions. Whether he can forward such recommendations to the COMPOL for implementations or may decide that there is no merit in the complaint is sole discretion as the law is silent in that regard. PCA cannot even make a follow-up as to how its recommendations were carried out. Doctor Shale observed that, 'PCA does not have the power to follow up whether the recommendation have been implemented, investigations carried out often end up with no action being taken against the concerned police officers.'¹⁰⁵ About 65 of these matters, their statuses are not known. The explanation is that some records may not be found and become untraceable. This suggests dereliction of duty on the part of PCA or poor case management? The fact that there is no obligation to report its progress to either to the Parliament or publicize its report for public consumptions, makes its work very a futile exercise, as its accountability is also lacking. This shows that no seriousness can be observed on the part of PCA in the execution of its duties.

4.5 Civil Claims Against the Police

The Police Service Act makes the Commissioner of Police vicariously liable in civil proceedings in respect of the wrongful acts of police officers under his command, in the performance or purported of their functions and accordingly be joined in proceedings in respect of such wrongdoings. This means that anything that police do which can be associated with police duties no matter how remote that causes damage to an individual attracts liability to the Commissioner of Police. Once courts award such compensation for damages, the government has to pay. In essence, the money that ought to be used for operational activities and improvement of police structure is paid to the individuals who might have suffered loss of difference sorts.

¹⁰⁵ Ibid (n 67) at 199.

The Table below shows the amount of money that were awarded by courts against the police from 2017 to 2022.

| Financial Year | Total Amount of Claims Submitted For Payment in Maloti | Equivalent Amount in US Dollars |
|--------------------------|---|--|
| 2016/2017 | 1, 075,871.36 | 56, 624.81 |
| 2017/2018 | 4, 327,298.16 | 227, 752.53 |
| 2018/2019 | 1, 379,803.51 | 72, 621.24 |
| 2019/2020 | 1,385,045.00 | 72, 897.11 |
| 2020/2021 | 3,398,687.45 | 178,708.21 |
| 2021/2022 | 2, 274,456.00 | 119, 708.21 |
| 2022/2023 - January 2023 | 380, 230.00 | 20, 012.11 |
| TOTAL AMOUNT | 14, 221, 391.51 | 748, 494.29 |

The amount of damages that have been awarded to various plaintiffs who had approached the courts claiming compensation for among others unlawful arrests, prolonged detentions, torture and arrests without charges being preferred which are perpetrated by LMPS calls for drastic measures to hold the individual members accountable. The purpose of awarding compensation by the court serves many purposes. According to Hoexter,¹⁰⁶ compensations under constitutional damages where the aim is promotion of human right respect and discourage future violations. On the other hand, punitive action aim is for punishing state officials for their disregard of the individual rights.¹⁰⁷ Members of the police service cannot be held accountable unless there is an effective independent oversight with mandate to ensure that allegations of misconduct are timeously investigated and actions are taken. The independent body must investigate all these allegations that lead to the exorbitant claims against the police for individuals who suffered in police detention or as a result of police actions. Accountability serves several purposes which include the restoration of eroded community trust and police legitimacy in the sense that their interactions with the society are orientated professionally.

¹⁰⁶ Cora Hoexter *Administrative Law in South Africa* (3rd Edition, Juta and Company 2021) 817.

¹⁰⁷ Ibid

The amount of money that has been paid out to the claimants could not be verified due to the fact that the officer who was responsible for processing such payments retired and the office was in the processes of re-location to new offices after the merging of ministries. This made it difficult to get the information needed for this purpose.

4.6 Cases involving Torture by LMPS

In the case of *Kabelo Ratia v Rantšo & Another*,¹⁰⁸ it emerged that the applicant was arrested and subjected to torture and ultimately forced to eat his faeces. The attempt to get him remanded was objected by his lawyer and the Magistrate could not remand him on the strength of visible injuries as well as the arrest which was found to be unlawful. Despite this matter circulating in the local media,¹⁰⁹ portraying police brutality and use of excessive force to people in their detention, nothing has been done either by the LMPS or the PCA.

