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OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS KENYA
MASHTAKA YENYE HAKI NA USAWA

# 15TH ANNUAL REPORT

*for*

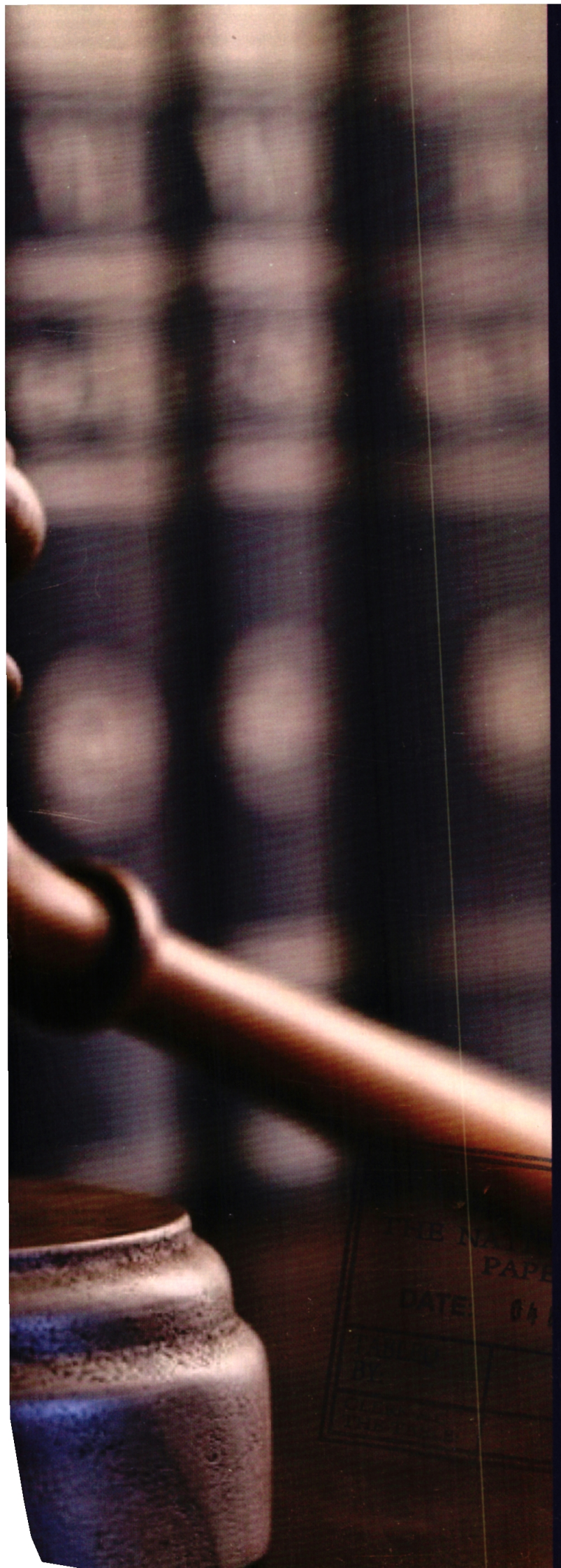
ANTI-CORRUPTION AND ECONOMIC CRIME CASES

FOR THE PERIOD BETWEEN

1ST JANUARY TO 31ST DECEMBER

2018





Pursuant to the Provisions of Section 37 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003, Section 7 of the Office of the Director of Public Prosecutions (ODPP) Act, 2013, Articles 10 (2) (c), 35 (3), 232 (1) (f) and 254 of the Constitution of Kenya.

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# ABBREVIATIONS AND ACRONYMS

| | | |
|---|---|---|
| **ACC** | – | Anti-Corruption Case |
| **ACECA** | - | Anti-Corruption and Economic Crimes Act |
| **DCI** | - | Directorate of Criminal Investigations |
| **CDF** | - | Constituency Development Fund |
| **CPC** | - | Criminal Procedure Code |
| **DCIO** | - | Divisional Criminal Investigation Officer |
| **DPP** | - | Director of Public Prosecutions |
| **EACC** | - | Ethics and Anti-Corruption Commission |
| **EACCMA** | - | East African Community Customs Management Act |
| **EPZA** | - | Export Processing Zone Authority |
| **GDC** | - | Geothermal Development Company |
| **KEBS** | - | Kenya Bureau of Standards |
| **KLIF** | - | Kenya Leadership and Integrity Forum |
| **KNH** | - | Kenyatta National Hospital |
| **KPC** | - | Kenya Pipeline Corporation |
| **KRA** | - | Kenya Revenue Authority |
| **KPLC** | - | Kenya Power and Lighting Company |
| **MAT** | - | Multi-Agency Team |
| **MCA** | - | Member of County Assembly |
| **MP** | - | Member of Parliament |
| **NOCK** | - | National Olympics Committee of Kenya |
| **NTSA** | - | National Transport and Safety Authority |
| **NCPB** | - | National Cereals and Produce Board |
| **NHIF** | - | National Hospital Insurance Fund |
| **OCS** | - | Officer Commanding Station |
| **ODPP** | - | Office of the Director of Public Prosecutions |
| **PC** | - | Penal Code |
| **PPDA** | - | Public Procurement and Disposal Act |
| **UNCAC** | - | United Nations Convention Against Corruption |
| **PPDA** | - | Public Procurement and Asset Disposal Act |
| **SFR** | - | Strategic Food Reserves |
| **Vs.** | - | Versus |

# GLOSSARY

| | |
|---|---|
| **Accused** | A person charged with a criminal offence before court. |
| **Acquittal** | The release of an accused person by a court generally as a result of lack of evidence. |
| **Bail** | An agreement between an accused person or his/her sureties and the court that the accused person will attend court when required, and that should the accused person abscond, in addition to the court issuing warrants of arrest, a sum of money or property directed by the court to be deposited, will be forfeited to the court. |
| **Bond** | An undertaking, with or without sureties or security, entered into by an accused person in custody under which he or she binds him or herself to comply with the conditions of the undertaking and if in default of such compliance to pay the amount of bail or other sum fixed in the bond. |
| **Conviction** | The result of a criminal trial, which ends in a judgment or sentence that the prisoner is guilty as charged. |
| **Discharge** | A decision by the court to remove the charges for an accused person with the option however of bringing subsequent proceedings against him on account of the same facts. |
| **Plea agreement** | An agreement entered into between the prosecution and an accused person in a criminal trial whereby the accused person agrees to plead guilty in exchange for a lesser sentence or any other offer by the prosecution. |
| **Pre- trial conference** | A meeting of the parties to an action and their advocates held before the court prior to the commencement of the trial. |
| **Sentence** | Penal sanction imposed by a court once an accused person has pleaded guilty or has been convicted of an offence following a trial. |
| **Withdrawal** | A decision by the Prosecution or the court to discontinue prosecution |



# FOREWORD

It gives me great pleasure to present the 15th Annual Anti- Corruption and Economic Crime Cases Report handled by the Office of the Director of Public Prosecutions to the National Assembly for the period 1st January, 2018 to 31st December, 2018. This report is being presented over one year since I took office as the Director of Public Prosecutions.

The Report is prepared as a commitment to the responsibility and high calling bestowed upon the Office of the Director of Public Prosecutions vide Article 10 (2) (c), 35, 232 (1) (f) of the Constitution of Kenya and Section 7 of the ODPP Act, 2013. The report is pursuant to Section 37 of the Anti-Corruption and Economic Crimes Act (ACECA), 2003.

During the period under review, the Office made great advances towards guaranteeing the realization of its vision, mission, and core values. The Office has also in the past year made great strides towards ensuring that the country's development agenda as envisaged in Vision 2030 and the Government's Big four agenda are sufficiently achieved. This is especially in light of the impact of corruption on communities and the fact that it exacerbates all threats to national security and development.

The Office has made great achievements in carrying out its mandate in the fight against corruption. These achievements result from the hard work, zeal, and determination of the officers in this office. Their efforts are highly appreciated.

The Office has received an increased number of corruption and economic crimes cases from the various investigating agencies for purposes of review and direction. Consequently, this year also saw an increase in the number of cases registered in court for prosecution. These include high profile cases for several senior government officials charged with corruption and economic crimes. The cases are progressing well.

The Office realized the best conviction rate of anti-corruption and economic crimes cases concluded since its inception – a 29% increase compared to year 2017.This was achieved because of the fortified multi-agency approach and synergies that have been adopted in the fight against corruption. It involves the various key stakeholders in the criminal justice system, as well as, International development partners.

The critical role of the Office in policy and legislative development in the criminal justice sector cannot be overemphasized. ODPP has substantially contributed to the development and review of key legislation and policy that have contributed to the effective prosecution of anti – corruption and economic crimes cases such the Diversion Policy 2018/2019, Diversion guidelines 2018/2019, Plea Bargaining Guidelines and Explanatory Notes 2018/2019 made pursuant to the Plea Bargaining Rules which were gazetted in February 2018.

In the fight against corruption and economic crimes, the Office has identified and applied various strategies to ensure that only watertight cases are presented to court and prosecuted to their logical conclusion. The constant

review of all files received from investigative agencies and those pending before court ensured that files taken before court had realistic prospects of conviction.

The Office has in the last year, embraced technology especially in recording of proceedings in court and in disclosure of documentary evidence. Other strategies employed in 2018 include, "follow the money approach", the expeditious recovery and forfeiture of proceeds of crime and witness facilitation especially for those who come from far-flung areas for purposes of testifying in court.
With a view to speedy resolution of the numerous corruption cases being registered and pending in court, the Office has also embraced the use of plea bargain strategies.

The ODPP is in the process of establishing the Prosecutor's Training Institute (PTI) to offer specialized prosecutorial training, which is envisaged to enhance execution of the Office's mandate as stipulated in Article 157 of the Constitution of Kenya. It is expected that the knowledge gained from the institute will benefit all stakeholders in the criminal justice system and enhance service delivery.

The fight against corruption has not been without challenges, key among them being the politicization of the prosecution process. This affects public confidence and investigation outcome as it results in witness intimidation. Other key challenges of the organization include budgetary and resource constraints.

I commend all the ODPP officers for their hard work and commitment in the fight against corruption and for their tireless dedication despite the odds. Their actions have contributed to the gains documented in this Report. In addition, I thank every member of the team that was involved in the preparation of this report.

I also take this opportunity to appreciate the efforts and investment of each individual development partner who supported the various projects and activities of the ODPP during the year under review. We appreciate the efforts and goodwill by the National Government and Parliament for facilitating the Office with necessary financial and other resources.
I reiterate the commitment of the ODPP to deliver quality prosecution services and ensure that justice is delivered to all crime victims through general and specialized prosecutions. Also, to ensure that profit is removed from crime and that witnesses and related persons are protected.

Finally, I pledge that my Office will work tirelessly to ensure that those who are involved in corruption and economic crimes are brought to justice, in a timely and efficient manner.



**NOORDIN M. HAJI, CBS, OGW**
**DIRECTOR OF PUBLIC PROSECUTIONS**

# EXECUTIVE SUMMARY

The Office of the Director of Public Prosecutions (ODPP) is the National Prosecuting Authority in Kenya mandated by the Constitution to prosecute all criminal cases in the country.

The Office operates independently and impartially as stipulated under Article 157 of the Constitution. However, in exercising the powers conferred upon it by the Constitution, it shall have due regard to the public interest, the interests of the administration of justice and the need to prevent and avoid the abuse of the legal process.

Section 37 of the Anti – Corruption and Economic Crimes Act, requires the Director of Public Prosecutions to prepare an annual report with respect to prosecution of corruption and economic crimes for the period ending 31st December, of the preceding year. This is the 15th Anti- Corruption and Economic Crimes Annual Report.

The report includes a summary of the steps taken by the Director of Public Prosecutions in respect to matters that had been forwarded to him by both the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI), including the status of each case dealt with during that period.

This year marks the first time that the ODPP's Anti-Corruption and Economic Crimes report includes investigation files received from DCI for purposes of review and direction.

The report sets out the recommendations by the investigative agencies upon conclusion of investigations and directions upon consideration of the evidence submitted.

## The report is divided into four chapters as follows:

### Chapter One:
Talks about who we are, our vision, mission, core values, strategic goals and objectives, and the ODPP organizational structure.

### Chapter Two:
Provides an overview of the Office's achievements in 2018 that include prosecution of corruption and economic crimes cases, highlight of the number of concluded cases, convictions that single out notable cases, and provides a summary of the top ranking senior government officials charged in court with various corruption related offences.

### Chapter Three:
Outlines the cases received from EACC and DCI in the year under review and their recommendations in respect to each case. The chapter states the DPP's directions in respect to each case as well as the current status of each case. This chapter has three quarters, being the 2nd, 3rd and 4th quarters of 2018. No files were received during the first quarter and therefore none is reported as the Office of the DPP was vacant.

### Chapter Four:
Highlights the challenges and constraints that confront the Office in the effective and efficient discharge of its mandate. It also proposes recommendations to the identified challenges and the strategies the Office shall adopt going forward.



