

**IPOA REPORT  
FOLLOWING THE  
MPEKETONI ATTACKS**

(15 AND 16 JUNE 2014)

**REDACTED VERSION**





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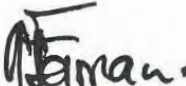
**REDACTED VERSION**



# Signatures



Macharia Njeru – Chairperson



Fatuma Saman – Member



Jedidah Ntoyai – Vice-Chairperson



Tom Kagwe – Member



Grace Madoka – Member



Njeri Onyango – Member



Vincent Kiptoo – Member



Rose Bala – Member

## Abbreviations / Acronyms

DCP	Deputy Commissioner of Police
SACP	Senior Assistant Commissioner of Police
ACP	Assistant Commissioner of Police
APS	Administration Police Service
CI	Chief Inspector
DCI	Directorate of Criminal Investigations
GSU	General Service Unit
KPS	Kenya Police Service
NIS	National Intelligence Service
NPS	National Police Service
NPSC	National Police Service Commission
OCS	Officer Commanding Station
OCPD	Officer Commanding Police Division
RDU	Rapid Response Unit
IPOA	Independent Policing Oversight Authority

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## 1.0 Background

At approximately 2045 hours on Sunday 15 June 2014, gunmen, estimated to be approximately 20 to 30 in number, attacked Mpeketoni Town in Lamu County. The heavily armed gunmen conducted simultaneous attacks on the Administration Police Divisional Headquarters in Mpeketoni and Mpeketoni town center and shortly afterwards attacked Mpeketoni Police Station. The attackers shot their victims at close range mainly to the head and torched buildings and vehicles. One victim burnt to death in a vehicle. The attack ended between 0200 and 0300 hours.

In this attack, 49 people were killed, 44 vehicles torched and about 26 buildings burnt. The attackers then left Mpeketoni and went towards Kibaoni. At Kibaoni, there was an exchange of fire between unconfirmed parties. A Kenya Police Reservist officer was later that morning found dead at Kibaoni and a Mark 4 rifle recovered.

On Monday 16 June 2014, another attack took place further inland in Kijijoni village, in Kaisari where nine people were killed and one house torched. Some of the nine people were shot at close range and some had their throats slit. Two days later police recovered two bodies from Pangani. In both incidents, a total of 60 people were killed. 59 were male, and 1 woman succumbed to injuries later. The ethnic breakdown of the victims is as follows: 37 Kikuyu, 10 Giriama, 5 Kamba, 3 Kalenjin, 2 Luo, 2 Meru and 1 Kisii.

On the basis of the mandate and powers accorded to the Authority and outlined below, and in addition to concerns raised in the media regarding possible police inaction that may have contributed to the 60 deaths and destruction of property in Mpeketoni, the Authority set out to conduct a fact finding mission in Mpeketoni on its own motion. The monitoring mission sought to:

- a) Ascertain the response of the NPS to the attacks on the nights of 15<sup>th</sup> and 16<sup>th</sup> June 2014;
- b) Monitor the subsequent follow up operations;
- c) Highlight any factors that may have hindered full and effective response by the NPS to the attacks;
- d) Collate information that may form the basis for possible investigations into the conduct of individual members of the NPS by the Authority, where cases of disciplinary or criminal conduct by members of the NPS were identified; and,
- e) Provide recommendations on how such factors may be addressed.

## 2.0 IPOA Powers and Mandate

The Independent Policing Oversight Authority (hereinafter IPOA or the Authority), is established pursuant to the Independent Policing Oversight Authority Act (Act No. 35 of 2011), to provide for civilian oversight over the work of the Police. The Objectives of the Authority as set out in Section 5 of the Act are to:

- (a) hold the Police accountable to the public in the performance of their functions;
- (b) Give effect to the provisions of Article 244 of the Constitution that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability.
- (c) And to ensure independent oversight of the handling of complaints by the Service.

To ensure the achievement of these objectives, the Authority is empowered under Section 6 of the Act to carry out a number of functions which include:

- i) *To investigate any complaints related to disciplinary or criminal offences committed by any member of the Service, whether on its own motion or on receipt of a complaint, and make recommendations to the relevant authorities, including recommendations for prosecution, compensation, internal disciplinary action or any other appropriate relief, and shall make public the response received to these recommendations;*

- ii) Monitor and investigate policing operations affecting members of the public;
- iii) Conduct inspections of Police premises, including detention facilities under the control of the Service;
- iv) Review the patterns of Police misconduct and the functioning of the internal disciplinary processes;
- v) Make recommendations to the Service or any State organ.

It was on this premise that the Authority conducted the fact finding mission in Mpeketoni.

### 3.0 Methodology

The IPOA monitoring team used direct interview approach in seeking information from members of the general public and Police officers. The team visited Mpeketoni town where most of the face to face interviews were conducted. Some interviews were conducted on Lamu Island. The team obtained verbal accounts from 24 witnesses. Some witnesses were hesitant to provide written statements but were willing to give verbal accounts.

Some of the officers provided copies of written statements which they had provided to the police inquiry into the attacks. Within Mpeketoni town the team observed firsthand the aftermath of the attacks and took several photographs.<sup>1</sup> The witnesses interviewed comprised of NPS officers, National and County Government representatives, political and religious leaders and members of the public.