In *Kabelo Khabanyane v Commissioner of Police and Others*¹¹⁰ where a plaintiff, a visually impaired man was brutally assaulted by the Mafeteng Police who arrived at his house at around 0400hours and was peacefully asleep. Police without just cause ordered him to come out of his house, after a short while police forcefully opened the door of his house and pushed him outside. Pushed him to the ground and assaulted him with stick. They rolled him for a distance of about 15 metres while kicking and beating him. There was nothing to suggest that the plaintiff was wanted for commission of crime or he resisted any arrest by the police. Despite the incident taking place in December 2015, there is no action taken either disciplinary measures or crime of assault by LMPS or PCA. The court in this matter awarded the plaintiff general damages of M150, 000.00 which is equivalent to US \$7, 894.64.00, which has to be paid from the police fund.

¹⁰⁸ (CRI/REV/23/2019) [2019] LSHC 13 (11 September 2019).

¹⁰⁹ 'Marafaele Mohloboli, 'More Pain for Faeces Victim' *Lesotho Times Newspaper* (Maseru, 18 September 2019).

¹¹⁰ [2023] LSHC 11 Civ (2023).

In another case which involves *Lisema v Commissioner of Police*¹¹¹ where the plaintiff was assaulted by the police of Letšeng la Terai. It emerged that there were some boys who allowed their livestock graze at the protected area. The emissaries who included the plaintiff were sent to collect the livestock. These herd boys who were looking after the said stock had fled upon the arrival of the emissaries and alerted the police that they were being attacked by the stock thieves who had taken away their animals. As the plaintiff and others were driving the stock to the chief's place to be impounded, police arrived. Despite trying to explain who they were and what was their mission with regards to animals they were driving, they were assaulted by police with sjambok and sticks and later taken to the police station where they were locked up in the holding cell for the whole night. The following day, they were released without a single word from the police or a charge to be preferred against them. The court awarded damages of M80, 000.00 which is equivalent to \$4, 210.53.

There are several other cases in which the Commissioner of Police was sued for damages where police committed the following acts;

- (a) *Mosehle v Officer Commanding Thaba-Tseka Police Station and 2 Others*¹¹² where the plaintiff was assaulted by police on suspicion of stock theft. He was hospitalised for two weeks with extensive assaults in May 2011. The Plaintiff was released without a charge. The Court awarded damages of M53, 000.00 which is approximately \$2, 789.47.
- (b) In *Tšolo Tjela v Officer Commanding Mafeteng Police Station and Other*¹¹³ the court awarded damages of M300, 000.00 which is equivalent to \$15, 789.47 for pain and suffering which is attributable to the police brutality where the plaintiff was assaulted for no just cause, unlawfully arrested for no crime committed as he was released without charge.
- (c) In *Thapelo Matsau v Commissioner of Police and Another*¹¹⁴, where the plaintiff like others cases was arrested, detained for two nights and assaulted brutally. He was awarded M80, 000.00 which is equivalent to \$4,210.54 as damages.

¹¹¹ CIV/T/407/2014.

¹¹² (CIV/T/40/2012) [2013] LSHC 74 (11 March 2013).

¹¹³ (CIV/T/152/2016) [2020] LSHC 36 (04 November 2020).

¹¹⁴ (CIV/T/54/2011).

In all these cases, there is no single action taken against the wrongdoers (police officers). These cases depict a trade mark in the LMPS regarding the treatment of people in custody.¹¹⁵ They have been arrested, detained and tortured and released without being charged. Investigations regarding their acts of torture as mandated by Article 12 of the Convention Against Torture (CAT) that has not been done. Hall asserts that this article requires a state party to the CAT to investigate when there are reasonable grounds to believe that torture has occurred in the area under their jurisdiction.¹¹⁶ These incidences and non-enforcement of the individuals' rights, who suffered agonies in the hands of Lesotho police, leave one with irresistible conclusion that a culture of impunity in Lesotho is reigning.

