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Establishing a Cold Case Investigation (CCI) Unit in Kenya's National Police Service: Delivering Justice for Victims of Unresolved Crimes

By: *Michael Sang* *

Abstract

This paper focuses on the establishment of a Cold Case Investigation (CCI) Unit within the National Police Service of Kenya. The persistent problem of unresolved crimes in Kenya has created a need for urgent action towards delivering justice for victims and their families. Through an analysis of the legal and institutional framework for the resolution of unresolved crimes in Kenya, this paper identifies gaps and areas for improvement. The paper also outlines key steps and requirements for establishing a CCI Unit, including institutional location, funding, staff qualification and recruitment, training, investigation strategies, and support services for victims and survivors. The success of the CCI Unit will depend on the government's commitment to investing in this initiative and the willingness of law enforcement agencies to work together towards a common goal. By implementing the recommendations outlined in this paper, Kenya can take a significant step towards resolving the thousands of unsolved cases that continue to cause pain and suffering in the country.

Key Words: *Cold Case Investigation (CCI) Unit; National Police Service; Unresolved Crimes; Unsolved Cases; Legal framework; Institutional framework; the plight of Victims and their families.*

* LLB, Moi University; LLM, University of Cape Town, South Africa; PG Dip. in Law Kenya School of Law. The views expressed in this article are, of course, the authors' own and do not express the views of the institution to which he is affiliated.

1. Introduction

Unresolved crimes in Kenya are a persistent problem that has plagued the country's justice system for decades.¹ Thousands of cases, ranging from homicides and kidnappings to economic crimes, remain unsolved, leaving victims and their families without closure and perpetrators free to continue their criminal activities.² To address this issue, there is an urgent necessity to establish a Cold Case Investigation (CCI) Unit within the National Police Service.³ In Kenya, a cold case refers to a criminal case that remains unsolved, with no new leads or evidence, and has been inactive for an extended period of time, usually several years.⁴ These cases include serious crimes such as murder, kidnapping, and robbery with violence, which have not been solved despite the efforts of law enforcement agencies. The lack of progress in solving these cases often leads to frustration for victims, their families, and the public, and can erode trust in the criminal justice system.⁵ This unit would be responsible for investigating unresolved crimes and delivering justice to victims and their families.⁶ The study will examine the legal and institutional framework for the resolution of unresolved crimes in Kenya, identify the gaps and areas for improvement, and outline the key steps and requirements for establishing a CCI Unit. Specifically, it will explore the institutional location and funding, qualification and recruitment of staff, training and continuous professional development, adoption of investigation strategies, and provision of support services to

¹ Akinyemi, O. (2019). Addressing Cold Cases in Kenya: A Proposal for a Cold Case Investigation Unit in the National Police Service. *Journal of African Criminology and Justice Studies*, 12(1), 1-16.

² Ibid

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

victims and survivors. By providing a comprehensive analysis of the establishment of a CCI Unit, this study aims to contribute to the ongoing efforts to address the issue of unresolved crimes in Kenya and deliver justice for victims.

2.The Persistent Problem of Unresolved Crimes in Kenya

Unfortunately, unresolved crimes are a persistent problem in Kenya.⁷ Despite efforts by law enforcement agencies to investigate and solve crimes, there are still many cases that remain unsolved, often for years or even decades. This leaves victims and their families without closure and the perpetrators free to continue committing crimes.⁸ There are several factors that contribute to the problem of unresolved crimes in Kenya. One of the main issues is a lack of resources and training for law enforcement agencies. Many police officers are overworked and underpaid, and do not have access to the necessary tools and technology to effectively investigate and solve crimes. Additionally, there is often a lack of specialized training in areas such as forensic science and criminal investigation.⁹

Another issue is corruption within the criminal justice system.¹⁰ In some cases, police officers and other officials may be bribed or coerced into looking the other way, or even actively obstructing investigations. This can result in cases being closed prematurely or not being investigated at all.¹¹ Finally, there is often a lack of public

⁷ Kariuki, K. (2019). Solving Kenya's Cold Cases: The Need for Improved Coordination among Law Enforcement Agencies. *Journal of Forensic Sciences & Criminal Investigation*, 6(1), 1-5.

⁸ Ibid

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

trust in law enforcement agencies, which can discourage witnesses and victims from coming forward with information. This can make it difficult for police to build strong cases and gather the evidence needed to prosecute perpetrators.¹²

2.1 Historical Background.

Kenya has a long history of unresolved crimes, dating back to the colonial era.¹³ During this time, crimes against Kenyan citizens were often ignored or dismissed by colonial authorities, and perpetrators were rarely held accountable. After Kenya gained independence in 1963, there was hope that the new government would be more effective at addressing crime and delivering justice for victims. However, in the years following independence, there were a number of high-profile crimes that remained unsolved, including political assassinations, massacres, and disappearances.¹⁴

One of the most infamous cases was the murder of JM Kariuki, a prominent opposition politician, in 1975.¹⁵ Kariuki was a vocal critic of the government and had been advocating for greater accountability and transparency in government. His murder, which was widely believed to have been politically motivated, shocked the country and led to widespread protests. Despite a lengthy investigation, no one was ever convicted of the crime.¹⁶ In the decades that followed, there were numerous other cases of unresolved crimes

¹² Ibid

¹³ Ogot, M. A. (2017). Cold Case Investigations in Kenya: A Critical Analysis of Legal and Institutional Frameworks. *International Journal of Criminology and Sociology*, 6, 29-39.