### 4.0. Findings of the Team

The Authority’s monitoring team inquired into the attacks, the initial Police response, and the subsequent Police follow up operation and made the following findings: <sup>2</sup>

#### 4.0.1 Nature of the attack

Witness accounts and the team’s observations indicated that the attackers simultaneously engaged the Administration Police and Mpeketoni town center. A short while after the AP office had been attacked, the Mpeketoni Police Station was then attacked. This precluded any police response towards the town. As a result, some of the attackers terrorized the town, while a few engaged the police.

The wanton destruction of about 44 mechanically propelled vehicles was most likely to ensure that these vehicles were not used to pursue the attackers. The team’s observation within the town revealed that the broken down and grounded vehicles in the town were not burnt.

The modus operandi of the attackers’ points to the involvement of persons with knowledge of the geographical layout of Mpeketoni town and which possibly provided the intelligence to locate the various targets. The team’s observation of Mpeketoni town revealed that the attackers conducted selective attacks on buildings but torched all functional vehicles indiscriminately.

The attackers appeared to tactically position gunmen at the entrance to the AP Office which in turn blocked the only route from Mpeketoni Police Station. It is the team’s opinion that the number of attackers was not more than 30. This is informed by the capacity of two 14-seater mini-buses (matatus) coupled with the weapons the attackers carried.

From witness accounts some victims were specifically targeted. ██████████ explained that the attackers arrived at ██████████ and asked for him by name. Some witnesses reported that the attackers spared individuals who were able to prove that they were Muslims. Some witnesses who heard

1 There is a photo log with un-redacted report.

2 Some of the names of interviewees have been withheld for confidentiality but can be availed for legal actions.

the attackers speak reported that they coordinated the operation in Somali and Swahili languages.

Whilst rocket propelled grenades could have been used to destroy and torch some of the buildings, it is also possible that accelerants may have been used to torch the vehicles and some of the buildings and structures. This is corroborated by a witness who allegedly saw the attackers making several trips to a petrol station near the Police station. The team observed drops of a blackened liquid in areas that had slight fire damage.

## 5.0. NPS response to the attacks was too slow and disjointed

Following the attack on Mpeketoni on 15 June 2014, subsequent follow up operations appeared disjointed. A full-time command post or Operation Centre was not established to coordinate the follow up operation. The Administration Police Rapid Deployment Unit (RDU) left their Mkunumbi base which is about 16 km from Mpeketoni at around 2108 hours. They arrived in Mpeketoni at midnight but remained out of sight until 0445 am. The [REDACTED] who traveled with some officers from [REDACTED] 30 km away, arrived in Mpeketoni at [REDACTED]<sup>3</sup> This sequence of arrival is corroborated by police officers and civilian witnesses the team interviewed who reported that the General Service Unit (GSU) officers led by [REDACTED] were the first to venture into the town at about 3:30am after firing had stopped. The RDU was spotted later at 0500 hours.

Following the attack in Kaisari on 16 June 2014, the GSU and KPS officers who responded arrived long after the attack had occurred because their vehicles got stuck in the mud. The response on 16 June 2014, was also riddled with confusion. [REDACTED]<sup>4</sup> expected the RDU led by [REDACTED]<sup>5</sup> who were assigned the area to respond but efforts to reach the officer were fruitless. The response therefore came from other officers. [REDACTED]<sup>6</sup> who led the officers that responded to the Kaisari attack stated that they were not familiar with the exact location and the informants directing them gave unclear information because they were hiding from the attackers in the bush.

The IPOA team identified the following factors as largely contributing to the slow response by the NPS to the attacks and the disjointed nature of the follow up operations.

### 5.0.1. Involvement of NPS headquarters and the Executive

The presence of many senior commanders from the National headquarters and the Executive was symbolic of leading by example and taking charge from the front. Their presence was commendable and valuable and displayed their appreciation of the gravity of the situation and also served to encourage and boost the morale of officers on the ground. However, interviews with both senior and junior officers on the ground, indicated that the presence of these high level delegation distracted the effective and efficient planning of follow up operations. The IPOA team was informed that at one point, the operation was taken over by the Senior Commanders from the Regional and National HQs, and the operational Commanders were left to watch.

[REDACTED]<sup>7</sup> who was pursuing the attackers was ordered to withdraw from the operation and report back to Mpeketoni to receive the delegation from Nairobi. The IPOA team was informed that the operation to pursue the attackers was delayed and even abandoned as all efforts were directed towards meeting the high level delegation from Nairobi headed by the [REDACTED].

3 Name of police officer (PO), PO/001, place of departure and time of arrival redacted

4 PO/001, interviewed by IPOA

5 PO/002, unreachable by IPOA

6 PO/003, interviewed by IPOA

7 PO/001, interviewed by IPOA

A blame game ensued where the Senior Commanders from Nairobi were blaming the commanders on the ground for failure to prevent the attack, while the commanders on the ground were passing blame to each other on the delayed response. Had the attackers been pursued on 16 June 2014, it is likely that they would not have had the opportunity to execute the second attack in Kijijoni which is about 10 kilometres inland from Kaisari.

According to the GSU officers who responded to the scene, on a direct bearing, the area is between 15 - 20 kilometers from where the Mpeketoni attackers had burnt their escape vehicles. It is possible then, that if the pursuit of the attackers had continued on 16 June 2014, the second attack may have been prevented and at least some of the attackers apprehended.