# 1

# THE ORGANIZATION

**Mandate**

"To institute and undertake prosecution of criminal matters and all other aspects incidental thereto"




# THE ORGANIZATION

## 1.1 MANDATE

"To institute and undertake prosecution of criminal matters and all other aspects incidental thereto"

## 1.2 VISION

"A just, fair, independent and quality public prosecution service"

## 1.3 MISSION

"To provide an impartial, effective and efficient prosecution service to all Kenyans"

## 1.4 CORE VALUES

- Transparency
- Integrity
- Accountability
- Professionalism
- Independence; and
- Teamwork

## 1.5 STRATEGIC GOALS

**a)** Improve services and confidence in prosecution services.

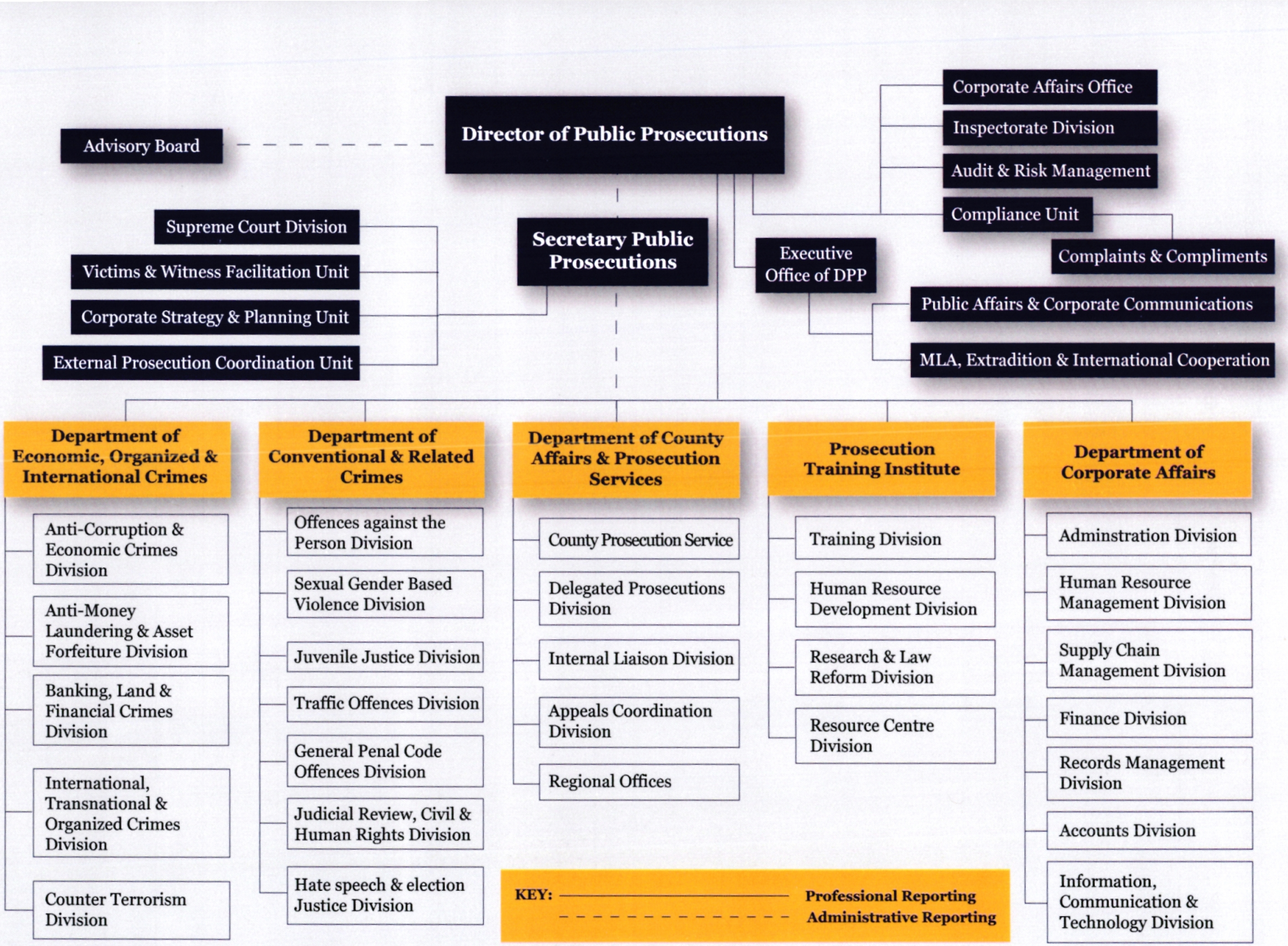
**b)** Actively participate in making Criminal Justice System more efficient and effective.

**c)** Enhance Institutional Capacity.

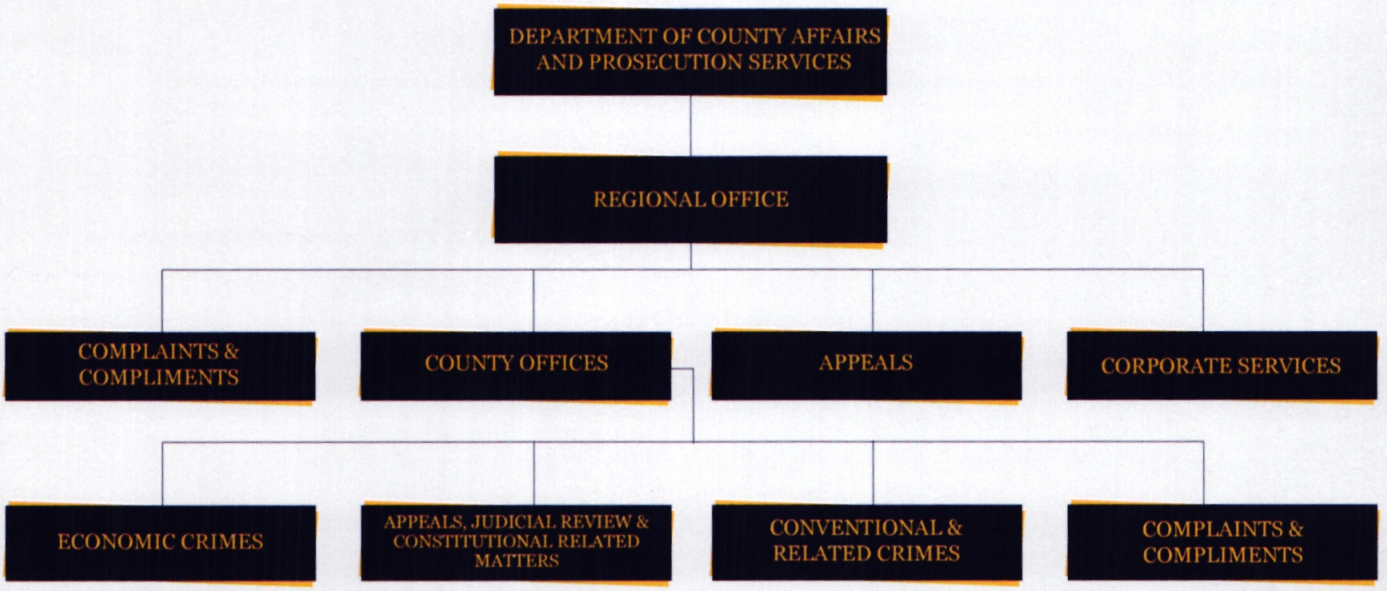
## 1.6 STRATEGIC OBJECTIVES

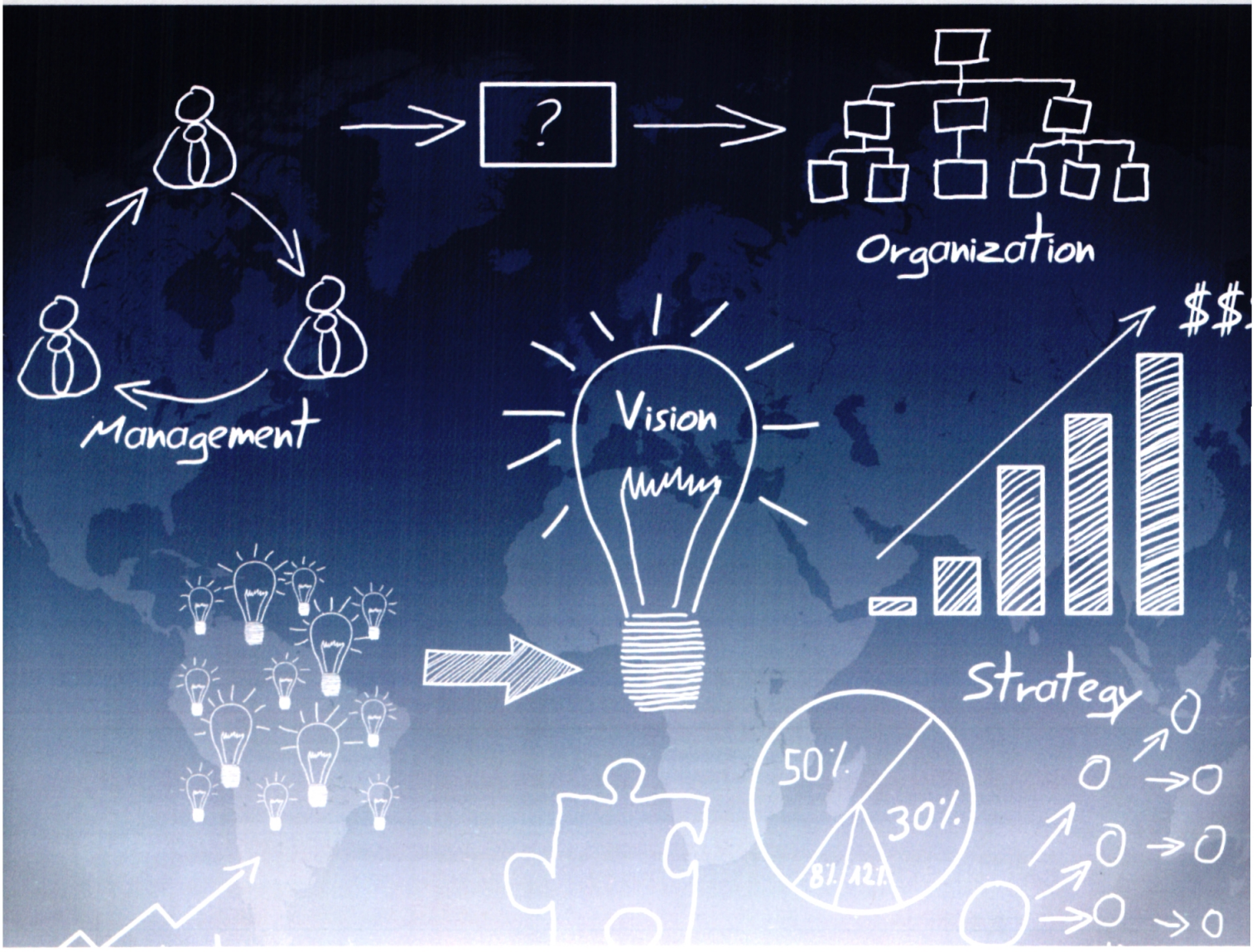
- To deliver quality prosecution services
- To strengthen partnerships and collaborations
- To review policies and legal framework for public prosecutions
- To enhance the capacity of ODPP to deliver on its mandate
- To modernize ODPP Processes and Procedures

## 1.7 Proposed ODPP Organizational Structure for the Headquarters



## 1.8 Proposed ODPP Organizational Structure for Regional and County Offices





# 2

# OVERVIEW OF THE ACHIEVEMENTS IN 2018

# 2.0 OVERVIEW OF THE ACHIEVEMENTS IN 2018

The ODPP achieved significant milestones, whichcontributed to the attainment of our mandate in the prosecution of corruption and economic crimes cases.

Some of the achievements of the Office in this sector in 2018 are outlined below: -

## 2.1 Expeditious processing of corruption cases

The ODPP received 191 cases from the EACC for purposes of review and directions. Of the cases filed in court in 2018, three (3) have been concluded with the rest pending at different stages of the trial process.

The ODPP was involved in facilitating the day-to-day hearing of corruption cases and as a result, contributed to the expeditious finalization of corruption cases between January 2018 and December 2018. A total 113 cases were determined and concluded.

**Table 1: Concluded EACC cases in 2018**

| Description | 2018 |
|---|---|
| New cases filed in Court | 116 |
| Convictions | 43 |
| Acquittals | 48 |
| Withdrawals | 24 |
| **Total cases concluded** | **115** |

This year also saw the Office receive cases from the Directorate of Criminal Investigations (DCI) particularly from the Serious Crimes Unit and Banking Fraud Investigations Unit.

## 2.2 Convictions achieved in Corruption and Economic Crimes Cases

The ODPP maintained a steady rise in conviction rates of corruption and economic crimes related cases, registering the highest conviction rate ever in the country - a 29% increase compared to 2017.

**Table 2: Trend in Convictions of Corruption and Economic Crimes from 2014 to 2018**

| Description | 2014 | 2015 | 2016 | 2017 | 2018 |
|---|---|---|---|---|---|
| Cases filed in Court | 73 | 144 | 123 | 95 | 116 |
| Convictions | 3 | 7 | 27 | 35 | 43 |

### Some of the notable cases where convictions were secured include the following: -

**a) ACC. No. 20 of 2010 – Republic Vs. Sammy Kipngetich Kirui and three others –**

The accused persons;a former Principal Secretary of the Ministry of Local Government, Town Clerk and Director of Legal Affairs respectively, were arraigned in court on 29th April 2010 and charged with various corruption related offences. These included willful failure to comply with the law relating to procurement contrary to section 45(2)(b) of the ACECA, willful neglect to perform official duty contrary to section 28 as read with section 36 of the Penal Code, abuse of office contrary to section 46 as read with section 48 of ACECA among others. The accused persons were convicted and sentenced as follows:

(i) Accused I and IIto serve three years imprisonment and pay a mandatory fine of Kshs. 1,000,000.

(ii) Accused three and four convicted in count three to serve three years and pay a mandatory fine of Kshs. 52 million and Kshs. 32 million respectively, in default 1 year imprisonment.

(iii) Accused three convicted in count four to serve three years imprisonment and the sentences to run concurrently.