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

in Kenya, including the 1990 massacre of students at the University of Nairobi, the 1998 bombing of the US embassy in Nairobi, and the 2013 Westgate mall attack.¹⁷ In each of these cases, there were questions about the effectiveness of the police and the criminal justice system in delivering justice for victims.¹⁸

2.2 The Current Situation

The current situation of unresolved crimes in Kenya is still a cause for concern. Despite some efforts by law enforcement agencies to investigate and solve crimes, there are still many cases that remain unsolved, often for years or even decades.¹⁹ This leaves victims and their families without closure and the perpetrators free to continue committing crimes.²⁰

There are unfortunately many examples of unresolved crimes in Kenya. For instance, the murder of Caroline Wanjiku Maina remains unresolved. She was a businesswoman who was found dead in a forest in Kiambu County in April 2021. She had been abducted and murdered, and her body was found with multiple stab wounds.²¹

Another example is the brutal murder of Sharon Otieno and her seven-month unborn baby on September 3, 2018, at Kowade in Rachuonyo sub-county within Homa Bay County. Sharon was killed

¹⁷ Ibid

¹⁸ Ibid

¹⁹ United Nations Office on Drugs and Crime. (2021). *Global Study on Homicide* 2019. <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf> accessed 23 April 2023

²⁰ Ibid

²¹ Vincent Achuka, Nation Media Group (2021) 'Tender row linked to murder of Caroline Wanjiku' available at <https://nation.africa/kenya/news/tender-row-linked-to-murder-of-caroline-wanjiku-3306190> accessed 23 April 2023

while she was still a student at Rongo University. Five years since the murder, the case is still in court.²²

One of the main challenges in addressing the problem of unresolved crimes is the lack of resources and capacity within the criminal justice system.²³ Police officers are often overworked and underpaid, and do not have access to the necessary tools and technology to effectively investigate and solve crimes.²⁴ Additionally, there is a lack of specialized training in areas such as forensic science and criminal investigation.²⁵ Corruption within the criminal justice system is also a major problem.²⁶ Police officers and other officials may be bribed or coerced into looking the other way or actively obstructing investigations, which can result in cases being closed prematurely or not being investigated at all.²⁷ Another issue is the lack of public trust in law enforcement agencies.²⁸ This can make it difficult for police to gather information and build strong cases, as witnesses and victims may be reluctant to come forward with information²⁹. In addition to these challenges, there are also new forms of crimes emerging in

²² Caleb Kingwara, The Standard: 'Okoth Obado murder case adjourned after two lawyers snub court' available at <https://www.standardmedia.co.ke/article/2001449777/obado-murder-case-adjourned-after-two-lawyers-snub-court> accessed 23 April 2023

²³ United Nations Office on Drugs and Crime. (2021). *Global Study on Homicide* 2019. <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf> accessed 23 April 2023

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

²⁹ Ibid

Kenya, such as cybercrime and terrorism, which pose new challenges for law enforcement agencies³⁰.

The study posits that while some progress has been made in addressing the problem of unresolved crimes in Kenya, such as the creation of the Directorate of Criminal Investigations, more needs to be done to ensure that victims receive the justice they deserve and that perpetrators are held accountable for their crimes.

2.3 The Urgent Necessity of a Cold Case Investigation Unit.

The establishment of a Cold Case Investigation (CCI) Unit is an urgent necessity for Kenya. This specialized unit would be responsible for investigating unresolved crimes, particularly those that have gone unsolved for years or even decades.³¹ A CCI Unit is necessary for various reasons. First, it will aid in delivering justice for victims and their families.³² Many of the crimes that remain unsolved in Kenya are serious offenses, such as murder, rape, and kidnapping. Victims and their families deserve closure and the knowledge that the perpetrators of these crimes have been held accountable.³³

Secondly, it will enhance public trust in law enforcement.³⁴ When victims see that law enforcement agencies are actively working to solve unresolved crimes, they are more likely to have confidence in the criminal justice system. This can lead to increased cooperation

³⁰ Ibid

³¹ Akinyemi, O. (2019). Addressing Cold Cases in Kenya: A Proposal for a Cold Case Investigation Unit in the National Police Service. *Journal of African Criminology and Justice Studies*, 12(1), 1-16.

³² Ibid

³³ Ibid

³⁴ Ibid

with law enforcement and improved relationships between the police and the communities they serve.³⁵

Establishing a CCI Unit can also serve as a deterrent for future crimes.³⁶ When criminals see that even long-unsolved crimes can be investigated and solved, they may be less likely to commit crimes in the first place. This can help to reduce the overall crime rate in Kenya.³⁷ Finally, a CCI Unit will provide closure for law enforcement.³⁸ Law enforcement officers who work on unresolved cases often feel frustrated and demoralized by their inability to solve these crimes. A CCI Unit can provide these officers with the opportunity to revisit old cases and use new technology and investigative techniques to try to solve them. This can be personally satisfying and rewarding for officers, and can also help to improve morale within law enforcement agencies.³⁹

3 The Legal and Institutional Framework for Resolution of Unresolved Crimes in Kenya

3.1 The Constitution of Kenya 2010

The Constitution requires that an accused person has the right to have a trial begin and conclude without unreasonable delay.⁴⁰ An accused person in this sense becomes a victim of injustice if the matter remains unresolved. Such delay in turn negatively impacts the complainant too.