The team was informed that [REDACTED] was in the operation area, and deeply involved in the conduct of the operation thus there was confusion on the ground as to who was in charge of the operation.<sup>8</sup> A confidential source also revealed to IPOA that at 1800 hours, on 16 June 2014, [REDACTED]<sup>9</sup> was ordered by [REDACTED]<sup>10</sup> and [REDACTED]<sup>11</sup> to prepare an operation order by 0700 hours on 17 June 2014. As a result [REDACTED]<sup>12</sup> left the operational area for [REDACTED] and arrived at 2230 hours after allocating zones to the senior officers in the County.

According to [REDACTED]<sup>13</sup> the general area of the second attack was assigned to RDU under the command of [REDACTED]<sup>14</sup> however, at midnight when the report was received that a person had been kidnapped in Mavuno area and the attackers were headed to Pangani in Kaisari, the [REDACTED]<sup>15</sup> could not reach [REDACTED]<sup>16</sup> on phone and therefore instructed [REDACTED]<sup>17</sup> to proceed to the scene in Kaisari.

This therefore implies that after [REDACTED] returned to Lamu,<sup>18</sup> there was absence of close supervision of the operation hence some unit commanders might not have taken up their assigned posts. [REDACTED]<sup>19</sup> further informed the team that on 17 June 2014, in the morning following the second attack [REDACTED] proceeded to the scene. On reaching Kibaoni [REDACTED] was informed that [REDACTED]<sup>20</sup> wanted to see [REDACTED] and [REDACTED] therefore abandoned the operation and returned to Mpeketoni. Before [REDACTED] arrived back at Mpeketoni, [REDACTED] informed [REDACTED] that [REDACTED] had seen on the news that [REDACTED] had been sacked. At 1800 hours, [REDACTED] was informed by [REDACTED]<sup>21</sup> that [REDACTED] had been interdicted and therefore, returned to [REDACTED] and began preparing a hand-over report.<sup>22</sup>

According to the senior and junior officers interviewed, the pronouncement through the press of the immediate sacking of senior police officers demoralized the junior officers who had been involved in the operation with the commanders throughout the night. It threw the police into panic as they wondered

8 PO/004, unreachable by IPOA  
9 PO/001, interviewed by IPOA  
10 PO/004, unreachable by IPOA  
11 PO/005, unreachable by IPOA  
12 PO/001, interviewed by IPOA  
13 PO/001, interviewed by IPOA  
14 PO/002, interviewed by IPOA  
15 PO/001, interviewed by IPOA  
16 PO/002, interviewed by IPOA  
17 PO/006, unreachable by IPOA  
18 PO/001, interviewed by IPOA  
19 PO/001, interviewed by IPOA  
20 PO/007, unreachable by IPOA  
21 PO/007, unreachable by IPOA  
22 Details of venue withheld

who would be next to be sacked. In the confusion, [REDACTED]<sup>23</sup> was wrongly informed that [REDACTED] had been interdicted and [REDACTED] therefore left the operation but was later ordered to return.

According to officers' accounts, when the senior officers withdrew upon the news of their interdiction, the operation was thrown into confusion.

The KPS rank and file at Mpeketoni Police Station were disheartened to learn of the interdiction of a Commander at the station who had been in constant communication with the officers at the station but could not get to them due to the ongoing gunfire. On the other hand, the interdicted Commander's APS counterpart at Mpeketoni was not interdicted yet the two had been together for most part of the event.

### 5.0.2. Lack of a Centralized Command Structure

Despite the formation of a National Police Service as one service, with two units, there is a breakdown in command structure. This contributed to slow response and disjointed operations. Kenya Police Commanders lamented that they cannot directly issue operational orders to officers from the Administration Police Service and specialized units such as the GSU. These units have to obtain approval from their National headquarters before embarking on any operation. For instance, according to [REDACTED]<sup>24</sup> when [REDACTED] ordered [REDACTED]<sup>25</sup> to respond, [REDACTED] alleged that [REDACTED]<sup>26</sup> had given orders that the GSU should not deploy at night to Mpeketoni.

In [REDACTED] interview, [REDACTED]<sup>27</sup> admitted that before deploying he consulted with their [REDACTED] in Nairobi and [REDACTED]<sup>28</sup>. Similarly, the [REDACTED]<sup>29</sup> explained to the team that there was constant communication with the superiors in Nairobi and [REDACTED]<sup>30</sup> from Jogoo house warned the officer to be careful in case of an ambush situation similar to Baragoi.

Prompt response failed because of conflicting orders and lack of a centralized command structure at the county level that could coordinate all the NPS resources in the region. Therefore, senior officers in Nairobi played a key role in the inaction of these units or their late response. Decision making was distorted by the over cautious approach of the Commanders who were not on the ground and which frightened their respective units into not responding promptly.

The focus was on self-preservation and caution rather than immediate response to save life, property, provide assistance to the public and apprehend the offenders. This was contrary to section 24 (a), (b), (c), (d) and (h) of the National Police Service Act. The Authority's enquiries indicate that this discord between the units' command centers permeates even regular day to day operations of the police where there is wide spread mistrust and rivalry. To some it seems the KPS and APS are in competition to outdo and sometimes undermine each other. This practice affects effective policing.

Article 21 (1) of the Constitution of Kenya places an obligation on the State to safeguard the Bills of Rights stating "it is the fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights." This imposes an active duty on the NPS as an instrument of the State to take measures to protect the rights therein contained

23 PO/006, unreachable by IPOA

24 PO/001, interviewed by IPOA

25 PO/003, interviewed by IPOA

26 PO/009, unreachable by IPOA

27 PO/001, interviewed by IPOA

28 PO/009, unreachable by IPOA

29 PO/002, interviewed by IPOA

30 PO/010, unreachable by IPOA

including the right to life and the right to freedom and security of the person. In seeking to preserve themselves rather than undertake their duties immediately, the Police violated these rights.