**b) ACC. No. 18 of 2017 – Republic Vs. Justina Malela** – The accused person, an official at Huduma Centre was charged with requesting and receiving a bribe of Kshs. 2500/- in order to issue the complainant with a birth certificate. The accused was convicted and sentenced to pay a fine of Kshs. 250,000 for each count and in default two years imprisonment.

**b) ACC. No. 12 of 2012 – Republic Vs. Wycliffe Mitema** - The accused person was the districttreasurer, Makueni. He was charged with unlawfully acquiring Kshs. 3,804,931.00 in form of imprests and 'I owe yous' (IOUs) obtained from several cashiers after signing slips of papers and imprest warrants during the period 13th October 2008 to 30th September 2009. The accused was found guilty on all counts and sentenced as follows:

**Count I:** fined Kshs. 1,000,000 general sentence and a mandatory fine of Kshs. 15,219,724/- in default four years imprisonment.

**Count II:** fined Kshs. 500,000 in default one year imprisonment.

**Count III:** discharged unconditionally

The amount to be commuted collectively was Kshs. 16,719,724/- in default 5 years imprisonment.

**d) ACC. No. 8 of 2015 – Republic Vs. Juma Mwangala Mwatata (CEO of Youth Enterprise Development Fund)** –
The accused was charged with willful failure to comply with the management of public funds contrary to section 45(2) (b) as read with section 48(1) of ACECA; abuse of office contrary to section 46 as read with section 48(1) of ACECA and engaging in a project without prior planning contrary to section 45(2)(c) as read with section 48(1) of ACECA. He was convicted on 31st January 2018 in count II and sentenced to a fine of Kshs. 1,000,000 in default one year imprisonment and acquitted on count I and count III.

## 2.3 Prosecution guided investigations

The continued adoption of the Prosecution Guided Investigation model by the ODPP improved the quality of cases, particularly complex cases. This ensured that only water-tight cases were taken to court.

## 2.4 Plea Bargain/Negotiations

Plea bargains have contributed to conclusion and, reduced backlog of cases in court as well as encouraging compensation and return of funds to the government. Three cases concluded by way of plea negotiation/ agreements.

These included the plea bargaining agreement between Family bank and the DPP. The bank and its senior managers were charged with several counts of failing to report unusual transactions relating to an account held by an NYS 1 suspect. The court accepted the plea agreement and convicted Family bank of money laundering in relation to the Kshs. 1.6 billion case. It was fined Kshs. 64.5million. Kshs. 24.5 million would be deposited into the account of the National Youth Service (NYS) and the balance of Kshs. 40 million to be paid as a Court fine.

Currently, the ODPP is developing prosecution guidelines for plea bargaining in line with the provisions of Section 137 of the Criminal Procedure Code and the Criminal Procedure (Plea Bargaining) Rules 2018.




## 2.5 Review of the ODPP Organisational Structure

The review of the ODPP organisational structure has created certain units intended to enhance the Office's effectiveness and efficiency.

### These include:-

**i) Independent Inspection Unit:**

This unit is tasked with continuously monitoring prosecutions and Prosecution Counsel.

**ii) Internal Compliance Unit:**

This unit ensures that the highest standards of integrity and accountability are maintained at all times in the execution of the mandate of the ODPP. In addition, it ensures that officers comply with the code of conduct of prosecutors and all regulations in line with Chapter Six of the Constitution and the Public Officers and Ethics Act.

## 2.6 Contribution to the Development of Law Reform

The ODPP participated in law reform through active involvement in the development of:

**a)** The Diversion Policy 2018/2019,
**b)** Diversion Guidelines 2018/2019,
**c)** Plea Bargaining Rules which were gazetted in February 2018
**d)** Plea Bargaining Guidelines and Explanatory Notes 2018/2019 made pursuant to the Plea Bargaining Rules

## 2.7 Raising Awareness on the Role of the Public in Fighting Corruption

The ODPP through a number of fora and activities sensitized the public and stakeholders on their role in ensuring the expeditious prosecution of corruption cases. Some of these fora include:

**a)** The 2018 annual Nairobi Trade Fair
**b)** The 2018 National Anti-Corruption Day
**c)** Participation in the Social Media Platforms at the Kenya Leadership and Integrity Forum (KLIF)
**d)** Television and Radio talk shows
**e)** Media sensitization workshops

## 2.8 Inter-Agency Collaboration

The enhanced multi-agency team (ODPP, AG, DCI, EACC, KRA, FRC, Judiciary and ARA) has strengthened inter-agency collaboration and co-operation and ensured that each agency executed its mandate.

In 2018, the ODPP was involved in various Interagency collaboration forums through active participation at following local, regional and international forums:

**a)** Court Users Committees
**b)** Joint meetings with other players in the criminal justice system
**c)** The 2018 annual International Prosecutors Conference
**d)** The 2018 annual Regional Prosecutors' Conference
**e)** The National Commission on Administration of Justice meetings
**f)** The Legal and Justice Affairs Committee of the National Assembly meetings
**g)** The Kenya Leadership and Integrity Forum (KLIF) meetings
**h)** The Multi-Agency Team (MAT) meetings

## 2.9 Fairness and Inclusivity in Prosecution of Corruption and Economic Crimes Cases

The Office has continued to prosecute all corruption and economic crime cases within its mandate irrespective of the accused status, religion, social status, or political affiliations. This has been demonstrated through prosecution of high impact profile cases involving state officers and senior public officers in both national and county governments.

The following presents a summary of the top ranking senior government officials charged in court as of 31st December 2018.

**Table 3: Top Ranking Senior Government Officials charged in court with Anti – Corruption cases in the year 2018.**

| S/No | Rank | Number |
|---|---|---|
| 1. | Cabinet Secretaries | 2 |
| 2. | County Assembly - Clerk | 1 |
| 3. | County Assembly - Speaker | 1 |
| 4. | County Executive Members | 5 |
| 5. | County Governors | 3 |
| 6. | County Secretaries | 4 |
| 7. | | 1 |
| 8. | Managing Directors/ Chief Executive Officers | 14 |
| 9. | Members of County Assemblies | 4 |
| 10. | Members of Parliament | 4 |
| 11. | Principal Secretaries | 4 |
| 12. | Senator | 1 |
| **Total** | | **44** |

## 2.10 Capacity Building

Corruption and money laundering cases are complex and dynamic and involve movement of funds across borders. To this end, it is important that officers dealing with such matters are fully equipped to handle them with professionalism. Some of the efforts made in capacity building are as listed below:

**i) Prosecution Training Institute (PTI) -**
The objective of PTI is to equip prosecutors with the necessary expertise and skills to effectively prosecute the emerging criminal trends. So far, the PTI has inducted 104 officers.

The DPP officially launched the training of prosecutors as the roll out on the establishment of the ODPP Prosecutors Training institute (PTI) kicked off.

The ODPP is committed to investing in continuous professional skills development as a key to re-tooling the ODPP into a 21st century prosecutions agency.

Over fifty (50) prosecutors were trained on the theoretical and practical aspects of prosecuting various thematic cases including corruption, terrorism, money-laundering, trans-national and organised crimes thus equipping them with the requisite tools to confront the challenges of prosecuting such cases.

**ii) In order to enhance the capacity** of the staff handling complex fraud, Anti-Corruption and Economic Crime Cases, the ODPP was involved in various capacity building initiatives and trainings which include the following: -

**Table 4: Workshops/trainings for prosecutors:**

| S/No | Sponsor/ Date | Trainings/ Workshop |
|---|---|---|
| 1. | **EACC:** 27th March 2018 | The Office participated in validation forum on study to reduce corruption in the business sector (one prosecutor attended) |
| 2. | **Botswana:** 16th – 20th April 2018 | One prosecutor trained during Training on corruption cases and financial investigation for public corruption. |
| 3. | **EACC:** 7th -12th May 2018 | • Stakeholders workshop on fortifying a collaborative approach in the fight against corruption, experience sharing in investigations, prosecution and adjudication<br>• The challenges faced by all the actors in the criminal justice system and the role of each player in executing a seamless process.<br>• A team of eight prosecutors participated in the training. |
| 4. | **Tanzania:** 13th – 14th June 2018 | One prosecutor trained during the Great lakes Judicial cooperation network |
| 5. | **USDOJ:** 26th – 27th June 2018 | One prosecutor attended the Country review visit on implementation of UNCAC by Kenya at Sarova Stanley Hotel |
| 6. | **Transparency International:** 11th July 2018 | One prosecutor attended the Public dialogue in commemoration of African Anti-corruption day at Ufungamano house |

**44** **Number of Top Ranking Senior Government Officials charged in court with Anti – Corruption cases in the year 2018.**

### 2.11 Commemoration of the International Anti-Corruption Day

To raise awareness on its role and achievements in fighting corruption, The Office participated actively in the International Anti Corruption day 2018 tweeter chat and Television and Radio talk shows across various media houses.

### 2.12 Implementation of United Nations Convention Against Corruption (UNCAC)

The Office was involved in the implementation of the United Nations Convention Against Corruption (UNCAC) and participated in the country implementation review. In November 2018, the ODPP participated in the Conference of State Parties to UNCAC.




**KSHS.64.5M**

Amount paid as fine by Family Bank following successful plea negotiations

**115**

Total number of cases concluded in 2018

**43**

Total convictions for the year 2018

**104**

**Number of officers inducted by the Prosecution Training Institute in 2018**

# 3

# INQUIRY/INVESTIGATION FILES SUBMITTED BY ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO ODPP IN THE YEAR 2018.

# 3.0 INQUIRY/INVESTIGATION FILES SUBMITTED BY ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO ODPP IN THE YEAR 2018.

Inquiry files submitted by EACC were divided into three (3) quarters as follows: -

i) The Second (2nd) Quarter - Investigation files submitted by EACC to ODPP for the period 1st April 2018 to 30th June 2018.

ii) The Third (3rd) Quarter - Investigation files submitted by EACC to ODPP for the period 1st July 2018 to 30th September 2018.

iii) The Fourth (4th) Quarter - Investigation files submitted by EACC to ODPP for the period 1st October 2018 to 31st December 2018.

## 3.1 Second (2nd) Quarter Investigation Files Submitted by EACC to ODPP for the Period 1st April 2018 to 30th June 2018

### 1. EACC/NYR/FI/INQ/07/2015 ODPP/CAM/018/5/916

**Inquiry Into Allegations Of Breach Of Procurement Laws By Officers At The County Government Of Nyandarua**

The EACC investigationsrevealed that the County Government of Nyandarua entered an agreement with a private entityfor the supply of clean water and sewage services. However, there were procurement irregularities. Further, the project was not in the procurement plan for the financial year 2013/2014.

The EACC report forwarded to the DPP on 22nd May2018 recommended thatthe former Governor and the County Government officials be charged. Their charges based on the Anti – Corruption Commission and Economic Crimes Act No. 3 of 2003 (ACECA) included:

- Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48;
- Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48;
- Abuse of office contrary to section 46 as read with section 48 and willful failure to comply with the law relating to the management of funds contrary to section 45(2) (b) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 17 June2018,with directions that prosecution ensues. The case Nyahururu ACC 1 of 2018 is ongoing. However, the 7th to 9th accused persons are yet to submit themselves to the jurisdiction of the court and the ODPP has requested Mutual Legal Assistance to facilitate their arrest.

### 2. EACC/NKR/INQ/E/09/2015 ODPP/CAM/018/5/925

**Inquiry Into Allegations Of Abuse Of Office Against A Member of Parliament (MP) In Acquisition Of Property**

The EACC investigations revealed that by virtue of his office, the MP colluded with officers at the Ministry of Lands, Nakuru Registry to fraudulently acquire possession and ownership of a plot. By a sale agreement dated 30th July 2010, a businessman bought two plots No. Nakuru Municipality Blocks 6/94 and 6/95 for Kshs. 12 million and was issued with a Certificate of Lease by the Land Registrar.

Investigations further revealed that by using falsified records, officials at the Lands Registry transferred Plot No. Nakuru Municipality Block 6/95 registered in favour of the businessman to two other buyers before the said plot was purportedly sold to the MP. As a result, both the MP and the businessman claimed ownership of the plot. Evidence disclosed that the purported vendor who

sold the plot to the MP did not own the plot and neither did he transfer ownership of the said plot to the MP.

EACC compiled a report and forwarded to the DPP on 22nd May, 2018 with recommendations thatthe suspects, the MP and others, be charged with the following offences:

- Abuse of office contrary to section 46 as read section 48 of the ACECA;
- Fraudulently procuring issuance of a certificate of ownership contrary to section 103 (1) (c) (i)
- Fraudulently procuring the making of entries into an instrument relating to land contrary to section 103 (1) (c) (ii) all under the Land Registration Act.

Upon perusal of the file, the DPPfound the evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 6th June 2018,with directions that prosecution ensues. The case Milimani ACC No. 20 of 2018 is ongoing.

### 3. EACC/FI/INQ/NO/102/2016 ODPP/CAM/018/5/914

**Inquiry Into Allegations Of Embezzlement Of Public Funds By The County Government Of Siaya Through Purchase Of Air Tickets For The Governor's Family And Friends**

The EACC investigations revealed that the Governor instructed the County Government of Siaya to pay air tickets for his family members and friends in the financial years 2013/2014, 2014/2015 and 2015/2016. This contravened the provisions of the Public Finance Management Act and Regulations thereunder.

The EACC report forwarded to the DPPon 22nd May 2018 recommended that the Governor and the officers at the County Government be charged with the following offences under ACECA:

- Unlawful acquisition of a benefit contrary to section 45(1) (a) as read with section 48
- Abuse of office contrary to section 46 as read with section 48(1).

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges. However, he directed the EACC to cover identified gaps to strengthen prosecution case.

## STATUS

The file was returned to EACC on 7th June2018 with directions that further investigations be conducted and the file resubmitted for further directions.