4.7 Police Complaints Authority Impediments

Recruitment for officers to man PCA is aligned with political parties. This makes its effectiveness be doubted as regards investigations of police misconduct that are alleged to have been instigated by politicians. From its inception, PCA is linked to the Lesotho Police as they have always fall under the same government ministry. This gives an impression that it is the same department which cannot impartially and independently investigates itself another. Even the Police Service Act still makes the Commissioner of Police a central role player in the investigation of police misconduct. In terms of section 12 of the Act, his views regarding disclosure of certain information required by PCA evidence gather processes have to be sanctioned by him. It is not clear why did the drafters of this piece of legislations found it prudent to seek his views in the investigative tasks of the PCA. It is further not clear why the Act considers the PCA officials not competent enough to assess the dangers of disclosure with regard to certain information required for investigation. This makes the work of PCA unnecessarily cumbersome.

Qualification for chairmanship of the PCA is not established in order to assess his competences in handling fragile and sensitive issues involving police misconduct. In other jurisdiction like

¹¹⁵ Ibid (n. 67) 233 where Shale who observed that a common factor in these cases is that victims were detained for prolonged periods and they were released later without any charges preferred against them.

¹¹⁶ Christopher Keith Hall, 'The Duty of States Parties to the Convention against Torture to Provide Procedures Permitting Victims to Recover Reparations for Torture Committed Abroad' (2007) *European Journal of International Law*, 921

Kenya, a person who qualifies to be appointed as a judge leads the police oversight institution. In Lesotho there is nothing stipulated in the law as regards the qualities that may be considered for appointment of personnel to man the tasks of this institution.

The investigation of cases requires the power of the investigator to demand and be provided with the information that may be needed for investigation purpose. There is nothing in the law that gives PCA power to compel witnesses to cooperate with PCA investigations including police officers. It is not clear what steps PCA have to be taken in the event a witness refuses to cooperate with the investigation or divulge information for no good cause. Does it mean where a witness refuses to disclose certain information which is required for investigation has to be reported to the police for investigation and ultimately taken to court by police for prosecution in order to be found liable? What happens when the person who refuses to provide information is the police officers who have to investigate the non-cooperation with PCA? Otherwise how else will he be liable for M500.00?

Generally, PCA is not known by people who deal with police duties, who naturally have in their disposal important information that may assist in the investigation against police misconduct. For example, obtaining medical reports from the doctor where a victim was treated. Gaining accesses to the mortuary where a corpse which is a subject of investigation is kept. Getting accesses to the police registers and forms where information that links the victim with the conduct may be kept. For example, in order to establish that a there was an over-detention, there must be a proper inspection of all materials evidencing the allegation.

4.8 Conclusion

Taking into account the features of an effective oversight globally, the PCA shows several shortfalls of an oversight that can be efficient to hold members of the police accountable and make them act professionally.

CHAPTER 5

CONCLUSION AND RECOMMENDATION

5.1 Introduction

This chapter concludes the research that has been conducted on ensuring the accountability and integrity of the police service through an effective oversight mechanism in Lesotho.

5.2 Conclusion

The research established that there is no effective police oversight mechanism in the Kingdom of Lesotho that deals with police misconduct. In majority of the cases where police officers are implicated in the human rights violations, there is no evidence showing that an action has been taken by the police management. There is neither prosecution of these misconducts before criminal courts nor disciplinary measures taken against the wrongdoers. The internal disciplinary mechanisms that are supposed to be carried out by the IC&D unit of the LMPS, has no accountability aspect in them.

Where there is an allegation of serious crimes involving the police as suspects, there is no obligation imposed on police officers to report such cases which include deaths in police custody or any deaths that are linked to police conduct like it is an obligation in other jurisdictions. There is neither an obligation is imposed by law for police officers to cooperate with the investigation and provide information when required to do so by PCA nor to report within certain specified timeframe. It may take years before a referral is made and there will be no qualms about it.