### 5.0.3. Personal differences in the County

The security apparatus within the county and the Lamu County Government lacks harmony and operates with suspicion and personal differences, more so amongst [redacted]<sup>31</sup> [redacted]<sup>32</sup> and [redacted]<sup>33</sup>. In IPOA's interviews with the three, it emerged that the relationship between these leaders is strained.

Both civilian leadership and senior police officers reported deep-rooted differences between each other. This difficult working relationship was echoed by [redacted]<sup>34</sup> who despite having been in the County only for [redacted] has noticed the challenge and its effect on effective policing in the area.

This information was further corroborated by senior police officers who described the bad blood among county leadership. Also the [redacted]<sup>35</sup> and a local [redacted]<sup>36</sup> expressed heart-felt sentiments and dislike against the [redacted] and the inaction by the NPS.<sup>37</sup>

It is the opinion of [redacted]<sup>38</sup> that [redacted]<sup>39</sup> works very closely with the County Government at the expense of the National Government. On the other hand, [redacted] and other senior officers were of the opinion that [redacted]<sup>40</sup> is too deeply involved in tribal politics and land related disputes. [redacted]<sup>41</sup> feels that [redacted]<sup>42</sup> [redacted]<sup>43</sup> is in denial that recruitment and radicalization of Muslim youths into terrorist groups is taking place and therefore fails to address the matter. [redacted] further noted that [redacted]<sup>44</sup> is often away from the County [redacted]<sup>45</sup>. This information could not be immediately verified as the IPOA team did not manage to obtain copies of the minutes.

[redacted]<sup>46</sup> and other senior officers interviewed explained that [redacted] for a long period and has established a personal connection with the region which influences [redacted] professional decisions. IPOA became aware that [redacted]<sup>48</sup> had recently received a transfer letter and was away from the County on 15 June 2014 with reference to that transfer.

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31 CVL (Civilian) /001, interviewed by IPOA  
32 CVL/002, interviewed by IPOA  
33 PO/011, interviewed by IPOA  
34 PO/012, interviewed by IPOA  
35 CVL/003, interviewed by IPOA  
36 CVL/004, interviewed by IPOA  
37 Details withheld  
38 CVL /001, interviewed by IPOA  
39 PO/001, interviewed by IPOA  
40 CVL /001, interviewed by IPOA  
41 PO/001, interviewed by IPOA  
42 Details withheld  
43 CVL /001, interviewed by IPOA  
44 CVL /001, interviewed by IPOA  
45 Details withheld  
46 PO/001, interviewed by IPOA  
47 CVL /001, interviewed by IPOA  
48 CVL /001, interviewed by IPOA

██████████<sup>49</sup> informed the team that ██████████ and ██████████<sup>50</sup> do not have an amicable relationship which negatively affects county security and community matters. Another senior officer informed the team that the Lamu County ██████████ representative had initially worked in the County and was transferred and later redeployed back to Lamu. There were concerns by senior police officers and county officials that ██████████<sup>51</sup> and ██████████ are too deeply entrenched in the local politics and that their professional decisions are highly compromised.

Therefore, personal interests and differences result in the County Government and National Government representatives pulling in different directions thus fueling tension. Due to the foregoing differences between the senior security officials and based on the response and subsequent conduct of the operation, it was apparent that the county security apparatus lacked a contingency plan to contain any disaster and coordinate response during the Mpeketoni attacks.

#### 5.0.4 Alleged Lack of Specific Intelligence by the NPS on the Attack<sup>52</sup>

All the officers interviewed vehemently denied the existence of specific intelligence on an impending attack on Mpeketoni.<sup>53</sup> The NPS HQs also denied the same. The Authority contacted the National Intelligence Services (NIS) concerning the aspect of intelligence in relation to the Mpeketoni attack. Enquiries ascertained that there were NIS intelligence reports dated as far back as July 2013 which specifically reported that affiliate members of a known outlawed group intended to carry out attacks on particular communities in Lamu County. Later intelligence further identified individuals who were to perpetrate the attacks as well as locations and communities who were the targets.

By early 2014, the threats of possible attacks had heightened following the sighting of militia in Pando Nguo forest in Lamu County. Similar reports continued to be received between January and June 2014, indicating the buildup and heightened activities by terrorist and other criminal elements determined to carry out attacks in Lamu County, the former North Eastern region and the wider Coast region. Similarly, there was specific and actionable intelligence as to the presence of terrorist elements in Boni forest to the extent that the exact geographical location was pinpointed in early June 2014, a few days before the attack.

Also as early as 4 June 2014, IPOA monitors on a reconnaissance mission in Tana River County received information from local police commanders on the emergence of the Coast People Democratic movement which is suspected to be an affiliate of the Mombasa Republican Movement (MRC). Further intelligence was gathered concerning a recruitment drive in the wider Tana River County and the circulation of leaflets warning other inhabitants to vacate the area.

This indicates that there were clear warnings of an impending attack and definite and actionable intelligence existed which could have deterred the attacks. The National Police Service did not take action to prevent the attacks and did not plan or prepare to suitably respond to the attacks. Despite this intelligence the County Security and Intelligence Committee failed to take appropriate actions to preempt the attack.