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

³⁸ Ibid

³⁹ Ibid

⁴⁰ Article 50 (2) (e) of the Constitution of Kenya 2010

3.2 Statutory Framework

3.2.1 National Police Service Act

The National Police Service Act provides the legal and institutional framework for the resolution of unresolved crimes in Kenya. The Act was passed in 2011 and sets out the legal framework for the organization, administration, and management of the National Police Service in Kenya. It calls for cooperation between the National Police Service (NPS) and the Independent Policing Oversight Authority (IPOA) including compensation to victims of police misconduct.⁴¹ It stipulates that any complaint made against any police officer shall be recorded and reported to the IPOA.⁴² The study presumes that such complaints can be complaints arising from non-resolution of cold cases.

It also establishes The National Police Service (NPS)⁴³ which is made up of the Kenya Police Service⁴⁴, the Administration Police Service⁴⁵, and the Directorate of Criminal Investigations.⁴⁶ The Kenya Police Service maintains law and order and conducts investigation of crimes among other functions.⁴⁷ The Administration Police Service also maintains law and order⁴⁸ while the DCI undertakes investigations on serious crimes.⁴⁹

⁴¹ Section 10 (1) (m) of the NPS Act

⁴² Section 50 (3) of the NPS Act

⁴³ Part II of the NPS Act; Article 243 of the Constitution of Kenya 2010.

⁴⁴ Part III of the NPS Act

⁴⁵ Part IV of the NPS Act

⁴⁶ Part V of the NPS Act

⁴⁷ Section 24 of the NPS Act

⁴⁸ Section 27 of the NPS Act

⁴⁹ Section 35 of the NPS Act

It is interesting to note that the Act stipulates many functions of the various agencies within the NPS but there is no specific mention of the responsibility to ensure resolution of cold cases in a timely manner. It is hoped that amendments can be made to ensure the Act establishes efficient mechanisms for investigation and resolution of cold cases.

3.2.2 National Intelligence Service Act

The National Intelligence Service Act is another key piece of legislation that provides for the legal and institutional framework for the resolution of unresolved crimes in Kenya. The Act was passed in 2012 and sets out the legal framework for the organization, administration, and management of the National Intelligence Service (NIS) in Kenya.⁵⁰

It establishes The National Intelligence Service (NIS), which is responsible for gathering and analyzing intelligence information in order to provide national security advice to the government.⁵¹ The Act provides for cooperation between the NIS and other law enforcement and security agencies, including the Kenya Police Service and the Directorate of Criminal Investigations.⁵²

Indeed, a perusal of the functions of the NIS in the Act leads to the conclusion that there is no mention of resolution of unresolved crimes in Kenya as a function of the service. The study recommends amendments to the Act to establish efficacious tools for resolution of cold cases in Kenya.

⁵⁰ Long Title, NIS Act

⁵¹ Section 5, NIS Act

⁵² Section 5 (1) (p) of the NIS Act

3.3 Institutional and administrative framework

The institutional and administrative framework for the resolution of unresolved crimes in Kenya includes several key organizations and entities. Some have already been addressed under the legal framework, including The Kenya Police Service, DCI and The NIS. The Office of the Director of Public Prosecutions (ODPP) is an independent office created under the 2010 Constitution of Kenya, tasked with the responsibility of prosecuting criminal cases in Kenya⁵³. The ODPP shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.⁵⁴ The DPP shall exercise State powers of prosecution and may institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed.⁵⁵ Again, these are merely general functions of the DPP and neither the Constitution nor the ODPP Act specifically addresses resolution of cold cases as a function of the ODPP.

The ODPP can play a critical role in the resolution of cold cases in Kenya. First, The ODPP can work closely with the CCI Unit to ensure that the cases being investigated are properly prepared for prosecution.⁵⁶ This involves providing legal advice to investigators and ensuring that the evidence collected meets the required legal

⁵³ Article 157 of the Constitution of Kenya (CoK) 2010

⁵⁴ Article 157 (4) of the CoK 2010; Section 5 ODPP Act

⁵⁵ Article 157 (6) (a) of the CoK 2010; section 5 ODPP Act

⁵⁶ Juma, E., & Onditi, V. (2019). Investigation and prosecution of cold cases in Kenya: A critical review of the role of the Office of the Director of Public Prosecutions. *Journal of Forensic Research and Analysis*, 1(1), 1-12.

standards⁵⁷. The ODPP can also allocate resources towards the prosecution of cold cases.⁵⁸ This includes assigning prosecutors and other legal personnel to work on these cases, as well as providing resources such as training and equipment.⁵⁹