### 4. EACC/MLB/FI/INQ/02/2015 ODPP/CAM/018/5/920

**Inquiry Into Allegations Of Abuse Of Office And Engagement In Unplanned Projects Against Officials Of Busia County Government In The Acquisition Of Integrated Solid Waste Management Services From Madam R. Enterprises Limited**

The EACC investigations revealed that the Governor of Busia County Government entered into a Memorandum of Understanding (MOU) with Madam R. Enterprises Limited in a Busia County Government solid waste management project.However, it had not been budgeted in the approved procurement plan for the financial year 2014/2015.

Investigations also established that the MOU was fraudulent since the service for solid waste management was not procedurally procured. The Company terminated its services and did not submit a feasibility report yet it had already been paid. This led to a loss of Kshs. 8 million belonging to the County Government.

The EACCreportforwarded to the DPPon 22nd May 2018 recommended that the suspects, the Governor and other officers of the County Government, be charged with the following offences under ACECA:

- Abuse of office contrary to section 46 as read with section 48
- Conspiracy to commit an offence of economic crimes contrary to section 47 A (3) as read with section 48
- Engaging in a project without proper planning contrary to section 45(2) as read with section 48
- Willful failure to comply with the law relating to management of funds contrary to section 45(2) (b) as read with section 48

Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48 and failure to pay tax contrary to section 45(1)(d) as read with section 48 of ACECA

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 2nd July 2018 with directions that prosecution ensues. The case Milimani ACC. No. 23 of 2018 is ongoing.

### 5. EACC/NKR/INQ/78/2015 ODPP/CAM/018/5/928

**Inquiry Into Allegations Of Abuse Of Office And Corruption In Handling The Authority To Incur Expenditure Of Funds (AIE) By The Officer Commanding Police Division (OCPD), Mirangine Division**

The EACC investigations revealed that the OCPD was the AIE holder and in charge of processing per diem payment claims for various police officers within his division. He would receive the approved payments in form of a consolidated cheque from the District Treasury then withdraw and distribute to the various officers in accordance to their claims. The officers would sign the payment vouchers upon receipt of the funds claimed. Investigations did not establish abuse of office on the part of the OCPD.

The EACC report forwarded to the DPP on 22nd May 2018 recommended that the file be closed for lack of evidence. To ensure more transparency, accountability and adherence to the relevant laws and regulations, the EACC further recommended a system- audit of the National Police Service's (NPS) handling and processing of officers' per diem and reimbursements.

Upon perusal of the file, the DPPdid not find evidence of criminal culpability on the part of the suspect and directed that the file be closed with no further action.He further directed that EACC undertakes a system audit with regard to how NPS handles and processes the daily subsistence allowance given to police officers.

## STATUS

The file was returned to EACC on 11th June 2018,directing that the file be closed and that EACC undertakes a system audit with regard to how NPS handles and processes the daily subsistence allowance given to police officers.

### 6. EACC/NKR/INQ/FI/42/2016 ODPP/CAM/018/5/924

**Inquiry Into Allegations Of Encroachment And Development On A Public Road Reserve At Lake Road Junction Near Gulf Petrol Station In Nakuru Town By A Private Developer**

The EACC investigations revealed that a building (petrol station) erected on the parcel of land encroached the road reserve by an approximate area of 0.02 Ha. It belonged to a deceased person and not a former MCA.

The EACC report forwarded to the DPP on 22nd May 2017 recommended that the file be closed. EACC further recommended that an advisory to the Ministry of Lands be issued to inspect and ensure that any encroachment should be removed and the portion of the public land secured to avoid future encroachment.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspect and directed that the file be closed with no further action.

## STATUS

The file was returned to EACC on 11th June2018,directing that the file be closed.

### 7. EACC/MSA/INQ/FI/05/2015 ODPP/CAM/018/5/895

**Inquiry Into Allegations That County Assembly Of Mombasa Officers Were Involved In Irregularities And Breach Of Procurement Procedures**

The EACC investigated reports that the County Assembly of Mombasa attempted to pay Kshs. 870,000/= to KURI Supplies for goods allegedly delivered to the County Government without proof of delivery. It was further alleged that the tendering process of the suppliers was irregular and unlawful.

Investigations revealed that procurement officers engaged in falsification of documents to facilitate fraudulent payments for goods that were never received. It was further revealed that there was no procurement plan and that the choice of procurement method, tender evaluation as well as the eventual inspection and acceptance were not properly done.

The EACC report forwarded to the DPP on 27th April2018 recommended that the suspects, County Assembly officers, be charged with the following offences under ACECA, Public Procurement and Disposal Act (PPDA) and Penal Code respectively namely:

- Willful failure to comply with the applicable law relating to procurement contrary to section 45(2) as read with section 48
- Engaging in a procurement without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA
- Fraudulent practice in procurement proceeding contrary to section 41(4) as read with section 137 of the PPDA
- Falsification of document contrary to section 347(a) as read with section 357(a) and Engaging in fraud by a person employed in the Public Service contrary to section 127(2) of the Penal Code

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 13th June 2018,directing that prosecution ensues. The case Mombasa ACC 2/2011 is ongoing.

### 8. EACC/KSM/FI/INQ/34/2017 ODPP/CAM/018/5/896

**Inquiry Into Allegations Of Embezzlement Of Public Funds Amounting To Kshs. 2,360,000/= By The Bungoma County Government Officials And The County Assembly Members**

The EACC investigations revealed that the County Secretary conspired with the County Assembly officials to request for Kshs. 2,360,000 through imprest. The CS wrote a letter to the members of the Implementation Committee requesting them to conduct a fact-finding exercise on the County Integrated Development Plan on 19th to 30th September 2016. The activity did not take place as envisioned by the County Secretary but money was paid.

The EACC report forwarded to the DPP on 27th April 2018 recommended that the suspects be charged with the following offences:

- Conspiracy to commit an offence contrary to section 47(A) (3) as read with section 48
- Unlawful disposal of public property contrary to section 45(1) (b) as read with section 48(1)
- Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48
- Deceiving principal contrary to section 41(2) as read with section 48 of ACECA
- Forgery contrary to section 347 as read with section 349 and uttering false documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues. Further, EACC was directed to cover identified gaps to strengthen prosecution case.

## STATUS

The file was returned to EACC on 12th June 2018,directing that the areas identified be covered by way of further investigations and the file resubmitted. The file was resubmitted and the case is ongoing.

### 9. EACC/KSM/921/80/2017 ODPP/CAM/018/5/885

**Inquiry Into Allegations Of Bribery Against A Procurement Officer FromSigalagala National Polytechnic**

The EACC investigations revealed that the complainant had been awarded a tender for piping and wiring the Institution's Hospitality block at a cost of Kshs. 2.6 million. The complainant alleged that the suspect, a procurement officer, demanded a bribe of 10% of the awarded sum.

Investigations further revealed that the complainant was the one who brought up the issue of payment during the conversation with the suspect therefore the recorded conversation was an entrapment.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the bribery charges under the Bribery Act which were already in court against the suspect be withdrawn. It further recommended that the suspect be subjected to administrative action

for breaching Sections 56, 66 and 67 (on corrupt or fraudulent practices and confidentiality) of the Public Procurement and Asset Disposal Act, 2015.

Upon further perusal and review of the file, the DPP found the evidence insufficient to sustain the charges pending in court and directed that the case against the accused person be withdrawn under Section 87 (a) of the Criminal Procedure Code.

## STATUS

The file was returned to EACC on 11th June 2018, with directions that the case against the accused person be withdrawn under Section 87 (a) of the Criminal Procedure Code. Kakamega ACC 1/2017 was withdrawn accordingly.

### 10. EACC/FI/INQ/116/2014 ODPP/CAM/018/5/880

**Inquiry Into Allegations Of Irregular Award Of Tender For Construction Of A Pre-Fabricated Building For Kshs. 22.5 Million At The Siaya County Government**

The EACC investigations revealed that Siaya County Government awarded a tender for pre-fabricated offices at Kshs. 22.5 million without following public procurement laws during the financial year 2014/2015. The tender was awarded to a company at Kshs. 22.5 million, above the budgeted amount of Kshs. 21,671,281.

The report forwarded to the DPP on 13th April 2018 recommended that the procurement officers be charged with the offence of conspiracy to commit an offence of economic crime contrary to section 47A (3) and Abuse of office contrary to section 46 as read with Section 48 of ACECA.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues. However, EACC was directed to cover identified gaps to strengthen the prosecution case.

## STATUS

The file was returned to EACC on 11th June 2018,recommendingfurther investigations thereafter, the file be resubmitted for further directions.The file was resubmitted andupon review,the DPP found that there were still gaps and deficiencies in the inquiry file.The ODPP returned the file to the EACC on 12th March2019recommending further investigations.

### 11. EACC/FI/INQ/9/2016 ODPP/CAM/018/5/873

**Inquiry Into Allegations Of Conspiracy To Defraud Nairobi City County Government Of Kshs. 8,981,943/= Being Payment Of Approval Of A Building Plan**

The EACC investigations revealed that a Nairobi City County officer misled M/s Elephant Real Estate company to deposit Kshs. 6,281,943/= which was part of Kshs. 8,981,943/= into a junior County Government official's private bank account as construction approval fee of a 19- storey building in Milimani area.

It was further established that Nairobi City County Government did not receive any money in respect to the application by Elephant Real Estate Limited. The officials at the Nairobi City County Government informed the complainant that the invoice and receipt he produced purporting to have paid the fees while checking the status of his application were fake.

The EACC report forwarded to the DPP on 13th April 2018 recommended that the suspects be charged with the offence of:

- Conspiracy to defraud contrary to section 317 of the Penal Code;
- Obtaining by false pretense contrary to section 313 of the Penal Code;
- Making a false document contrary to section 347 as read with section 349 of the Penal Code and uttering a false document contrary to section 353 of the Penal Code

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues. However, EACC was directed to cover identified gaps to strengthen prosecution case.

## STATUS

The file was returned to EACC on 18th June 2018, with directions that prosecution ensues. The case Milimani ACC 30/2018 is ongoing.

### 12. EACC/FI/INQ/109/2015 ODPP/CAM/016/5/567

**Inquiry Into Allegations Of Irregular Award Of Tender For Installation Of Solar Street Lights And Solar Mass In Busia County At A Total Sum Of Kshs. 108,817,824.25**

The EACC investigations established that the Busia County Government fraudulently awarded Danelec Electrical Services Limited. a Kshs. 108,817,824.25 tender for solar installation. The money was deposited to the company's account, transferred to one of the suspect's account, and then further transferred to NSSF account for the purchase of two houses. One of the houses was purchased for the Governor of Busia County Government at Kshs. 47,000,000.

The EACC report forwarded to the DPP on 13th April 2018 recommended that the Governor be charged for the offence of:

- Making a false document contrary to section 347 as read with section 349 of the Penal Code
- Dealing with suspect property contrary to section 47(1) as read with section 48 of ACECA
- Director of Danelec Electricals Limited for forgery contrary to section 345 as read with section 349 of the Penal Code
- County officers at the procurement department for willful failure to comply with the applicable law relating to incurring expenditure contrary to section 45(2) as read with section 48 of the ACECA
- Engaging in a fraudulent procurement practice contrary to section 41(1) as read with sec 41(4) of PPDA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

However, this was one of the files that were affected by the Court of Appeal decision in the case of *Michael Kamau and Others-vs- Ethics and Anti-Corruption Commission and others [2016] eKLR* and the DPP ordered that fresh investigations be conducted.

EACC resubmitted the file together with their Statutory Report vide a letter dated 4th October, 2018.

The DPP upon careful perusal and analysis of the evidence in the resubmitted inquiry file found gaps and directed further investigations to cover the identified areas.

## STATUS

The file was returned to EACC on 12th March 2019, with directions that further investigations be conducted and the file resubmitted for further directions.

### 13. EACC/OPS/INQ/01/2013 ODPP/CAM/015/5/321

**Inquiry Into Allegations Of Loss Of Public Funds Through The Tarmacking Of Kaptama-Kapsokwony-Sirisia Road**

The EACC investigations revealed that the Chief Engineer of Roads and Permanent Secretary Ministry of Roads and Public Works and other public officials ignored the Kamukuywa-Kaptama-Sirisia Road design done by Engiconsulting Engineers. Instead, the Government entered into an MOU with Kundan Singh Construction Limited. This led to a loss of Kshs. 33 million. Also, the accounting officer willfully failed to comply with government financial regulations and procedures.

The EACC report forwarded to the DPP on 13th April2018 recommended that the suspects be charged with the offence of:

- Willful failure to comply with applicable procedures and guidelines relating to the management of public funds contrary to section 45(2) as read with section 48 of ACECA;
- Abuse of office contrary to section 101 as read with section 102A of the Penal Code;
- Giving a false document to a Principal contrary to section 41 as read with section 48 of ACECA.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC directing that prosecution ensues. The case Milimani ACC 44/2018 is ongoing. there are several preliminary objections seeking to prohibit the prosecution

### 14. EACC/FI/INQ/112/2014 ODPP/CAM/018/5/963

**Inquiry Into Allegations Of Tender Irregularities In The Leasing Of Motor Vehicles For The National Police Service (NPS) Tender No. TNT/001/2014-2015.**

The EACC investigations established no irregularities in the NPS motor vehicle tendering process by the National Treasury. There was a budget for the leasing of the motor vehicles,and the method used approved. In addition, the number of vehicles was procedurally increased from 1200 to 1,500.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the inquiry file be closed since there was no evidence of any irregularity in the aforesaid procurement process.

Upon perusal of the file, the Director of Public Prosecutions found no evidence of criminal culpability on the part of the suspects and directed that the file be closed with no further action.