It has been widely reported in the media that police were aware of the impending attacks and accounts of local residents report an influx of GSU officers in Mpeketoni trading center on the afternoon on 15<sup>th</sup> June 2014. The IPOA inquiry ascertained that there was indeed an influx of GSU officers in Mpeketoni

49 CVL/002, interviewed by IPOA

50 CVL /001, interviewed by IPOA

51 CVL /001, interviewed by IPOA

52 Further intelligence reports were obtained from the National Intelligence Security and thus changes made on the initial draft shared with the Inspector General.

53 PO/001, interviewed by IPOA

town on the afternoon of 15<sup>th</sup> June 2014.

Contrary to claims that they were acting on intelligence, interviews with Deputy County Commissioner [redacted]<sup>54</sup> and [redacted]<sup>55</sup> revealed that there was an impending GSU platoon changeover and the outgoing officers were doing last minute shopping for essentials in preparation for their redeployment to Mombasa the following morning. However, it is important to note that despite the impending changeover, there was no doubt on who was to respond to the incident. Interview with [redacted]<sup>56</sup> depicted responsibility on who was to respond to the attack. [redacted]<sup>57</sup>

### 5.0.5. Failure to Act on prior Intelligence

Prior to the incident, the team was informed that in May 2014, intelligence was received about an arms cache at [redacted] Witu and another hotel within Witu town. It was reported that an ATPU officer based at Witu<sup>58</sup> was coordinating the activities of the arms smugglers who were said to be Al Shabaab operatives. The arms were brought in from Liboi under the protection and escort of that police officer. The intelligence came from [redacted] who insisted that [redacted] meet [redacted]<sup>59</sup> at a neutral place away from [redacted] for safety and confidentiality reasons.

The meeting was held at [redacted] Mpeketoni. In attendance at the meeting were: [redacted]

[redacted]<sup>60</sup> [redacted]<sup>61</sup> requested for a week to organize the operation and seek reinforcements as well as clearance from his superiors. This intelligence was later passed on to the [redacted]<sup>62</sup>

However, as of the day of the fact-finding mission, the raid had not taken place. This information was corroborated by the [redacted]. The failure to act on this specific intelligence displays lack of appreciation of the gravity of the matter on the part of the security agencies. The decision not to involve the [redacted] further points to mistrust within NPS. There is a possibility that had this intelligence been acted upon, the attacks may have been prevented or at the least disrupted.

### 5.0.6. Lack of Planning and Reinforcement in Mpeketoni

Senior officers interviewed raised concerns that the operation was turned into a commercial enterprise with more focus on payment of allowances than on the substance of the operation. Whilst the operation was ongoing, it appeared that most of the officers who came to reinforce the operation were more engrossed in either being paid allowance or waiting to be paid, while others were preparing paper work to support the payments. It would have been prudent that all efforts be geared towards the pursuit of the attackers and payments processed later.

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54 CVL/005, interviewed by IPOA  
 55 PO/003, interviewed by IPOA  
 56 PO/003, interviewed by IPOA  
 57 Details withheld  
 58 An anti-terrorism operative  
 59 CVL/006, interviewed by IPOA  
 60 Details withheld  
 61 PO/013, unreachable by IPOA  
 62 CVL/005, interviewed by IPOA



### 5.0.7. Understaffing and Lack of Equipment

The Mpeketoni Police Station (KPS) and Administration Police Division Headquarters are understaffed. [REDACTED]<sup>63</sup> explained to the team that Mpeketoni Police station has 17 officers on active duty although it has a posted strength of 25 officers. He provided a verbal breakdown of the station's capacity as follows: of the 25, 4 are stationed at Mkunumbi Police Post, 2 are currently on leave, 1 is terminally ill, 1 is on sick leave whilst 2 are on a course.

On a regular shift, the officers are assigned as follows: 2 report office/cell sentry, 4 crime branch, 3 prisoner escort/mobile court/beat, 2 KCB Bank, 2 Equity Bank, and 3 night patrol (some of the night patrol officers include officers who worked during the day). On the night of the attack, there were 2 officers at the police station conducting report office/cell sentry duty. The 3 night shift officers had not yet ventured out for night patrols.

[REDACTED]<sup>64</sup> confirmed that the AP Divisional HQs, has a posted strength of 28 officers. However, 4 are based at Baharini Post and 5 at Hongwe Patrol base. Therefore, Mpeketoni post has 19 officers. On 15 June 2014, 17 officers were available as 2 were on leave. The 17 officers were posted as follows: 2 Cooperative Bank, 2 Teachers SACCO, 2 day sentry 1 radio operator, 3 night guards, 3 night patrol officers and 4 on standby. On the night of the attack, there were 3 officers on duty, 2 sentries and 1 radio operator at Mpeketoni AP Divisional office. At the time of the attack, the night shift patrol had not yet ventured out for patrols.

The Stations staff capacity is depleted by posting police officers to undertake guard duties at financial institutions at the expense of other police operations. In fact on daily basis the Kenya Police and Administration Police Service dedicate 4 officers each for these duties. These institutions could explore other security mechanisms such as panic buttons or alarms directly connected to the police stations on 24 hour basis.

### 5.0.8. Communication Equipment

IPOA confirmed that police communications problems are prevalent in Lamu; but possibly characteristic of all other Counties as well. The only radio communication system at Mpeketoni police station is a HF radio capable of communicating with Lamu control room only. None of the officers have walkie-talkies. They rely on their personal mobile phones which they top up from their personal funds. The static radio system they do have is problematic and unreliable and they were unable to use it for communication on the night of the attack as they were taking cover in safer positions.