Apart from that, when investigations are being conducted by the PCA, COMPOL still has an active role to play. It appears that he has to be consulted when summons are issued, calling upon witness disclose certain information to PCA. It is inferred that before issuance of summons to witnesses to disclose certain information under investigations, COMPOL has to know the nature of evidence that is being sought and make a determination as to whether the disclosure thereof will be for the public interest or not. Taking into consideration that investigation entails

collection of evidence that implicates the suspect in the commission of a crime committed, it follows therefore that COMPOL takes part in the investigation of police misconduct which he has referred to PCA. This is definitely not the rationale in which PCA was established to do.

In addition to this, even where recommendations have been made that disciplinary action be instituted against certain police officers, there is no timeframe stipulated in the law that COMPOL is required to implement such the recommendations. He may choose not to do anything with whatever has been recommended. There is a neither follow up by PCA to ensure that an action has been taken against the police officers concern or to enquire about whether indeed the recommendations did reach his office after being forwarded by Minister.

Collection of evidence is a delegate and sensitive task of a law enforcement body. It must not be delegated to a body which is not the consumer of the information required. The PCA seems to be having no power to compel any person in possession of the information including police to disclose such information. For example, in some cases where there is an allegation of death in police custody or deaths linked to police conduct, PCA lacks no authority to demand to be provided with the police registers and forms which may be of assistance to its investigative tasks. That goes to accessibility of evidence which is in the possession of other institutions too, like experts' reports. Even inspection of scene of crime, or access to mortuary when the body of the deceased linked to police misconduct may be kept, is a very huge mountain to climb as such institutions do not know anything about PCA and may deny the investigators some access. They release information to the police only or at least they know that only police are entitled to information of that nature. This means if PCA needs any information from Pathologist, for example, it must request the police officers to get it for them. If they do not cooperate with the request, nothing can be done.

As a result of these bottlenecks in the investigation processes by PCA, many people continue to suffer in the hands of police officers. Majority of them get arrested without reasonable cause, detained beyond period allowed by law, tortured while in police custody and released without charges being preferred against them. Normally police officers are quick to arrest without verifying facts which may link the suspect to the crime alleged to have been committed. There

are neither criminal investigations against these allegations nor disciplinary actions taken against police officers who always commit these barbarities.

As it has already been mentioned, there is no clear channel pertaining to referral of cases to PCA for investigation purposes. Even people who would like to report to PCA do not even know what steps to take in order to get their cases investigated. There is no follow up mechanism for those who have lodged their cases with PCA in order to get their statuses. Apart from that, PCA accountability is not clear as to whether its performance measures up to the required standard. Public institutions have to be accountable to the electorates. Most invariably, they submit periodic reports regarding performance of their mandates. Some may be called to appear before the parliamentary portfolio committees and cast a light regarding issues of concern. There is no scrutiny mechanisms regarding PCA's performance and as such its effectiveness and relevancy in dealing with police misconduct are questionable. Taking into account all these flaws in the performance of its duties, it can be irresistibly concluded that PCA has never been intended to bite.

5.3 Recommendations

Police organisation and its officers are entrusted to perform a very delicate and sensitive tasks of restoring peace and order among the community. They possess wide discretionary powers to interfere with the rights and liberties of people they are meant to serve. These powers wielded by police officers must be exercised sparingly. The abuse of these entrusted powers such as engaging in to excessive use of force, abusing assert forfeiture policies, unlawful detention, perpetual stopping and searching the community, seizure of individuals' property and corruption must be controlled and those who transgress into areas that they are forbidden to go, must face the might of the law. They must be held accountable for the misdeeds they commit to the community. The lack of accountability on the part of the police officers and the entire police service erodes public trust and brew resentment on the part to the community they are required to serve on daily basis.