#### STATUS

The file was returned to EACC on 30th June 2018,directing that the file be closed.

### 15. EACC/FI/INQ/103/2016 ODPP/CAM/018/5/967

**Inquiry Into Allegations That The National Government Embakasi North Constituency Fund Committee Allocated Kshs. 32,502,288/= In The 2014/2015Financial Year For Roads That Had Been Constructed By Kenya Rural Roads Authority.**

The EACC investigations revealed that the National Government Embakasi North Constituency Fund Committee allocated Kshs. 32,502,288/= for the construction of Cinema Road-Dandora Phase 2, Administration Police Road-Dandora Phase 5 and District Officer's Road Dandora Phase 3.These had already been constructed by Kenya Rural Roads Authority. Further, the committee allocated Kshs. 8,000,000/= for construction of Maitu Njeri Road, a project that was never implemented. In addition, the procurement process was flawed.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 19th June 2018 recommending that the suspects be charged with the following offences;

- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read together with Section 48
- Conflict of interest contrary to section 42 (3) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

#### STATUS

The file was returned to EACC on 2nd August 2018,directing that prosecution ensues. The case Milimani ACC 35/2018 is ongoing.

### 16. EACC/MLD/FI/INQ/12/2016 ODPP/CAM/018/5/964

**Inquiry Into Allegations Of Irregular Award of Kshs. 30,000,000 Tender By The County Government Of Tana River To Regional Drilling And Trading Limited To Supply One Hundred Collapsible Water Tanks.**

The EACC investigations revealed that the Tana River County Government irregularly awarded a Kshs. 30,000,000/= tender for the purchase of collapsible tanks an intervention measure against water shortage. However, the procurement process was unlawful and the tender amount inflated. Further, the contractor forged documents in his tender bid.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the suspects be charged with the following offences:

- Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read together with Section 48
- Conspiracy to commit an offence of economic crime contrary to section 47A (3) as read with Section 48(1) of ACECA
- Fraudulent practice in procurement proceedings contrary to section 66 as read with section 178 (1)(i) of PPADA
- Uttering a false document contrary to section 353 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 10th July 2018,directing that prosecution ensues. The case Malindi ACC 2/2018 is ongoing.

### 17. EACC/ELD/FI/INQ/64/2016 ODPP/CAM/018/5/956

**Inquiry Into Allegations Of Abuse Of Office, Misappropriation Of Public Funds And Misuse Of Government Motor Vehicle By The DCIO, Keiyo South Police Division.**

The EACC investigations revealed that the Director of Criminal Investigations advanced the officer money for use in security operations. However, the money was lost resulting from paid claims on items that were never bought.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the suspect be charged with the following offences:

- Abuse of office contrary to section 46 as read with section 48;
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with Section 48 of ACECA
- Forgery contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP found gaps in the investigations and directed further investigations along the identified areas.

## STATUS

The file was returned to EACC on 30th June2018,directing that further investigations be conducted and the file resubmitted for further directions.

### 18. EACC/FI/INQ/21/2015 ODPP/CAM/018/5/961

**Inquiry Into Allegations Of Irregular Payment Of Allowances To Employees And Non-Employees Of The National Industrial Training Authority (NITA) During The Financial Year 2013/2014**

The EACC investigated reports that NITA had irregularly paid allowances amounting to Kshs. 1,189,564/= to employees and non-employees in the financial year 2013/2014. The participants were paid retreat allowances and per diems in conformity to the directive by the Head of Public Service. The payments were therefore lawful.

The EACC report forwarded to the DPP on 21st June 2019 recommended that the file be closed for lack of sufficient evidence.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed with no further action.

## STATUS

The file was returned to EACC on 2nd July 2018,with directions that the file be closed.

### 19. EACC/MKS/FI/INQ/2/2015 ODPP/CAM/018/5/970

**Inquiry Into Alleged Embezzlement Of Public Funds, Abuse Of Office And Conflict Of InterestBy The Principal Of Mulu Secondary School**

The EACC investigated reports that Mulu Secondary School had not been audited for a long time, and that the school principal traded with the school, abused his powers and flouted procurement rules when purchasing school materials.

The investigations revealed that the suspect failed to adhere to the procurement laws and procedures, abused his of office and was in direct conflict of interest as an agent.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the school principal be charged with following offences:

- Willful failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b);
- Failure to disclose a private interest to one's principal contrary to section 42(1) (a)
- Knowingly making a false statement contrary to section 41 (2) and abuse of office contrary to section 46 as read with section 48 of ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The file was returned to EACC on 2nd July 2018, with directions that prosecution ensues. The case Machakos ACC 2/2018 is ongoing.

### 20. EACC/PI/INQ/247/2016 ODPP/CAM/018/5/938

**Inquiry Into Allegations Of Procurement Irregularities Against Geothermal Development Company For Single Sourcing Of Partitioning Work At The Company's Offices And Provision Of Catering Services**

The EACC investigated reports that Geothermal Development Company engaged in procurement irregularities by single sourcing and awarding tenders for partitioning work at the company's offices and provision of catering services.

Investigations established that the funds re-allocated were meant for a capital expenditure. The project was one of the capital expenditures and hence exempted from the restrictions imposed on reallocation of funds in accordance with Section 43 (1) (b) of the Public Finance Management Act, 2012. The tenders were not single sourced as alleged. One tender was procured through open tender while the other was procured using the restricted tendering method.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the file be closed for lack of sufficient evidence.

Upon perusal of the file, the DPP found no evidence of criminal culpability and directed that the file be closed.

### STATUS

The file was returned to EACC on 30th June2018,with directions that the file be closed.

### 21. EACC/MSA/AT/INQ/1/2017 ODPP/CAM/018/5/937

**Inquiry Into Allegations That An Employee Of The Kenya Revenue Authority (KRA) Received Proceeds Of Corruption Through Lulu Company Limited**

The EACC investigations revealed that the KRA officer received bribes of between Kshs. 20,000 and Kshs. 60,000/= through a proxy from clearing agents to aid in underpayment of taxes by falsifying the declaration of goods.

Although there was no direct evidence linking the suspect with corruption, however, their financial activities were suspicious.There was a big variance between assets owned by the suspect and her known legitimate sources.

The EACC report forwarded to the DPPon 12th June2018 recommended that the public officer be charged with the offence of failure to pay taxes payable to the KRA contrary to section 45(1) (d) as read with Section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The file was returned to EACC on 20th June 2018,directing that prosecution ensues. The case Mombasa ACC 7/ 2018 is ongoing.

### 22. EACC/NKR/INQ/FI/07/2015 ODPP/CAM/018/5/935

**Inquiry Into Allegations Of Procurement Irregularities Against The Chief Executive Officer And Other Officers Of The Rift Valley Water Services Board (RVWSB)**

The EACC investigated whether the CEO and other officials of RVWSB abused their offices by irregularly awarding a contract for the construction of the Baringo and Boror water pans.

Investigations by EACC revealed that the suspects had complied with the requisite procurement laws.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the file be closed.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed.

### STATUS

The file was returned to EACC on 5th July2018, with directions that the file be closed.

## 23. EACC/INQ/15/2016 ODPP/CAM/018/5/941

**Inquiry Into Allegations Of Bribery And Impropriety Against National Youth Service (NYS) Officials And Other Persons In An Award Of Contract For Payment Of Kshs. 791,385,000/=**

The EACC investigated an affidavit filed in court by a suspect in the NYS matter alleging improper interactions by the complainant, NYS officials including the Cabinet Secretary for Ministry of Devolution and Planning and the Banking Fraud Investigations Unit officers which led to the loss of Kshs. 791,385,000/= belonging to NYS.

EACC and the Directorate of Criminal Investigations conducted the investigations and established that the allegations were untrue, and denied in totality and there was no evidence supporting the same.

The EACC compiled and forwarded a report to the DPP on 12th June 2018 recommending that the complainant be charged with the offence of knowingly misleading a person contrary to section 66(1) (b) as read with section 66(2) of ACECA.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

### STATUS

The file was returned to EACC on 11th July 2018, with directions that further investigations be conducted and the file resubmitted for further directions.

## 24. EACC/MLD/INQ/FI/09/15 ODPP/CAM/018/5/939

**Inquiry Into Allegations Of Irregular Tendering For The Construction Of A Laboratory At Hindi Secondary School Worth Kshs. 3,000,000/=**

The EACC investigations revealed that the Lamu West Member of Parliament (MP) irregularly awarded tender number CDF/LW/2013-2014 Hindi Secondary School for completion of a science laboratory; particularly construction of drainage, soak pits, gas chamber, fume chamber, plastering and painting.

The school management had willfully failed to comply with procurement laws in the tendering process.

EACC compiled a report and forwarded to the DPP on 12th June 2018 recommending that the MP and other suspects be charged with offences under ACECA and Penal Code namely:

- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with Section 48 (1) of ACECA;
- Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of ACECA and uttering false document contrary to section 353 of the Penal Code.

Further, EACC recommended an advisory be issued to the Constituencies Development Fund Board to educate, train, and advise the CDF managers in Lamu County about their role in the public procurement processes.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

### STATUS

The file was returned to EACC on 28th June 2018,directing that further investigations be conducted and the file resubmitted for further directions.

## 25. EACC/FI/INQ/49/2016 ODPP/CAM/018/5/934

**Inquiry Into Allegations Of Irregular Procurement Of Two Vehicles By The County Government Of Kitui**

The Auditor General's report indicated abuse of office and misappropriation of funds amounting to Kshs. 825,000,000/= by the Executive of Kitui County Government. The EACC investigations established that two vehicles were bought irregularly from D.T. Dobie at a unit cost of Kshs. 13,670,530/= without following proper procurement procedures.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the County officers be charged with offences under ACECA namely:

- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with Section 48
- Engaging in a project without prior planning contrary to section 45 (2) (c) as read with Section 48.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 29th June 2018,directing that prosecution ensues. The case Kitui ACC No. 1/2018 is ongoing.

### 26. EACC/NYR/EL/08/2015 ODPP/CAM/018/5/933

**Inquiry Into Allegation Of Corruption And Abuse Of Office By Members Of The Nyeri County Public Service Board In The Process Of The Hiring Of Sub-County And Ward Administrators**

The EACC investigations revealed that the Nyeri County Service Board irregularly appointed Sub-County and Ward Administrators. The successful applicants had presented false documents.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the suspects be charged with offences under ACECA and Penal Code namely:

- Abuse of office contrary to section 46;
- Conspiracy to commit corruption offence contrary to section 47A (3) as read with section 48 of ACECA;
- Forgery contrary to section 349 as read together with Section 345 and 347(a) and uttering of false documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 10th July 2018,directing that prosecution ensues. The case Nyeri ACC 2/2018 is ongoing.

### 27. EACC/MLD/INQ/FI/16/2016 ODPP/CAM/018/5/932

**Inquiry Into Allegation Of Irregular Procurement And Embezzlement Of Public Funds In The Tender For Construction Of Kadzadani-Adu-Kamale Water Project In Kilifi County**

The EACC investigations revealed that the County Government of Kilifi procured and awarded a tender for construction of Kadzandani-Kamate Water project irregularly to Geotech Contractors Limited for a sum of Kshs. 36,345,240/=. The documents submitted by the winning bidder were forged.

The EACC report forwarded to the DPP on 12th June2018 recommended that the County officials, directors of Goetech Contractors Limited and the Company be charged with the following offences:

- Fraudulent practice in procurement proceedings contrary to section 41(1) and (4) as read with section 137 of the PPDA;
- Fraudulent acquisition of public property contrary to section 45 (1) as read with Section 48 of ACECA
- Falsification of documents contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 30th June 2018, directing that prosecution ensues. The case Malindi ACC 2 of 2019 is ongoing.

### 28. EACC/KIS/INQ/FI/4/2017 ODPP/CAM/018/5/936

**Inquiry Into Allegation Of Misappropriation Of Public Funds By Homa Bay County Assembly Officials For Procurement Of Hotel Services And Payment Of Members Of The County Assembly Allowances For The Financial Years 2015/2016 And 2016/2017 Amounting To Kshs. 35 Million**

The EACC investigations revealed that some Homa Bay County Government officials and members of the County Assembly, misappropriated County Assembly funds by making irregular payments for allowances and hotel services amounting to Kshs. 35 million.

The suspects applied for imprest warrants on the pretext that they would pay the participants and the hotel for the services offered. However, the functions did not take

place. The alleged participants denied attending the meetings in any of the hotels or receiving any allowance.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the suspects be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47A (3) of ACECA
- Unlawful acquisition of public property contrary to section 45 (1) (a) of ACECA
- Abuse of office contrary to section 46 of ACECA;
- Fraudulent payment from public revenues for services not rendered contrary to section 45 (2) (a) (iii) of ACECA
- Willful failure to comply with applicable law relating to incurring of expenditure contrary to section 45 (2) (b) as read with section 48 of ACECA
- Breach of trust by a person employed in public service contrary to section 127 (1) as read with section 127 (2) of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 30th June 2018,directing that prosecution ensues. The case Homa Bay ACC 1/2018 is ongoing.

### 29. EACC/FI/INQ/28/2018 ODPP/CAM/018/5/909

**Inquiry Into Allegations That The National Land Commission (NLC) Irregularly Compensated Kshs. 3,269,040,600/= To Entities Claiming Ownership Of Land Parcel Number L.R. 7879/4 (Part) Where Ruaraka High School And Drive-In Primary School Are Situated**

The EACC investigations revealed that the NLC irregularly compensated the purported owners of the land belonging to Ruaraka High School and Drive-In Primary School, LR. 7879/4 (part) the sum of Kshs. 3,269,040,600.