The Administration Police office had one HF radio which was burnt by the attackers. This was quickly replaced with one from Nairobi. The APs also have one radio at Hongwe post but Baharini post has no radio. The APs do not have pocket radios or walkie-talkies. They use their personal mobile phones at their own cost. On the night of the attack, they could not use the static radio as they had to evacuate the premises for safety and the radio room was set on fire. Had either of the KP and AP stations commanders had portable radios for communication, they would have had a better chance at communicating and coordinating response.

It is apparent that as a result of the incident, the mobile phone network was overloaded with traffic and at times it was very difficult to make or receive calls. This was exacerbated by the fact that none of the Police stations had their own internal radio communication system to coordinate the operation at the ground. Whilst taking cover some of the officers were reluctant to use their mobile phones as the light and sound may have endangered them further. Therefore, some of the commanders including OCS Mpeketoni Police Station and AP commander Mpeketoni could not effectively coordinate the operation.

63 Details withheld

64 Details withheld

### 5.0.9. Vehicle and Fuel Shortages

IPOA further identified that Mpeketoni Police station currently has no vehicle. The only vehicle they previously had, supplied by the National Government under the police vehicle lease programme, was involved in an accident in April 2014 and had not yet been repaired or replaced. The officers therefore rely on boda boda (motor bikes) which they use for policing at their personal cost. If a vehicle is desperately required, it comes from Mokowe police station or through liaison with the AP office.

The AP office had one land cruiser also provided by the National Government under the lease programme. It is this land cruiser that was torched by the attackers. Administration police officers therefore could not have responded to assist the public or pursue the attackers. In the event that Mpeketoni Police Station had not been attacked, the absence of a vehicle there meant that the police officers could only have responded on foot and thus could not pursue the attackers. Even if the vehicles had been available to respond there is the possibility that they would not have had enough fuel to pursue the attackers for long.

Officers interviewed all expressed the challenges that they face when it comes to facilitating transportation due to lack of fuel. Despite having vehicles the Stations are not provided with fuel and are forced to rely on the good will of the local County government and local community particularly the owners of petrol stations.

### 5.0.10. Lack of Confidence in Weaponry

On the issue of firepower, all the officers expressed apprehension at the capability of their firearms compared to those used by the attackers. Some officers felt that the G3s rifles are slow and cumbersome in a situation requiring rapid fire and maneuver compared to AK47s. Some of the officers admitted having not fired their weapons for a long time therefore doubting the serviceability of the weapons. Others stated that the firearms are old and unreliable as they jam frequently. Some of the units are not equipped with General Purpose Machine Guns and Rocket Launchers for use when engaging with an enemy with superior weapons.

Furthermore, the officers did not have personal protective equipment supplied. Mpeketoni police station has no bullet proof vests at all for the Kenya Police officers in the station. The Administration Police Divisional HQs have 5 bullet proof vests to share amongst the 28 officers in the Division. None of the officers have pouches to carry extra ammunition so they are unable to carry more than the single magazine loaded in the weapon. This is the reason the Administration Police officers at the AP Division office ran from their posts for fear of exhausting their 20 rounds. This general perception and the fear of inability to match the enemy contributed to the reluctance of other officers to venture from their lines or to respond immediately.

### 5.0.11. Geographical Terrain

The physical layout of the region means that reinforcements from Lamu Island have to use a boat to cross the ocean to the mainland at Mokowe. When the KPS County Commander and other officers responded to the distress calls, they called Chief Inspector Mulwa of the Marine Police to avail a boat since the public boats mostly do not operate at night. This prolonged the response time.

Officers expressed the difficulties that the poor road network and terrain presents for quick response. Also, the vegetation cover in the area increases the risk of ambushes. The marshy terrain, was a handicap for the GSU who responded to the distress calls in Kaisari on 17 June 2014. Their vehicles got stuck in the mud and they resorted to walking to the scene.

### 5.0.12. Detainees Welfare

At the time of the attack on Mpeketoni Police Station, there were some suspects in the cells including a juvenile. When the attack happened, their welfare and human rights were forgotten. When the officers

withdrew from the station to take positions around the station, the detainees were left inside. Had the attackers set the station on fire, it is unimaginable what would have happened to these detainees.

### 5.0.13. Failure to Gather Evidence

There are photos taken by IPOA, which show a jacket and a box of medication discarded and recovered by officers at Mpeketoni AP office. It is believed that the attackers left the jacket and medication behind. The jacket bears some burn marks. This vital evidence was stored unpackaged and unsealed on the floor in a room at the AP office with no one showing any urgent need to seize and examine the evidence. It beggars belief that evidence left behind by the attackers was not a priority for the Directorate of Criminal Investigations (DCI), or the Anti-Terrorism Police Unit (ATPU) and raises concerns as to the quality of the police investigation.

### 5.0.14. Counseling Services

A number of the NPS officers interviewed by the team displayed overt symptoms of trauma following what they had experienced and witnessed during and after the attacks at Mpeketoni. There is urgent need for the National police Service Commission (NPSC) and the NPS to provide counseling therapy to these officers.

## 6.0. Other Underlying Factors

There is simmering ethnic, land and religious tension and suspicion between the communities which could trigger violence with the slightest incitement. Therefore, there is need for concerted efforts by the County Commissioner and the County Government to work together as a team to defuse these tensions for long term peace and stability. The show of cooperation between the local leaders and the National Government might not translate to peace and harmonious coexistence without a local solution to the problem. Therefore, the local communities should spearhead this initiatives. Mpeketoni needs a bottom-up approach to conflict resolution or transformation.