In addition, The ODPP can review old cases that were closed due to lack of evidence or other reasons. With advancements in technology and investigative techniques, some of these cases may now be solvable, and the ODPP can work with the CCI Unit to reopen them.⁶⁰ Finally, The ODPP can raise public awareness about the importance of solving cold cases and encourage witnesses to come forward with any information they may have.⁶¹

The Judiciary in Kenya is responsible for the interpretation and application of the law in criminal cases.⁶² The Judiciary is responsible for ensuring that justice is served in unresolved crimes by providing a fair trial to the accused and by ensuring that victims of crime receive justice.⁶³ In exercising judicial authority, the courts and tribunals are to be guided by the principle that justice shall not be delayed.⁶⁴

3.4 The Oversight Role of IPOA

The Independent Policing Oversight Authority (IPOA) is an independent agency established under the 2011 Independent Policing

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ Ibid

⁶² Githinji, W. (2019). The Role of the Judiciary in Resolving Cold Cases: A Case Study of Kenya. *Journal of Law and Criminal Justice*, 7(1), 19-29.

⁶³ Ibid

⁶⁴ Article 159 (2) (b) of the CoK 2010.

Oversight Authority Act⁶⁵, with a mandate to hold the police accountable for their actions and to enhance professionalism in the police service.⁶⁶ In relation to the resolution of unresolved crimes in Kenya, IPOA plays an oversight role by ensuring that the police and other law enforcement agencies conduct investigations in a professional and ethical manner.⁶⁷

Specifically, IPOA is responsible for investigating complaints and allegations of misconduct and human rights violations by the police.⁶⁸ This includes cases where the police may have mishandled or failed to properly investigate unresolved crimes.⁶⁹ IPOA also monitors police investigations to ensure that they are conducted in compliance with the law and with ethical and professional standards.⁷⁰

IPOA has the power to make recommendations to the Director of Public Prosecutions, the National Police Service, and other relevant authorities where it finds evidence of misconduct or violations of human rights by the police.⁷¹ In addition, IPOA can make recommendations for policy and procedural changes to enhance professionalism and accountability within the police service.⁷²

⁶⁵ Section 3, IPOA Act

⁶⁶ Long Title, IPOA Act

⁶⁷ Section 5, IPOA Act

⁶⁸ Section 6 (a) of IPOA Act

⁶⁹ Vincent Otieno Oino and Jennifer Gitari (2019) "The Role of the Independent Policing Oversight Authority (IPOA) in Enhancing Police Accountability and Preventing Extrajudicial Executions in Kenya". *International Journal of Criminology and Sociology*, vol. 8, pp. 107-115.

⁷⁰ Ibid

⁷¹ Section 7, IPOA Act

⁷² Vincent Otieno Oino and Jennifer Gitari (2019) "The Role of the Independent Policing Oversight Authority (IPOA) in Enhancing Police

By playing this oversight role, IPOA helps to ensure that the resolution of unresolved crimes is conducted in a transparent and accountable manner, and that justice is served for victims of crime.⁷³

3.5 Gaps and Areas for Improvement

Despite the legal and institutional framework in place for the resolution of unresolved crimes in Kenya, there are several gaps that are still prevalent. First, as earlier stated, no laws specifically attempt to define a cold case nor do they propose mechanisms for resolution of unresolved crimes. Most of the provisions in the legislations are too general. Secondly, the institutions responsible for the resolution of unresolved crimes, such as the police and the DCI, often lack adequate resources, including personnel, equipment, and funding.⁷⁴ This can make it difficult for them to conduct thorough investigations and properly handle unresolved cases.⁷⁵ Furthermore, many police officers and investigators lack specialized training in areas such as forensics, crime scene analysis, and investigation techniques. This can make it difficult for them to properly investigate complex and serious crimes.⁷⁶

In addition, there is often limited collaboration and coordination between the different institutions responsible for the resolution of unresolved crimes, including the police, DCI, ODPP, Judiciary, and NIS.⁷⁷ This can lead to duplication of efforts, lack of information

Accountability and Preventing Extrajudicial Executions in Kenya". *International Journal of Criminology and Sociology*, vol. 8, pp. 107-115.

⁷³ Ibid

⁷⁴ Muraya, L. and Gachanja, D. (2021) 'The Struggle to Solve Cold Cases in Kenya: The Need for a Systematic Approach'

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ Ibid

sharing, and delays in the resolution of cases.⁷⁸ Finally, there is limited public participation in the resolution of unresolved crimes. Victims and their families often lack access to information about the progress of investigations, and there is limited public participation in the justice system.⁷⁹

To improve the legal and institutional framework for the resolution of unresolved crimes in Kenya, the study recommends formulation of laws and policies or amendments to existing legislations to bring on board tools and mechanisms for resolution of unresolved crimes in Kenya. This entails a working definition of what a cold case is and the period within which a case can be said to be unresolved. Our Constitution talks about 'unreasonable delay'⁸⁰ but does not specify how long a case can be said to have been delayed. Is it one year? Ten years? This specification is necessary in order to avoid unnecessary delays in resolution of cold cases in Kenya.