The subject land was surrendered for public use and therefore not liable for compensation. NLC did not serve notice of intention to compulsorily acquire the land and hence there was no public inquiry for purposes of interrogating the application.Further, the NLC and other suspects including the officials in the Ministry of Education, the Nairobi County Government, and the office of the Official Receiver willfully failed to follow the relevant law.

The Directors of Afrison Export Import Limited and Huelands Limited also participated in the fraudulent payment of Kshs 1,500,000,000/= since they knew the correct position on the ownership of the subject land.

The EACC report forwarded to the DPP on 4th June 2018 recommended that the suspects be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 of ACECA;
- Willful failure to comply with the law relating to allocation of public property contrary to section 45(2) (b) as read with section 48 of ACECA,
- Abuse of office contrary to section 46 as read with section 48 of ACECA,
- Unlawful acquisition of public property contrary to section 45(1) (a) as read with Section 48 of ACECA and
- Breach of trust contrary to Section 127 (1) as read with Section 127 (2) of the Penal Code.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

## STATUS

The file was returned to EACC on 11th June 2018,directing that further investigations be conducted and the file resubmitted for further directions.

### 30. EACC/FI/INQ/31/2006 ODPP/CAM/018/5/966

**Inquiry Into Allegations Of Abuse Of Office Against An Employee Of The Teachers Service Commission (TSC)**

The EACC investigations revealed two recruitment processes, one by the District Education Board and the other by TSC. TSC recruited some candidates directly without interviewing them rendering the process unfair and uncompetitive.

The report forwarded to the DPP on 19th June2018 recommended that TSC be issued with an advisory to establish policies/guidelines relating to recruitment and affirmative action.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspect and directed that the file be closed. However, TSC was advised to develop suitable guidelines for recruitment of teachers at all levels.

**STATUS**

The file was returned to EACC on 30th June 2018, with directions that the file be closed and that the TSC be advised to develop suitable guidelines for recruitment of teachers at all levels.

### 31. EACC/NYS/OPS/INQ/3/2018; CASE FILE REF: NO. 255/473/2017 ODPP/CAM/018/5/913

**Inquiry Into Allegations Of Bribery Against Judiciary Staff Stationed At The Karatina Law Courts**

The EACC investigated complaints that two employees of Judiciary at the Karatina Law Courts demanded a Kshs. 25,000/= bribe to facilitate the release of a suspect from police custody, the withdrawal of the charges against him and ultimately the termination of Case No. 394/2017 ***(R-Vs-E.W. Muriuki)*** in the Magistrates Court at Karatina.

EACC officers conducted a trap operation at the station. The complainant met the officers who demanded for Kshs. 30,000/- from him, but reduced to Kshs. 25,000/=. Kshs. 15,000/= for cash bail while Kshs. 10,000/= to facilitate withdrawal of the charges against the complainant's kin. The suspects were handed treated money and upon searching, the EACC officers found it in their shared drawer.

EACC report forwarded to the DPP on 25th May2018 recommended that the suspects be charged with receiving a bribe contrary to section 6(1) (b) of the Bribery Act and dealing with suspect property contrary to section 47(1) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges against the first suspect and directed that prosecution ensues.

However, he found no evidence of criminal culpability on the part of the second suspect and directed that this suspect should not be charged.

**STATUS**

The file was returned to EACC with directions that prosecution ensues against one suspect and the second suspect should not be charged for lack of sufficient evidence. The first suspect was charged and the case Kerugoya ACC 1/2017 is ongoing.

### 32. CR. 148/7/2018 ACC.NO.5/2018 ODPP/CAM/018/5/930

**Inquiry Into Allegations Of Bribery Against An Officer Attached To The Directorate Of Criminal Investigations (DCI)**

The EACC investigations revealed that a DCI officer (the suspect) was investigating a fraud complaint. The complainant, an advocate agreed to meet the suspect to discuss the status of the case. In their meeting, the suspect who was in the company of other officers, demanded for Kshs. 50,000/=. However, when they realized he had no money, they locked him up in a police cell at Ngong' Police Station, and forced him to withdraw of Kshs. 20,000/=.

The EACC report forwarded to the DPP on 25th May 2018 recommended that the suspects be charged with bribery as there was sufficient evidence to sustain the charges.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 11th June 2018, with directions that prosecution ensues. The case Milimani ACC 5 of 2018 is ongoing.

**33. EACC.NKR/INQ/OPS/157/2017**
**ODPP/CAM/018/5/887**

**Inquiry Into Allegations Of Bribery Against Two Motorists Who Bribed NTSA Officers**

The EACC and NTSA conducted a joint operation to ensure that all motorists in breaching the law are apprehended and arraigned in court.

EACC investigations revealed that two motorists attempted to bribe NTSA officers when found to have committed traffic offences so as forebear them being charged.

The EACC report forwarded to the DPP on 30th April2018 recommended that the suspects be charged with the offence of dealing with suspect property contrary to section 47(2) (a) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 11th June, 2018, with directions that prosecution ensues. The case is ongoing.

**34. EACC/OPS/INQ/162/2017**
**ODPP/CAM/018/5/915**

**Inquiry Into Allegations Of Bribery Against A Motorist Who Had Committed A Traffic Offence**

The EACC and NTSA conducted a joint operation to ensure Kenyan roads remain accident free and that all motorists in breaching the law apprehended and arraigned in court. This operation was done at Kiganjo along the Nyeri- Nanyuki road.

EACC investigations revealed that the suspect operated a public service vehicle without a route license. The suspect was asked to pay a cash bail of Kshs. 5,000/= but he offered and gave the NTSA officer Kshs. 2,000/= in order to forebear being charged.

The EACC report forwarded to the DPP on 22nd May2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges. However considering that the anticipated time and resources for prosecution would not make economic sense both to government and tax payers, the DPP directed that the suspect be subjected to administrative action.

## STATUS

The file was returned to EACC on 12th June2018,with directions that the suspect be subjected to administrative action.

**35. EACC/MKS/OPS/10/2017**
**CR.148/04/2018**
**ODPP/CAM/018/5/923**

**Inquiry Into Allegations Of Bribery Against Police Officers Attached To Kajiado Patrol Base**

The EACC investigations revealed that traffic police officers based at Kajiado patrol base demanded for bribes from the motorists plying the Nairobi-Namanga road. The suspects were arrested and Kshs. 4,350/= recovered from them.

The EACC report forwarded to the DPP on 21st May2018 recommended that the suspects be charged with the offences under ACECA namely:

- Dealing with suspect property contrary to section 47(2) (a) as read with section 48
- Concealing evidence contrary to section 66(1) (c) as read with section 66(2)
- Abuse of office contrary to section 46 as read with section 48
- Conspiracy to commit an offence of corruption involving economic crimes contrary to section 47(3) (a) as read with section 48
- Obstruction contrary to section 66 (1) (a) as read with section 66 (2)

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 12th June2018, with directions that prosecution ensues. The case Kajiado CR 305/2018 is ongoing.

### 36. CR. EACC 313/483/2017 ODPP/CAM/018/5/904

**Inquiry Into Allegations Of Bribery Against An Acting Chief, Malindi Town Location**

The EACC investigations revealed that the suspect, a Chief, asked for Kshs. 2000/= bribe in order to summon a debtor. The complainant had complained to the Chief about a buyer of land who had defaulted in paying a debt with regard to the sale of his land.

The EACC report forwarded to the DPP on 27th April2018 recommended that the suspect be charged with the offence of receiving a benefit contrary to Section 6 (1) as read with section 18 (1) of the Bribery Act No,47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 4th June2018, with directions that prosecution ensues. The case Malindi ACC 1/2018 is ongoing.

### 37. EACC/OPS/INQ/156/2017 ODPP/CAM/018/5/901

**Inquiry Into Allegations Of Bribery Against A Motorist To Forbear Being Charged With The Offence Of Exceeding The Stipulated Speed Limit**

The EACC and NTSA joint operation established that a motorist had exceeded the speed limit when driving his motor vehicle. The motorist offered Kshs. 1000/= to the NTSA officer to forbear charges of exceeding the stipulated speed limit.

EACC report forwarded to the DPP on 27th April 2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges. However, he directed that administrative action be taken against the motorist as the anticipated amount of time and resources to be used in prosecution would not make economic sense both to government and tax payers.

**STATUS**

The file was returned to EACC on 22nd May2018, with directions that the suspect be subjected to administrative action.

### 38. EACC/OPS/INQ/164/2017 ODPP/CAM/018/5/894

**Inquiry Into Allegations Of Bribery Against A Motorist Along The Kenol-Sagana Road**

The EACC and NTSA joint operation established that a motorist exceeded the speed limit when driving motor vehicle. The motorist offered Kshs. 1000/= to the NTSA officer to forbear charges of exceeding the stipulated speed limit.

EACC report forwarded to the DPP on 27th April2018 recommended that the suspect be charged with the offences of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence sufficient to support the recommended charges. However, he directed that administrative action be taken against the motorist as the anticipated amount of time and resources to be used in prosecution would not make economic sense both to government and tax payers.

**STATUS**

The file was returned to EACC on 13th June2018,with directions that the suspect be subjected to administrative action.

### 39. EACC/MSA/OPS/INQ/35/2017 ODPP/CAM/018/5/888

**Inquiry Into Allegations Of Bribery Against A Police Officer Attached To Likoni Tourist Police Base**

The EACC investigations revealed that the police officer solicited for Kshs. 1000/= from a motorist in order to release the driving license she had confiscated from him for driving a vehicle with a cracked windscreen.

The police officer stopped the motorist and on carrying out an inspection of his motor vehicle, noted that it had a cracked windscreen. The police officer asked for his driving license and on receipt of the driving license, handed it over to another police officer. The complainant informed the police officer that he was going to replace the windscreen but the police officer asked for a Kshs. 1000/= bribe.

The EACC report forwarded to the DPP on 27th April2018 recommended that the suspect be charged with the offence of requesting a bribe contrary to section 6(1) as read with section 18(1) of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 12th June 2018, with directions that prosecution ensues. The case Mombasa ACC 2/2018 is ongoing.

### 40. EACC/OPS/INQ/170/2017 ODPP/CAM/018/5/884

**Inquiry Into Allegations Of Bribery Against A Motorist To Forbear Being Charged For A Traffic Offence**

The EACC and NTSA joint operation established that road users offered bribes to traffic officers on major roads without the officers asking for the bribe.

The motorist, arrested for flouting traffic regulations was required to pay a cash bail of Kshs. 5,000/= to secure his release and then appear in court at a later date. He instead offered a Kshs. 1,500/= bribe.

The EACC report forwarded to the DPP on 27th April 2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 11th June 2018 with directions that prosecution ensues. The case is ongoing.

### 41. EACC/ INQUIRY FILE NO.69/2017 ODPP/CAM/018/5/898

**Inquiry Into Allegations Of Bribery Against An Officer-In-Charge, Crimes Parklands Police Station To Release Four Prisoners.**

The EACC investigated whether the Officer-In-Charge of Parklands Police Station demanded for a benefit of Kshs. 8,000/= in order to release four ladies who had been arrested for the offence of being idle and disorderly.

The report forwarded to the DPP on 27th April2018 recommended that the file be closed with no further action since the threshold had not been met to sustain a charge of bribery against the police officer.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspect and directed that the file be closed.

## STATUS

The file was returned to EACC on 11th June2018, with directions that the file be closed for lack of evidence but the matter be brought to the attention of the National Police Service Commission for administrative action.

### 42. CR. 623/227/2017 ODPP/CAM/018/5/897

**Inquiry Into Allegations Of Bribery Against A Police Officer Attached At Riat Police Post**

The EACC investigations revealed that a police officer attached to RIAT Police Station improperly requested for Kshs. 5,000/= so as not to incriminate the complainant as the principal suspect after the death of the complainant's daughter.

The report forwarded to the DPP on 27th April 2018 recommended that the suspect be charged with receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act No 47 of 2016, files in court proceed to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the charges pending in court and directed that prosecution proceeds to logical conclusion.

## STATUS

The file was returned to EACC on 4th June2018 with directions that prosecution ensues. The case Kisumu ACC 2/2017 is ongoing.

### 43. CR. 421/123/2017 ODPP/CAM/018/5/902

**Inquiry Into Allegations Of Bribery Against Police Officers Stationed At Maua Traffic Sub-Base, Meru County**

The EACC investigations revealed that that two traffic police officers corruptly requested for Kshs. 2,000/= from the complainant in order to release a motor vehicle which had been detained for a broken windscreen.

The report forwarded to the DPP on 20th April 2018 recommended that the suspects be charged with:

- Receiving a bribe contrary to section 6(1) (a) as read with section 18(1) and (2) of the Bribery Act
- Dealing with suspect property contrary to section 47(2) of ACECA
- Conspiracy to commit an offence of corruption contrary to section 47 A (3) as read with section 48 of ACECA already filed in court proceed to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the charges pending in court and directed that prosecution proceeds to logical conclusion.

**STATUS**

The file was returned to EACC on 11th June2018 with directions that prosecution proceed to logical conclusion. The case Meru ACC 1/2017 was heard and determined and the accused was acquitted under Section 210 of the Criminal Procedure Code.

### 44. EACC/OPS/INQ/161/2017 ODPP/CAM/018/5/886

**Inquiry Into Allegations Of Bribery Against A Driver Of Kongoni Farm**

The EACC and NTSA joint operation established that road users offered bribes to traffic police officers on major roads without the officers asking for the bribe.

Investigations revealed that the suspect was over speeding at 103 km/hr. He offered Kshs. 2,000/= to an NTSA officer to avoid being charged.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the suspect be charged with impersonating an investigator contrary to section 34(1) as read with section 34(2) and hindering EACC acting under the Act contrary to section 66(1) (a) and (2) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 30th May2018 with directions that prosecution ensues. The case is ongoing.