## 7.0. Officer's Bravery

Despite these challenges, certain officers acted bravely and deserve commendation. Notably, the following officers responded to reinforce their colleagues at the station. These were [REDACTED]

[REDACTED]<sup>65</sup> All these officers risked their lives and moved from the police-lines while under enemy fire to the station. [REDACTED] who held the key to the armoury, issued them with weapons. Bravely whilst under a hail of gunfire [REDACTED]<sup>66</sup> took a G3 rifle to [REDACTED]<sup>67</sup> who was armed with a pistol and had taken position near the toilets behind the police station. [REDACTED]<sup>68</sup> remained in the police lines from where he engaged the attackers. These officers displayed bravery and deserve recognition.

## 8.0. Officers Sense of Duty

Some senior officers who were away from their duty stations cancelled their leave and returned on hearing of the attack. [REDACTED]

[REDACTED]<sup>69</sup>

These officers immediately returned to duty on receipt of the report that Mpeketoni was under attack.

<sup>65</sup> Details of the police officers withheld

<sup>66</sup> Police Officer 001, bravery deserving commendation

<sup>67</sup> Police Officer 002, bravery deserving commendation

<sup>68</sup> Police Officer 003, bravery deserving commendation

<sup>69</sup> Details withheld

70 traveled in the night [redacted] arriving the following morning at 0800 hours and headed straight to Mpeketoni. 71 also traveled [redacted] and went straight to Mpeketoni. On receiving the news of the attack, [redacted] 72 traveled from [redacted] where he took five officers and laid ambush between Kibaoni and Witu. Despite their official absence, these officers felt duty bound to get in touch with their units and made immediate efforts to report for duty. Their dedication is commendable.

## 9.0 Conclusion

There was breakdown in command structure as the senior commanders on the ground cannot directly issue operational orders to officers from the Administration Police Service and specialized units such as the GSU. These units have to obtain approval from their National headquarters before embarking on any operation. This was evident in the response of the RDU and GSU who had to consult their superiors who were not on the ground. Prompt response failed because of conflicting orders and lack of a centralized command structure at the county level, which could coordinated all the NPS resources in the region.

## 10.0 Recommendations

Arising from the findings above, the following are the binding recommendations made to the NPS, and other State organs, by IPOA.

### 10.1. Harmonization of the NPS Command Structure

It is imperative that law is adhered to in the command structure of the police and that the overall and independent command of the Inspector General in the performance of policing service to the Nation even at the County level is not subject to civilian instruction.

Section 10(l) of the National Police Service Act, provides that the Inspector General of Police will provide a command structure and system of the Service for the efficient administration of the Service nationally. There is an urgent need to harmonize the command structures of the National Police Service in order to integrate the three Services. At the operational and tactical level, there should be one officer in command of all the Service personnel in the region.

Therefore, the IG should appoint a single NPS County Commander in all the 47 Counties to coordinate effective policing by overseeing all Police Officers and Units be they APS, KPS, DCI or GSU ensuring there is no doubt as regards command at all levels. It is therefore IPOA's binding recommendation that the Inspector General of the National Police Service should immediately institute measures to put in place a seamless structure of the Service at all levels. The Inspector General of the National Police Service should furnish IPOA with a report on the measures instated within 90 days.

### 10.2. Operation Center

In future there is need to establish a full operation center or command post to coordinate such operations. This center will also be used to brief dignitaries and the press. These measures will restrain the senior officers from regional and national HQs and the executive from direct interference with the conduct of an ongoing operation.

### 10.3. Investigation into the failure to respond

In light of the inaction by the police on the night of the attacks, the IG needs to review the concept of the deployment of the Rapid Deployment Units and other specialized units. There is need to conduct in-

70 Police Officer 001, sense of duty deserving commendation

71 Police Officer 002, sense of duty deserving commendation

72 Police Officer 003, sense of duty deserving commendation

depth investigations into why the RDU and the GSU who were in a better position to respond failed to do so. Further enquiries also ought to be conducted into why the Mpeketoni Police and Administration Police officers who were expected to be on night patrol shift had not reported for these duties by the time of the attack. The Inspector General of the Police should provide to IPOA a report into the investigation within 90 days.

#### 10.4. Use of Heli-borne Operations

The NPS should consider use of Heli-borne operations during such incidents to pursue attackers. Use of helicopters on 16 June 2014, to position officers on the likely escape routes would have made much difference.

#### 10.5. Continuous Training of NPS officers

There is need for a work based continuous development training curriculum that incorporates all facets of policing including law, conflict handling, decision making, public relation skills, combat, range classification and field craft among other aspects. The inaction by some officers to some extent was owing to lack of confidence in the weapon systems.

The NPS must undertake to ensure that all officers receive regular refresher firearms training in line with Chapter 31 of the Force Standing Orders paragraph 31 which states, "All ranks will fire an annual course with the weapon they normally use, as set out in appendix 31B. In addition regular and frequent weapon training will be held and concentrated training will precede the firing of the annual course."

This annual course should be scheduled on a recurring roster basis for all officers. The Inspector General of the National Police Service should furnish IPOA with a copy of the planned schedule within 90 days.