Furthermore, the government can increase resources allocated to institutions responsible for the resolution of unresolved crimes, including the police, DCI, and ODPP. This can include increased funding, personnel, and equipment.⁸¹ Police officers and investigators can be provided with specialized training in areas such as forensics, crime scene analysis, and investigation techniques to enable them to properly investigate complex and serious crimes.⁸²

⁷⁸ Ibid

⁷⁹ Ibid

⁸⁰ Article 50 (2) (e) of the Constitution of Kenya 2010

⁸¹ Kariuki, J. (2019) 'The Legal and Institutional Framework for Resolution of Unresolved Crimes in Kenya: An Analysis of Gaps and Proposals for Improvement.'

⁸² Ibid

There also needs to be enhanced collaboration and coordination between the different institutions responsible for the resolution of unresolved crimes, including the police, DCI, ODPP, Judiciary, and NIS. This can include improved information sharing, joint investigations, and shared resources.⁸³ Finally, victims and their families need to be given greater access to information about the progress of investigations, and there needs to be greater public participation in the justice system. This can include improved victim support services and public awareness campaigns.⁸⁴

4 Establishing a Cold Case Investigation (CCI) Unit in Kenya: Key Steps and Requirements

4.1 Assessing the Country-Specific Needs.

Assessing country-specific needs is a crucial step in establishing a Cold Case Investigation (CCI) Unit in Kenya. The existing legal and institutional framework for the resolution of unresolved crimes in Kenya should be reviewed to identify any gaps or areas for improvement that have been identified above. This can help in designing an effective CCI Unit that complements existing institutions and legal frameworks.⁸⁵

A needs assessment can also be conducted to identify the specific needs of the country in terms of the CCI Unit.⁸⁶ This can involve consultations with relevant stakeholders, including victims and their

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Kiplagat, G. K., & Cheruiyot, J. K. (2020). Critical Issues and Challenges in Establishing Cold Case Investigation Units in Kenya. *International Journal of Criminology and Sociology*, 9, 21-29.

⁸⁶ Ibid

families, law enforcement agencies, the judiciary, and civil society organizations. The needs assessment can help identify the types of cases that require CCI, the resources required, and the institutional capacity needed to implement the CCI Unit.⁸⁷

Moreover, the resources required to establish and operate the CCI Unit should be identified.⁸⁸ This can include funding, personnel, equipment, and training. The resources needed should be based on the needs assessment and the existing legal and institutional framework.⁸⁹

Furthermore, policies and procedures should be developed for the CCI Unit.⁹⁰ This can include guidelines for case selection, case review, evidence collection and preservation, and investigation techniques. The policies and procedures should be aligned with existing legal and institutional frameworks and should be designed to ensure transparency and accountability.⁹¹

Partnerships with relevant stakeholders, including law enforcement agencies, the judiciary, and civil society organizations, should be established.⁹² This can help in the sharing of information, resources,

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ Njoroge, M. K., & Nganga, M. K. (2019). An Analysis of Cold Cases Investigations in Kenya: A Case of Homicides Reported to Kenya Police Service. *International Journal of Social Sciences and Humanities Research*, 7(1), 121-130.

⁹¹ Ibid

⁹² Ibid

and expertise. Partnerships can also help in creating awareness about the CCI Unit and building public confidence in its work.⁹³

The study posits that by assessing country-specific needs, the CCI Unit can be tailored to meet the specific needs of the country and complement existing legal and institutional frameworks. This can help in improving the resolution of unresolved crimes and delivering justice for victims and their families.

4.2 Institutional Location and Funding

The institutional location of the CCI Unit is crucial to its success. One possible option is to house the unit under the Directorate of Criminal Investigations (DCI) Homicide Division. This is because the DCI Homicide Division is responsible for investigating homicide cases, which are often the most complex and challenging cases to solve.⁹⁴ The expertise and experience of the DCI Homicide Division can be leveraged to strengthen the capacity of the CCI Unit.⁹⁵

Furthermore, housing the CCI Unit under the DCI Homicide Division can ensure that the unit has access to necessary resources and infrastructure, such as forensic laboratories and equipment. This can help to enhance the effectiveness of the CCI Unit in investigating and solving cold cases.⁹⁶

⁹³ Ibid

⁹⁴ Kimathi, R. K. (2019). Development of Homicide Investigation Capability in Kenya: A Review of its Current Status and Future Needs. *International Journal of Advanced Research in Public Policy, Social Development and Entrepreneurship*, 2(2), 52-60.

⁹⁵ Ibid

⁹⁶ Ibid

In terms of funding, the CCI Unit will require significant resources to establish and operate effectively. This can include funding for personnel, training, equipment, and operational costs.⁹⁷ One possible source of funding is the government, through the national budget or donor support. Other potential sources of funding include civil society organizations, international organizations, and private sector partners.⁹⁸

It is important to ensure that the funding is sustainable and adequate for the needs of the CCI Unit. This can be achieved through regular budget allocations and transparent financial management processes.⁹⁹ Additionally, partnerships with relevant stakeholders can help to mobilize resources and ensure that the CCI Unit is adequately resourced.¹⁰⁰

The institutional location and funding of the CCI Unit are critical factors that must be carefully considered in establishing an effective CCI Unit in Kenya. By housing the unit under the DCI Homicide Division and ensuring adequate and sustainable funding, the CCI Unit can be positioned for success in delivering justice for victims of unresolved crimes.