### 45. EACC/ OPS/ INQ/60/2017 ODPP/CAM/018/5/910

**Inquiry Into Allegations Of Bribery Against An Officer Of KRA**

The EACC investigations revealed that the suspect requested for a financial benefit of Kshs. 350,000/= from the complainant as an inducement so as not to fine him Kshs. 1,000,000/= for failing to using an Electronic Tax Register in conducting his business. When the matter was reported to EACC, the investigators treated money meant for the suspect in a trap operation. The investigators waited for him to pick the money but he did not show up. When contacted by phone, the suspect asked the complainant to pay the Kshs. 1,000,000/= fine.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the file be closed for insufficient evidence but that administrative action be taken against the suspect.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that administrative action be taken against the suspect.

**STATUS**

The file was returned to EACC on 13th June 2018 with directions that administrative action be taken against the suspect.

### 46. EACC/OPS/INQ/165/2017 ODPP/CAM/018/5/905

**Inquiry Into Allegations Of Bribery Against A Motorist Driving A Public Service Vehicle**

The EACC and NTSA joint operation established that the motorist operated a Public Service Vehicle without a PSV license and carried excess passengers along

the Kitui- Mutomo road at Mwembe-Tayari. Upon inspection of the motor vehicle, the NTSA officer noted that it was insured as a private motor vehicle hence not licensed to carry fare-paying passengers. It was also noted that the vehicle had an excess of one passenger.

The report forwarded to the DPP on 20th April2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

Upon perusal of the file, the DPP found that although there was sufficient evidence to support the recommended charges, the anticipated time and resources to be used in prosecution would not make economic sense both to government and tax payers. He therefore directed that the file be closed with no further action.

## STATUS

The file was returned to EACC on 12th June 2018 with directions that the file be closed.

### 47. EACC/NKR/INQ/OPS/10/2017 ODPP/CAM/018/5/900

**Inquiry Into Allegations Of Bribery Against An Administration Officer Attached At Sigowet Trading Center**

The EACC investigations revealed that the suspect always demanded a financial benefit of Kshs. 4,000/= from a local businessman doing gambling business without the required documents. The EACC officers laid a operation. They gave the complainant Kshs. 4000/= treated money who gave it to the suspect upon demand. The EACC officers later recovered it from him.

The report forwarded to the DPP on 20th April2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) as read with section 18(1) and (2) of the Bribery Act.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

## STATUS

The file was returned to EACC on 4th June 2018 with directions that further investigations be carried out and the file be resubmitted. The file was resubmitted with the areas identified for further investigations having been covered and the case filed in court. The case Nyamira Cr. 510/2017 is ongoing.

### 48. EACC/OPS/INQ/150/2017 ODPP/CAM/018/5/891

**Inquiry Into Allegations Of Bribery Against An Administration Police Officer Attached To Ndarasha Administration Police Post**

The EACC investigations revealed that the administration officer demanded for Kshs. 20,000/= in order to protect the complainants from accusations which had been lodged at the police post which they alleged to have resolved. The suspect had demanded the Kshs. 20,000/= in order to settle or terminate an alleged case filed against one of the complainants who was a suspect.

The report forwarded to the DPP on 20th April 2018 recommended that the inquiry file be closed since the evidence was insufficient to sustain bribery charges against the suspect. EACC however recommended that the suspect be subjected to administrative action.

Upon perusal of the file, the DPP found the evidence insufficient to warrant prosecution of the suspect and directed that the suspect be subjected to administrative action.

### 49. EACC/OPS/INQ/158/2017 ODPP/CAM/018/5/903

**Inquiry Into Allegations Of Bribery Against A Motorist Driving Along The Bungoma- Eldoret Highway**

The EACC and NTSA joint operation established that the suspect was drove a motor vehicle without a driving license. In an attempt to forbear charges from being preferred against him for the said traffic offence, the suspect offered and gave a Kshs. 200 financial benefit to the NTSA officer.

The report forwarded to the DPP on 20th April 2018 recommended that the suspect be charged with the offences of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 4th June 2018 with directions that prosecution ensues.

## 50. EACC/OPS/INQ/1/2017 ODPP/CAM/018/5/892

**Inquiry Into Allegations Of Bribery Against A Senior Supervisor Attached To Car Park And Clamping Section At The Nairobi City County**

The EACC investigated complaints that a senior supervisor at the Car Park and Clamping Section at Nairobi City County Government collected bribes from junior officers attached to the section.

EACC officers arrested junior officers whilst performing their duties at Industrial Area. The junior officers had not collected any money on the day of the operation hence no money was recovered from them. EACC officers also conducted a search on the senior officer's residence but did not recover any money.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the inquiry file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence of criminal culpability on the part of the suspects and directed that the file be closed with no further action.

### STATUS

The inquiry file was returned to EACC on 12th June 2018, with directions that the file be closed.

## 51. EACC/OPS/INQ/14/2017 ODPP/CAM/018/5/893

**Inquiry Into Allegations Of Bribery Against Employees Of Extra Group Consultant Limited**

The EACC investigations revealed that the officials requested for a financial benefit of Kshs. 180,000/= from the complainant to withdraw a complaint, for being in possession of counterfeit goods from the Anti-Counterfeit Agency. This was after a search was undertaken at the complainant's phone shop and some counterfeit mobile phones recovered.

The report forwarded to the DPP on 20th April 2018 recommended that the suspects be charged with the offence of requesting for a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

### STATUS

The file was returned to EACC on 14th June, 2018 with directions that prosecution ensues. The case Milimani ACC 22/2018 is ongoing.

## 52. CR. 641/308/2017 CF ACC. (KISII) 2/2017 ODPP/CAM/018/5/890

**Inquiry Into Allegations Of Bribery Against The Chief Of Kiogoro Location, Kisii County**

The EACC investigations revealed that the complainant together with her brother in law asked the Chief to write a letter that would be used in transfer of a plot in a succession matter. The Chief demanded for Kshs. 4,000/= from them before she could write the letter.

The report forwarded to the DPP on 20th April 2018 recommended that the suspect be chargedwith receiving a bribe contrary to section 6 (1)(a) as read with section 18 (1) and (2) of the Bribery Act pending in court proceeds to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the charges pending in court and directed that prosecution proceed to logical conclusion.

### STATUS

The file was returned to EACC on 14th June2018 with directions that prosecution ensues. The case Kisii ACC 2/2017 is ongoing.

## 53. CR. 627/246/2017 ODPP/CAM/018/5/908

**Inquiry Into Allegations Of Bribery Against An Administrative Officer (The Suspect) In The County Government Of Kisumu**

The EACC investigations revealed that the suspect had demanded for Kshs. 90,000/= from the complainant in order to process a payment of Kshs. 1,540,000/= at the County Government of Kisumu. The payment was for maize and beans that the complainant had supplied to the County Government of Kisumu in the financial year 2014/2015. The maize and beans were to be distributed to people affected by flooding in Ahero, Nyando Sub County in the year 2015.

The report forwarded to the DPP on 20th April 2018 recommended that the officer be charged with receiving a bribe contrary to section 6(1) as read with section 18(1) (2) of the Bribery Act No. 14 of 2016 already filed in court be prosecuted to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the charges pending before court and directed that prosecution proceed to logical conclusion.

## STATUS

The file was returned to EACC on 12th June 2018 with directions that prosecution proceeds to logical conclusion. The case Kisumu ACC 1/2017 is ongoing.

### 54. EACC/OPS/INQ/66/2017 ODPP/CAM/018/5/906

**Inquiry Into Allegations Of Bribery Against A Prosecutor Based At Ngong Law Courts**

The EACC investigations revealed that the complainant was involved in a non-injury traffic accident along Ngong' Road. Following the accident, the complainant's car was driven to Ngong' Police Station where the complainant paid Kshs. 5,000/= cash bail and was to report to court for plea taking. The plea did not take place on the scheduled date. On the day the complainant was expected to take plea, he did not appear therefore the cash bail was forfeited and a warrant of arrest issued against the complainant

The complainant's employer went to court and pleaded guilty to the offence of careless driving notwithstanding that she was not the driver. She was and asked to pay a Kshs. 20,000 fine Kshs. as well as facilitation fees of Kshs. 30,000/= to the suspect.

The report forwarded to the DPP on 20th April 2018 recommended that the suspect be charged for the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that administrative action be taken against the suspect.

## STATUS

The file was returned to EACC on 11th June 2018, with directions that administrative action be taken against the suspect.

### 55. CR.148/31/2017 ODPP/CAM/018/5/843

**Inquiry Into Allegations Of Bribery Against A Traffic Police Officer Attached To Kiambu Traffic Base**

The EACC investigations revealed that the suspect demanded a Kshs. 2,000/= bribe so as to forbear charging the complainant with three traffic charges namely driving without a license, disobeying verbal instructions and driving a motor vehicle with a defective hand brake.

The report forwarded to the DPP on 20th April2018 recommended that the charges already before the court should proceed to logical conclusion and similarly administrative action be taken against the suspect for flouting the provisions of the Leadership and Integrity Act by demanding for a bribe.

Upon perusal of the file, the DPP found sufficient evidence to support the charges in court and directed that the case proceed to its logical conclusion.

## STATUS

The file was returned to EACC on 12th June 2018 with directions that the case before court proceeds to logical conclusion. The case Kiambu ACC 24 of 2017 is ongoing.

### 56. EACC/OPS/INQ/142/2017 ODPP/CAM/018/5/907

**Inquiry Into Allegations Of Bribery Against Officials Of Kenya County Government Workers Union**

The EACC investigations revealed that Kenya County Government Workers Union officials asked for a financial benefit of Kshs. 200,000/= as an inducement to call off a planned strike. The first suspect issued a strike notice to the Nairobi City County Government. This notice prompted a meeting between the suspects and the County Government of Nairobi. The meeting deliberated and agreed that the complainant consults the Governor before making a final decision. The first suspect called the complainant and requested for a benefit of Kshs. 1,000,000/= to facilitate the calling off the strike. The complainant negotiated the benefit to Kshs. 200,000/= before reporting the matter to EACC.

The EACC report forwarded to the DPP on 20th April 2018, recommended that the suspects be charged with the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 11th June 2018 with directions that prosecution ensues. The case was registered in court vide Milimani ACC 24/2018 where it was heard and determined and on 31st October 2018,the accused was acquitted under section 210 of the Criminal Procedure Code.

### 57. EACC/MKS/OPS/10/2016 ODPP/CAM/018/5/899

**Inquiry Into Allegations Of Bribery Against The Assistant Commissioner, Namanga Division**

The EACC investigations revealed that the suspect demanded for Kshs. 100,000/= from the complainants, members of a group ranch, in order to settle an election dispute between two dissenting factions of the group. EACC organized a sting operation that led to the arrest of the suspect after he received Kshs. 50,000/= treated money.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the suspect be chargedwith soliciting a bribe contrary to section 39(3) (a) as read with section 48(1) of ACECA and section 27 of the Bribery Act pending in court proceeds to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the charges already filed in court and directed that the case proceeds to its logical conclusion subject to the identified areas for further investigation being covered.

## STATUS

The file was returned to EACC on 18th June 2018 with directions that the case proceeds to its logical conclusion subject to the identified areas for further investigation being covered. The case Kajiado CR 2007/2016 is ongoing.

### 58. EACC/OPS/INQ/13/2017 ODPP/CAM/018/5/889

**Inquiry Into Allegations Of Bribery Against Two Police Officers Attached To Rweno Police Post**

The EACC investigations revealed that the suspects demanded for Kshs. 40,000/= bribe from the two complainants. The two complainants had purchased printing machines to offer printing and laminating services but could not agree on how to carry out the business. One of the complainants carted away the machines prompting the other complainant to report him at the police station. The police officers arrested the complainant who had been accused of running away with the machine and released him on a cash bail of Kshs. 5,000/=. The machines in police custody were to be released to the complainant who now lodged the complaint at the police station. However, the police officers demanded for Kshs. 40,000/= bribe in order to release the machines.

The EACC report forwarded to the DPP on 20th April 2018 recommended that the suspects be charged with the offence of receiving for a bribe contrary to section 6(1) as read with section 18 of the Bribery Act.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

## STATUS

The file was returned to EACC on 1st December2018 with directions that further investigations be carried out along the identified areas and the file be resubmitted. The file was resubmitted on 4th December 2018. Upon further perusal of the file and the identified areas, the DPP found insufficient evidence to warrant the prosecution of the suspects.

The file was returned to EACC with directions that administrative action be taken against the suspect.

### 59. EACC/OPS/INQ/NO/160/2017 ODPP/CAM/018/5/947

**Inquiry Into Allegations Of Bribery Against A Driver With The Ministry Of Lands, Kakamega County**

An EACC and NTSA joint operation established that the motorist drove a motor vehicle under the influence of alcohol along the Kakamega-Mumias road. After being informed that he would be arraigned in court for the offence, the suspect asked about the cash bail. It would be receipted. The investigations established that from the conversation between the suspect and the officer, he did not offer a bribe.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed.

## STATUS

The file was returned to EACC on 29th June 2018 with directions that the file be closed.

### 60. EACC/NKR/OPS/INQ/07/2017 ODPP/CAM/018/5/948

**Inquiry Into Allegations Of Bribery Against Anti-CounterfeitAgency Officers In Kisumu County**

The EACC investigations revealed that Anti-Counterfeit Agency officers carried out inspection and seized counterfeit items from electronic shops and demanded bribes from those arrested.

One suspect solicited and received a benefit from the complaint along the Kericho – Litein road. The suspect collected the bribe at a feeder road where he had directed the complainants.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the suspects be charged with receiving a benefit contrary to section 6(1) (a) as read with section 18 of the Bribery Act, and dealing with suspect property contrary to section 47(1) as read with section 47(2) (a) and section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 2nd July2018 with directions that prosecution ensues.