#### 10.6. County Policing Authorities and Community Policing Committees

There is need to Gazette the County Policing Authority and operationalize the community policing committees. In so doing, the National Police Service shall fulfill the objectives contemplated in Article 244 of the Constitution. This will also enable the NPS to:

- a) Liaise with communities through Community Policing Communities (CPCs) with a view to establishing and maintaining partnership between the community and the NPS;
- b) Promote communication between the Service and the community;
- c) Promote co-operation between the Service and the community in fulfilling the needs of the community regarding policing; and
- d) Improve the rendering of police services to the community at National, County and Local levels.

#### 10.7. Staffing versus Core functions

The NPSC and the NPS need to address staffing levels and roles assigned to the officers at station level. The practice of assigning officers to guard financial institutions at the expense of wider policing demands ought to be reviewed.

The National Police Service Act Section 45 and 46 consider officers on duty 24 hours a day, it further notes that where excessive overtime is required police officers shall be compensated with commensurate periods of rest and shall be allowed a minimum of rest during and in between shifts. The NPS should enforce section 46 (2) by imposing compulsory rest periods for officers in between shifts unless of course in cases of an emergency.

#### 10.8. Commercialization of Operations

The commercialization of police operations should be addressed and the issue of operational pulse to enable the officers be paid allowances should be discouraged. Payment arrangements can be processed after the operation or when the urgent situation has normalized to avoid distractions. Rather than

making cash payments in the field, allowances should be made through electronic transfers directly into officers' accounts. This will ensure transparency, reduce time spent on logistics in the operation and most importantly ensure that all efforts are focused towards the ongoing security operation.

### 10.9. Audit of Police Operations

The Kenya National Audit Office (KENAO) should conduct specific audit of police operations expenditures to ensure taxpayers money is spent in a transparent manner and for the purpose intended. This will deter individual officers from taking advantage of police operations for their personal gains.

### 10.10. Transport

The National Government must make a deliberate effort to facilitate the mobility of police officers particularly in remote areas to enable better service delivery. The NPS budgeting process should be bottom up approach and thus the OCS should be part of the NPS budget making process.

### 10.11. Communication

The National Government must urgently provide suitable and sufficient communication equipment to facilitate the NPS to appropriately coordinate response to emergencies and day to day operations. If policing is to be effective, and national security guaranteed, the Police must be able to communicate and coordinate effectively.

### 10.12. Disaster Response Plan

It is imperative that Lamu County and other Counties institute disaster response plans and systems. Similarly, there is need for police in Lamu County, as well as other Counties, to have a police disaster response plan in place particularly in light of the continued threat of terrorism in the region. This plan should be subject to regular mock drills.

### 10.13. Detainees Evacuation Plan

The duty of care owed to suspects in custody by Police Officers should be reinforced amongst officers including the legal consequences of such neglect. Evacuation plan for detainees in police custody in cases of emergency should be drawn and incorporated into the disaster response plan.

### 10.14. Redeployment of NIS and National Government representation

Consideration should be made to redeploying the National Government and National Intelligence Service representation in Lamu. The prolonged assignment in the region and personal vested interests appears to compromise their professional involvement in security matters affecting the region and further fuel existing tension between the communities.

### 10.15. Recognition of Officers

The IG has already recognized and promoted some of the officers who held fort at Mpeketoni Police Station on 15 June 2014. However, the following officers who responded in protecting the police station should be commended: [REDACTED]

<sup>73</sup> These officers bravely left the police lines under fire and came to the police station where they were issued with weapons and reinforced the station.

IPOA notes that it is within the powers of the IG to award field-based promotions. However, such promotions ought not to be based on single acts of bravery alone. A suitable promotion process should involve a careful competence based assessment which should consider operational aptitude, involve examination of legal and technical knowledge and an interview by a panel. The National Police Service Commission should provide policy guidance on this.

73 Names withheld but can be availed by IPOA

### 10.16. Interdiction of Officers

The National Police Service must abide by the rule law and procedures in taking disciplinary action against police officers. Administrative action against any officer must be in accordance with due process and the Bill of Rights. The pronouncement through the press, of the immediate sacking or interdiction of senior police officers in the heat of an operation or crisis is unprofessional and should be discouraged. It is imperative that established legal procedure, policy and due process are observed in the process of disciplining officers.

### 10.17. Investigation and Collection of Evidence

The Authority's baseline survey released in 2013 identified gaps in the investigation and evidence gathering practices of the NPS which have led to cases being lost at Court particularly where vital evidence existed but was not correctly gathered, stored or examined. The DCI must ensure that scenes of crime officers and investigators are sensitized and suitably trained on scene examination and evidence identification and collection and particularly on the importance of physical evidence, prioritization of evidence and speed of evidence collection. The DCI should also conduct an inquiry as to why such crucial evidence lay unattended and ignored whilst the police investigation was ongoing. The Director of Criminal Investigations should furnish IPOA with a report following this investigation within 90 days.

### 10.18. Intelligence

The NPS should ensure that disseminated intelligence is appropriately managed and any operational, strategic and policy decisions or actions arising are urgently actioned. There should be clear guidelines on ownership and responsibility for these decisions and actions and a clear escalation procedure and timelines.

### 10.19. Underlying County Concerns

There is need for political will on the ground, to diffuse searing ethnic, religious, land and political tension. The National and County Government leaders and representatives, religious leaders, youth and women representatives and elected leaders across the political divide should jointly address the underlying tensions and their causes. The problem-solving approach should begin from the bottom-up rather than top-down. Ultimately the National Government should take measures to address the contentious and long-standing land issue, which is an emotive subject in the Lamu County.

**END**









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