In order to restore trust and police legitimacy as well as ensuring that police act responsibly in the performance of their duties, a state must have some structures in place which are tasked to ensure that police officers are held accountable for their deviant behaviour they portray in the performance of their duties. Therefore, by establishing an independent oversight mechanism, it will be a clear demonstration that the government is desirous to increase police accountability and also the need to eliminate police misconduct like prevailing police brutality and corruption in the Kingdom of Lesotho. Effective accountability calls for suitable and proper complaints arrangement that is easily accessible to the public as well as efficient investigations of allegations made against the police. The oversight must also be able to recommend and monitor the implementation of disciplinary measures against the police and also be able to send completed cases after investigation to court for criminal prosecutions. These structures must be able to perform their duties of holding police accountable without them being influenced, hindrances and limitations of some sorts.

The structures that are supposed to ensure that police work responsibly must be appointed following transparent recruitment processes which are based on skill and aptitude in the understating of their mandate. There must be a clear criterion for who qualifies to man PCA, as the nature of the task they will be employed to perform requires certain knowledge and skill in the field of investigation and administration. The appointment of PCA chairman should be removed from the politicians as it may have a connotation that it is aligned to a certain political party. In some jurisdictions, people who qualify to be appointed as judges of the High Court of the land are normally considered for appointment to lead police oversight institutions. The entire department must be seen independent in the strict sense. It must be divorced from the LMPS, it must be independent so as it should not be understood that it is part of or the extension of LMPS particularly when LMPS has similar features under internal disciplinary mechanisms. The Commissioner of Police involvement in the investigation of cases that are conducted by PCA must be insulated.

The PCA referral channels must be removed in order to give people direct access to lodge their cases with the authority without first channelling their complaints either to police commissioner or the minister. PCA must be able to act on its own volition to investigate matters which may be

in the public domain. A clear procedure of lodging complaints before the PCA must be clearly written in the law. These bureaucratic channels of reporting police misconduct must be abolished as they are time consuming to aggrieved persons who want to get their concerns against police addressed. There must be mechanisms in place to ensure that PCA does perform its mandate as well and as such it must be subjected into some sort of scrutiny. It must produce periodic reports before the parliamentary portfolio committees, preferably to the Law and Public Safety which seems to be more relevant to its mandate. Apart from this, it must be able to provide feedback to people who reported some cases with it.

In order for PCA to carry out its mandate effectively, it must be empowered by law to have powers which law enforcement institutions have. These powers include; power to search and seize of articles which are concerned in the commission of misconduct, power to arrest, power to request for information. PCA must have power to apply to courts of law in order to compel certain witnesses who are in possession of document which is required for investigation purpose to present such before the PCA. Not only should PCA conduct investigations, it must also have power to arrest and take suspects to court for prosecution purposes. This means there must be an independent Act of Parliament to establish an entity which is called Independent Police Complaints Authority. This law will undoubtedly empower PCA to perform its mandate and the prevailing culture of impunity within the LMPS will undoubtedly be eradicated.

Apart from making the PCA an independent entity, the new law must be framed in such a manner to ensure there is an obligation imposed to the police officers to receive and transmit complaints against the police timeously to the PCA. Police must be obliged to provide information that may be required in the investigation of the matter as well as cooperating with the investigation. PCA must be able to supervise disciplinary cases against police in order to ensure that those who have committed misconduct are timeously subjected into disciplinary actions in accordance with LMPS internal disciplinary processes. Not only should disciplinary action be taken, they must be instituted by COMPOL within a stipulated timeframe and he must be able to produce report to the minister of police as the nature of actions taken against police deviant behaviour.

In addition to creating an independent body that investigates police misconduct which is divorced from the LMPS, it may be prudent to equip the same with enough skilled and human capital so as to enable it to execute its oversight mandate efficiently and effectively. The same body must be financially resourced as investigation is a cumbersome task which requires obtaining relevant and admissible evidence in order to succeed in holding police accountable. Superficial investigations surrounding alleged police misconduct will undoubtedly yield no fruitful result of achieving the objectives of the oversight body.

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