4.3 Qualification and Recruitment of Staff

The success of the CCI Unit in resolving cold cases largely depends on the qualifications and expertise of the staff. Therefore, it is

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ Ibid

¹⁰⁰ Ibid

important to develop a rigorous recruitment process that attracts and selects highly qualified and experienced individuals.¹⁰¹

The recruitment process should be guided by clear qualification criteria, which can include education level, professional training, and relevant experience in law enforcement or investigations. The recruitment process should be transparent and free from any form of bias or discrimination.¹⁰²

Additionally, the recruitment process should consider diversity and inclusion, ensuring that the CCI Unit reflects the diversity of Kenya's population in terms of gender, ethnicity, and regional representation. This can help to build trust and confidence in the CCI Unit among the public.¹⁰³

Once recruited, staff should undergo specialized training to enhance their knowledge and skills in investigating cold cases.¹⁰⁴ This can include training in forensic science, crime scene investigation, and interview techniques, among others. The training should be ongoing to ensure that staff remains up to date with emerging trends and technologies in cold case investigations.¹⁰⁵

It is also important to ensure that the staff are adequately remunerated to attract and retain highly qualified individuals.¹⁰⁶ The

¹⁰¹ Okello, A. A. (2020). Strengthening Criminal Investigations in Kenya: A Review of Current Challenges and Prospects. *International Journal of Criminal Justice Sciences*, 15(1), 113-126.

¹⁰² Ibid

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Ibid

remuneration package should be competitive with that of other law enforcement agencies in Kenya and include benefits such as medical insurance, pension schemes, and performance-based incentives.¹⁰⁷

4.4 Training and Continuous Professional Development

Training and continuous professional development are crucial components in establishing and maintaining an effective CCI Unit. The staff of the CCI Unit should undergo regular and ongoing training to enhance their knowledge and skills in cold case investigations.¹⁰⁸ The training should cover a wide range of topics, including forensic science, evidence collection and preservation, crime scene investigation, and interview techniques, among others. The training should be conducted by qualified trainers and experts in the relevant fields.¹⁰⁹

Additionally, the CCI Unit should establish partnerships with other agencies, both nationally and internationally, to access specialized training and resources.¹¹⁰ These partnerships can provide opportunities for staff exchange programs, joint training exercises, and collaborative research.¹¹¹

Continuous professional development should also be incorporated into the training program to ensure that staff remains up to date with emerging trends and technologies in cold case investigations. This

¹⁰⁷ Ibid

¹⁰⁸ Cheboiwo, J. K. (2019). Criminal Investigations in Kenya: Challenges and Prospects. *International Journal of Humanities and Social Science Research*, 8(1), 63-70.

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ Ibid

can include attending conferences, seminars, and workshops and keeping up to date with relevant publications.¹¹²

Training and continuous professional development are critical in ensuring that the staff of the CCI Unit has the necessary knowledge and skills to effectively investigate cold cases and deliver justice for victims of unresolved crimes in Kenya.¹¹³

4.5 Adoption of Investigation Strategies

A report from the Bureau of Justice Assistance stipulates that,¹¹⁴ “Cold cases are among the most difficult and frustrating cases that detectives face.” Moreover, “conventional wisdom in homicide investigations holds that speed is of the essence. The notion is that any case that is not solved or that lacks significant leads and witness participation within the first 72 hours has little likelihood of being solved, regardless of the expertise and resources deployed.”¹¹⁵

Adopting effective investigation strategies is therefore critical in ensuring the success of a CCI Unit. The investigation strategies used by the CCI Unit should be comprehensive, systematic, and evidence-based.¹¹⁶

¹¹² Ibid

¹¹³ Ibid

¹¹⁴ Turner, Ryan, and Kosa, Rachel (July 2003). *Cold Case Squads: Leaving No Stone Unturned*. Washington, DC:

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. NCJ 199781. Available at

www.ncjrs.gov/html/bja/coldcasesquads/199781.pdf. Accessed 24 April 2023

¹¹⁵ Ibid

¹¹⁶ Ibid

One effective strategy is to adopt a victim-centered approach.¹¹⁷ This approach involves focusing on the needs and interests of the victim and their families throughout the investigation process. This includes providing regular updates on the progress of the investigation and ensuring that the victim's families are involved in the investigation process.¹¹⁸

Another effective strategy is to use forensic technology and techniques to analyze and collect evidence.¹¹⁹ This can include DNA analysis, fingerprint analysis, and ballistic analysis, among others.¹²⁰ The CCI Unit should have access to state-of-the-art forensic technology and techniques and should have staff trained in their use.¹²¹

The use of data analytics and intelligence-led policing can also be effective in identifying patterns and connections between unresolved cases. The CCI Unit should have access to a comprehensive database of unresolved cases, which can be used to identify links between cases and potential suspects.¹²² For instance, the unit can adopt a cold case register.¹²³ A cold case register is a central, non-public database for information about unsolved homicides.¹²⁴ The register provides a mechanism for the homicide victim's family and friends to enter and

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰ Ibid

¹²¹ Ibid

¹²² Ibid

¹²³ Kiplagat, G. K., & Cheruiyot, J. K. (2020). Critical Issues and Challenges in Establishing Cold Case Investigation Units in Kenya. *International Journal of Criminology and Sociology*, 9, 21-29.

¹²⁴ Ibid

update their contact information with the law enforcement agency that has jurisdiction over the case.¹²⁵

Such a register should have an up-to-date list of the investigators who have worked the case.¹²⁶ The register should provide a chronological baseline of information, which is important if the investigator working the cold case rotates off the case and another investigator is assigned to it (in which case the new investigator's information is added to the register).¹²⁷ The law enforcement agency that maintains the register should encourage registrants to contact the appropriate investigator if they become aware of any new information about the case.¹²⁸ Any legislation drafted to establish the creation of a cold case register should include a compliance mechanism to ensure agencies establish the register.¹²⁹

It is also vital to adopt a collaborative approach to investigations.¹³⁰ The CCI Unit should work closely with other agencies, such as the National Police Service, the National Intelligence Service, and the Independent Policing Oversight Authority, to gather information and intelligence that can aid in the investigation of unresolved crimes.¹³¹

4.6 Provision of Support Services to Victims and Survivors

Provision of support services to victims and survivors is an essential aspect of the work of a CCI Unit. The trauma and emotional impact

¹²⁵ Ibid

¹²⁶ Ibid

¹²⁷ Ibid

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ Ibid

¹³¹ Ibid

of unresolved crimes on victims and their families can be significant, and support services can help to mitigate these effects.¹³²

One key support service that the CCI Unit can provide is victim advocacy.¹³³ This involves working with victims and their families to ensure that their voices are heard and their needs are met throughout the investigation process. The CCI Unit can also provide access to counseling services, which can help victims and their families to cope with the trauma and stress of unresolved crimes.¹³⁴ In addition to these support services, the CCI Unit should also work closely with other organizations that provide support to victims and survivors. These organizations can include non-governmental organizations (NGOs), community-based organizations (CBOs), and faith-based organizations.¹³⁵

The CCI Unit can also provide support to survivors of unresolved crimes. This can include providing access to medical and psychological care, as well as legal assistance and support with navigating the criminal justice system¹³⁶.

Furthermore, law enforcement agencies should include a victim service provider in the cold case unit. As stated in the reports by the Arizona Cold Case Task Force¹³⁷ and the Canadian Resource Centre

¹³² Reckdenwald, A., & Lu, S. (2018). Examining the victim-offender overlap in cold cases. *Journal of Interpersonal Violence*, 33(3), 508-531.

¹³³ Ibid

¹³⁴ Ibid

¹³⁵ Ibid

¹³⁶ Ibid

¹³⁷ Cold Case Task Force (December 28, 2007). *A Report to the Governor and the Arizona State Legislature*, Phoenix, AZ: Office of the Attorney General. Available at

for Victims of Crime,¹³⁸ investigators and survivors of homicide victims both benefit when a victim service provider is a part of the cold case team.

Investigators should contact the homicide victim's family and friends at least once a year to update them on the case and inquire if they remember anything more or if there have been any changes in relationships.¹³⁹ If there has been a relationship change, this event can be an opportunity for the investigator to obtain new information, which may result in a new lead. Even if there have been no changes in relationships or other new information, the investigator-initiated communication will let survivors know that their loved one's murder has not been forgotten.¹⁴⁰ In the words of one homicide victim's family member: "Nothing to report is something to report."¹⁴¹ It is imperative that law enforcement officials communicate with survivors of homicide victims in a sensitive manner.¹⁴²

Moreover, crime victim compensation programs that provides financial assistance for out-of-pocket costs that arise from a crime are

www.azag.gov/law_enforcement/ColdCaseTaskForceReport2007.pdf. Accessed 24 April 2023

¹³⁸ Canadian Resource Centre for Victims of Crime (August 30, 2005). *Developing a Strategy to Provide Services and Support Victims of Unsolved, Serious Crimes, Final Report*. Ottawa, ON: Canadian Resource Centre for Victims of Crime. Available at www.crcvc.ca/docs/Unsolved_crimes_finalreport.pdf. Accessed 24 April 2023

¹³⁹ Ibid

¹⁴⁰ Ibid

¹⁴¹ Ibid

¹⁴² Ibid

essential. These costs include funeral and burial expenses, medical care, lost support for dependents, and counseling.¹⁴³

Indeed, The Victim Protection Act of Kenya provides for the establishment of Victim Protection Trust Fund to facilitate the provision of support services to victims of crime, including those seeking justice for unresolved cases.¹⁴⁴ In addition, the Victim Protection Board is mandated to provide support services to assist victims deal with physical injury and emotional trauma.¹⁴⁵ The Cabinet Secretary for the time being responsible for matters relating to justice is mandated to establish victim services in all counties and ensure equal access to the services, and in particular shall ensure that all cases are investigated and prosecuted timely.¹⁴⁶ This ensures that cases are resolved in an expeditious manner.

Consequently, the provision of support services to victims and survivors is an essential aspect of the work of a CCI Unit. The CCI Unit can provide victim advocacy, access to counseling services, and support for navigating the criminal justice system, as well as working closely with other organizations that provide support to victims and survivors.

5. Conclusion

The persistent problem of unresolved crimes in Kenya calls for urgent action. The establishment of a Cold Case Investigation (CCI) Unit within the National Police Service is a crucial step towards addressing this issue and delivering justice for victims and their

¹⁴³ Ibid

¹⁴⁴ Section 28 (2) (a) of the Victim Protection Act 2014

¹⁴⁵ Section 14 (2) (a) of the Victim Protection Act 2014

¹⁴⁶ Section 22 (1) (a) of the Victim Protection Act 2014

families. The study's analysis of the legal and institutional framework for the resolution of unresolved crimes in Kenya highlights the need for significant improvements and reforms. The establishment of a CCI Unit would require the allocation of resources, recruitment of qualified staff, adoption of modern investigation strategies, and provision of support services to victims and survivors. By implementing these key steps and requirements, Kenya can take a significant step towards resolving the thousands of unsolved cases that continue to cause pain and suffering in the country. Ultimately, the success of the CCI Unit will depend on the government's commitment to investing in this initiative and the willingness of law enforcement agencies to work together towards a common goal.

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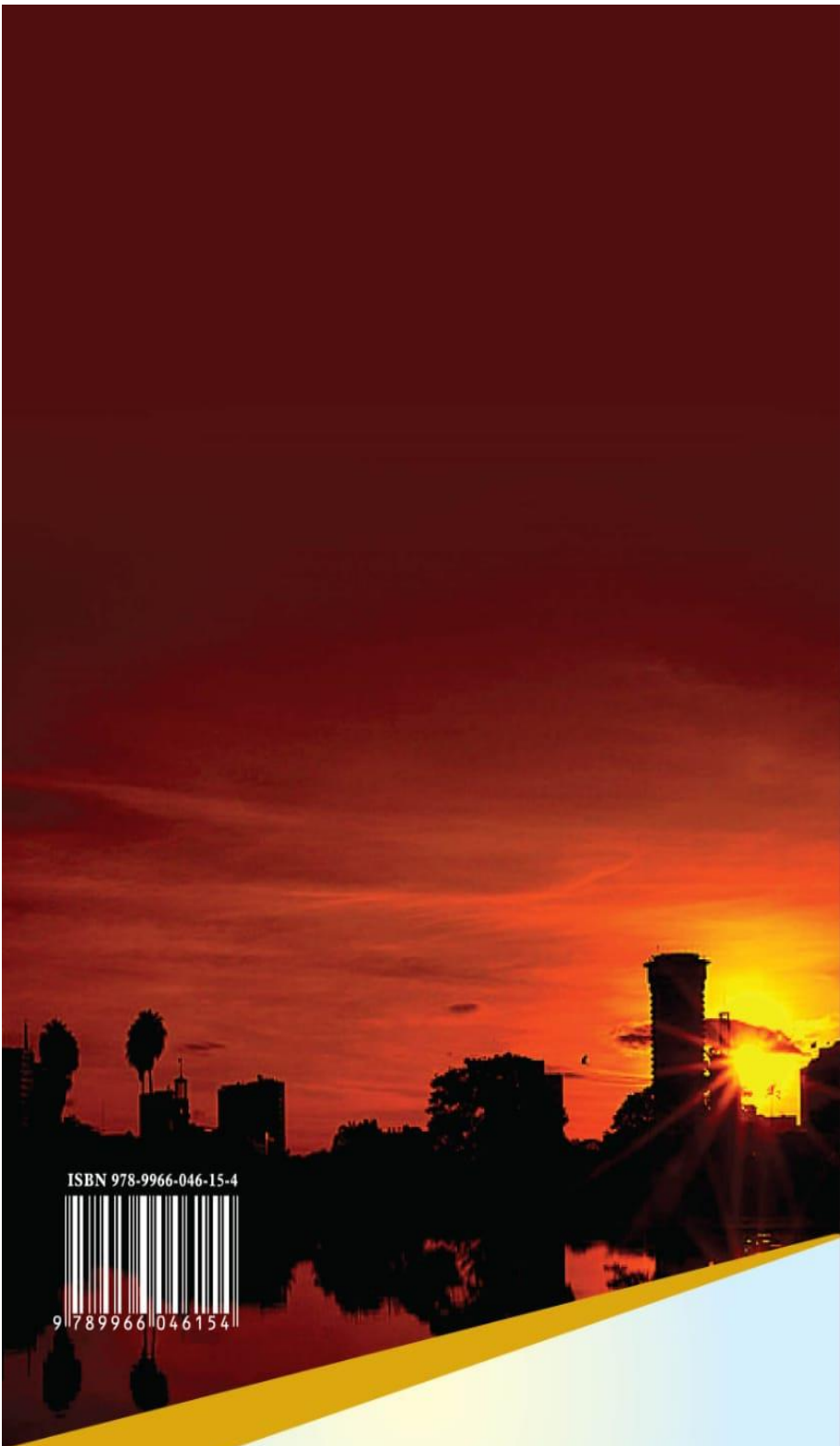
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