### 61. EACC/OPS/INQ/OP/4/2017 ODPP/CAM/018/5/953

**Inquiry Into Allegations Of Bribery Against Traffic Police Officers At Grassland Area Along The Kitale-Webuye Highway**

The EACC investigations revealed through surveillance that the suspects collected bribes from motorists on the road. Footages captured at different times showed the suspects picking money dropped off by drivers or conductors.

However, the images were not clear due to poor visibility. They did not capture the suspects' faces and force numbers.EACC recovered money from the suspects. Nevertheless, the evidence gathered neither linked the suspects to corrupt conduct nor the video footages captured.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the file be closed with no further action since the evidence gathered was not sufficient to sustain any charges against the suspects.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that the file be closed.

## STATUS

The file was returned to EACC on 30th June 2018 with directions that the file be closed.

### 62. EACC/OPS/INQ/23/2017 ODPP/CAM/018/5/949

**Inquiry Into Allegations Of Bribery Against A Mombasa County Government Inspectorate Officer**

The EACC investigations revealed that the suspect, an Inspectorate officer requested for a of Kshs. 10,000/= bribe from a driver of a truck so as not to charge him for driving a truck within the city center without a permit.

While negotiating for a reduction, the suspect noticed that occupants of a vehicle parked ahead of the truck were filming them. On enquiring, the suspect learnt that the occupants were EACC officers.He resisted arrest and a scuffle ensued. In the process, the windscreen of the truck was broken. However, the suspect did not receive the bribe.

The EACC report forwarded to the DPP on 19th June 2018 recommended the suspect to be charged for:

- Assaulting an officer contrary to section 66(1) (a) and (2) under ACECA and Penal Code,
- Obstruction contrary to section 66(1) (a) and (2) of ACECA
- Malicious damage to property contrary to section 339(1) of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 29th June 2018 with directions that prosecution ensues.

### 63. EACC/OPS/INQ/NO/27/2017 ODPP/CAM/018/5/955

**Inquiry Into Allegations Of Bribery Against Officers At The Ministry Of Lands, Kilifi County**

The EACC investigations revealed that the suspects demanded a bribe as facilitation to process title deed for the complainant. The complainant had begun the process of legally acquiring the land. He requested the area Chief to prepare a ground report so that he could take it to the Land Adjudication Office for the registration process to begin. However, the process took long and a friend proposed to him to seek the assistance the suspects. One suspect promised to assist the complainant for a Kshs. 150,000/= bribe. The complainant gave the suspect Kshs. 80,000/= .

The EACC report forwarded to the DPP on 19th June 2018 recommended that the suspects be charged with requesting a bribe contrary to section 6(1) (a) as read with section 18(1) of the Bribery Act, and receiving a bribe contrary to section 6(1) (a) as read with section 18(1) & (2).

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed with no further action.

## STATUS

The file was returned to EACC on 10th July 2018 with directions that the file be closed.

### 64. EACC/OPS/INQ/139/2016 ODPP/CAM/018/5/879

**Inquiry Into Allegations Of Bribery Against Two Officers Of The Department Of Registration Of Persons Attached To Kibera Huduma Centre**

The EACC investigated reports that officers at the Department of Registration of Persons attached to Kibera Huduma Centre, solicited for Kshs. 30,000 from a member of the public as inducement to help fast track processing of an identity card.

The EACC officers' surveillance confirmed the allegations.The suspects solicited and received bribes. In a sting operation, the officers recovered Kshs. 8000 and Kshs. 2000 of treated money from the suspects.

The EACC report forwarded to the DPP on 13th April 2018 recommended that one suspect be charged with soliciting and receiving a bribe contrary to Section 39(3) (b) as read with Section 48 of ACECA and administrative action against the other suspect for performing her duties in an unprofessional manner.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges against the first suspect and directed that prosecution ensues. However, he found no evidence of criminal culpability on the part of the second suspect and directed that no action be taken against the suspect.

## STATUS

The file was returned to EACC on 4th June 2018 with directions that prosecution ensues against one suspect and no action be taken against the second suspect. The first suspect was charged and the case Milimani ACC 34/2018 is ongoing.

### 65. EACC/OPS/INQ/108/2017 ODPP/CAM/018/5/870

**Inquiry Into Allegations Of Bribery Against A Police Officer At Kayole Police Station**

The EACC investigated reports that a police officer had requested a financial benefit of Kshs. 10,000/= as an inducement to facilitate the release of a suspect from police custody. EACC officers conducted investigations at the Kayole Police Station and established that the suspect had received Kshs. 6,000/=.

The EACC report forwarded to the DPP on 13th April 2018 recommended that the suspect be charged with receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act and concealing of evidence contrary to Section 66 (1) (c) as read with section 66 (2) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the charges already filed in court and directed that prosecution proceed to logical conclusion.

## STATUS

The file was returned to EACC on 24th May 2018 with directions that the case pending before court proceeds to logical conclusion. The case Milimani ACC 14/2017 is ongoing.

## 66. EACC/OPS/INQ/41/2014 ODPP/CAM/018/5/796

**Inquiry Into Allegations Of Obstruction Of EACC Officers From Performing Their Duty By An Officer Of The County Government Of Nairobi**

The EACC investigated reports that a Nairobi City County Government officer demanded a bribe in order to release a motorcycle after impounding it from a boda operator for the offence of obstruction.

As the EACC officers visited a yard to arrest the suspect for corrupt conduct, a commotion ensued and two of the suspect's colleague attempted to rescue their colleague. The suspect run away with handcuffs and Kshs 3,000/= that had been used as trap money. However, he was later arrested.

The EACC report forwarded to the DPP on 13th April 2018 recommended that the file be closed due to insufficient evidence against the suspect on the charges of obstruction contrary to Section 66 (1) as read with Section 66 (2) of ACECA.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that the file be closed.

### STATUS

The file was returned to EACC on 6th June2018 with directions that the file be closed.

## 67. CR. 421/216/2016 ODPP/CAM/018/5/878

**Inquiry Into Allegations Of Bribery Against A Probation Officer At Isiolo Probation Office**

The EACC investigated reports that a probation officer from Isiolo Probation Office demanded Kshs.1500/= from the complainant because of his supervisory duties.

The investigations revealed that the complainant had been found guilty of manslaughter in Meru Crim. Case No. 14 of 2014, *Republic-vs- Joseph Peter*. The court issued a probation order that required the complainant to comply with and upon conviction, the complainant was sent to Isiolo Probation Office for supervision. The suspect was his supervisor. The suspect told the complainant that he ought to pay the victim's wife a small token in order to stay in harmony with the victim's family. They agreed that the complainant pays the victim's family Kshs. 40,000/=. Kshs 30,000/= would be paid by the complainant's father and Kshs. 10,000/= would be paid by the complainant. However, the complainant's father suspected extortion and failed to honour his part of the bargain. The complainant feared being prejudiced by the suspect and reported to the EACC.

The EACC report forwarded to the DPP on 13th April2018 recommended that in exercise of its mandate under section 11 (1) (g) of EACA, EACC advises the probation department on the dangers of exceeding their mandate when supervising probationers and the need to adhere to the law under the Probation of Offenders Act.

Upon perusal of the file, the DPP found sufficient evidence to sustain charges of abuse of office against the suspect and directed prosecution ensues.

### STATUS

The file was returned to EACC on 22nd May 2018 with directions that prosecution ensues.

## 68. EACC/MSA/OPS/INQ/39/2016 ODPP/CAM/018/5/874

**Inquiry Into Allegations Of Corruption Against Two Officers Of Kenya Film Classification Board Mombasa**

The EACC investigated reports that two Kenya Films Classification Board officers solicited a Kshs. 5000/=bribe from the complainant as an inducement to issue a license and to release a stock of CDs confiscated during a raid.

The investigations revealed that the suspects did not solicit for money from the complainant but EACC officers recovered the treated money from the one of the suspects. The law does not allow the officers to collect fines but requires them to issue compliance notices and arrest those who fail to comply with the notice.

The EACC report forwarded to the DPP on 13th April2018 recommended that the Board institute internal disciplinary action against the suspects for breach of Section 29 of Leadership and Integrity Act.

Upon perusal of the file, the DPP found sufficient evidence to support the charges. However, he directed that administrative action be taken against the suspect as the anticipated amount of time and resources for prosecution would not make economic sense both to Government and tax payers.

## STATUS

The file was returned to EACC on 6th June 2018 with directions that administrative action be taken against the suspect.

### 69. EACC/ISL/OPS/23/2016 ODPP/CAM/018/5/882

**Inquiry Into Allegations Of Bribery Against Three Police Officers Based At Anthubeiya AP Camp In Tigania West -Meru County**

The EACC investigated reports that three police officers based at Anthubeiya AP camp corruptly solicited for a Kshs. 20,000/- benefit from the complainant as an inducement to forbear charging her for alleged offence of being in possession of illicit brew.

One officer received the bribe from the complainant while the other two accepted to receive a share of the bribe from the officer.

The EACC report forwarded to the DPP on 13th April2018 recommended that the suspects be charged with the offence of soliciting for a benefit and jointly receiving contrary to section 39(3) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 18th June 2018 with directions that prosecution ensues. The case Meru ACC 5/2015 that was consolidated with ACC 2/2016 was withdrawn under Section 202 of the Criminal Procedure Code on 3rd October2018.

### 70. EACC/ELD/OP/23/2017 ODPP/CAM/018/5/871

**Inquiry Into Allegations Of Bribery Against Three Enforcement Officers Of County Government Of Trans-Nzoia To Allow For Construction Of A House Without An Approved Plan**

The EACC investigated reports that three enforcement officers demanded a benefit of Kshs. 45,000/- to allow the complainant continue with construction without following due procedure.Investigationsrevealed that the suspects had corruptly received Kshs. 10,000/=.
The EACC report forwarded to the DPP on 13th April 2018 recommended that the suspects be charged with requesting, agreeing to receive and receiving a benefit contrary to section 39(3) as read with section 48(1) (2) and conspiracy to commit an offence of corruption contrary to section 47(A) (3) as read with Section 48 (1) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 7th May2018 with directions that prosecution ensues.

### 71. CR. 148/35/2017 ODPP/CAM/018/5/962

**Inquiry Into Allegations Of Bribery Against Police Officers Attached To Makongeni Traffic Sub-Base Regarding Dealing With Suspect Property**

The EACC investigated reports that police officers along Muthurwa Road collected bribes from *matatus*. A sting operation conducted by the surveillance team led to the arrest of one suspect, who was seen stopping and boarding *matatus* without inspecting the motor vehicles. Kshs. 5,250/= was recovered from his trouser pocket.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the charges be withdrawn due to insufficient evidence to sustain the charges already in court for dealing with suspect property contrary to Section 47 (2) of ACECA.

Upon perusal of the file, the DPP noted that the case, Milimani ACC. No. 25/2017, had progressed and was awaiting judgment. He therefore directed that the case proceeds to its logical conclusion.

## STATUS

The file was returned to EACC on 28th June 2018 with directions that the case, Milimani ACC. No. 25/2017 proceeds to logical conclusion. The accused persons were convicted on both counts and fined Kshs. 500, 000 for each count and in default one year imprisonment.

### 72. EACC/OPS/INQ/12/2017 ODPP/CAM/018/5/950

**Inquiry Into Allegations Of Bribery Against An Employee Of The Judiciary**

The EACC investigated reports that a Judiciary employee received a benefit of Kshs. 50,000/= through a proxy from a litigant as an inducement to influence ruling in a judicial review matter that was pending determination before a judge at the Milimani High Court.

The investigations revealed that the first suspect solicited and received Kshs 50,000/= while the second suspect offered and gave a bribe of Kshs 50,000/=.

The EACC report forwarded to the DPP on 19th June2018 recommended that the suspects (the giver and taker) be charged with offence of soliciting, offering and receiving a benefit contrary to section 39 (3) (a) and b) as read with section 48 of ACECA and Section 27 of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 30th June2018,directing that prosecution ensues. The case Milimani ACC. No. 27 of 2018 is ongoing.

### 73. CR. B1/18/2018 ODPP/CAM/018/5/954

**Inquiry Into Allegations Of Corruption Against A Police Officer Attached To Bondo Police Station**

The EACC investigated reports that a police officer requested a financial benefit of Kshs. 5,000/= in order to release a public service vehicle detained at Ndori Police Post for an unspecified offence. The investigations revealed that the suspect solicited and received a benefit of Kshs. 5,000/=.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with sec 18 (1) (2) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 29th June2018,directing that prosecution ensues.

### 74. CR. 921/174/2018 ODPP/CAM/018/5/951

**Inquiry Into Allegations Of Corruption Against Employees Of Kakamega County Water And Sanitation Company**

The EACC investigated reports that two Kakamega County Water and Sanitation Company officers demanded a benefit of Kshs. 5,000/= from the complainant to avoid arrest over illegal water connection. EACC officer organized a trap operation and arrested the suspects after receiving treated money.

The EACC report forwarded to the DPP on 19th June2018 recommended that the suspects be charged with offence of receiving bribe contrary to section 6 (1) (a) as read with sec 18 (1) (2) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 30th June2018,directing that prosecution ensues. The case Kakamega ACC 1/2018 is ongoing.

### 75. EACC/MCKS/OP/INQ/44/2017 ODPP/CAM/018/5/931

**Inquiry In Respect Of Allegations Of Bribery Against Traffic Police Officers Attached To Makueni Traffic Unit, Makueni County**

The EACC investigated reports that a police officer who arrested a complainant and detained his motorcycle for lack of insurance certificate demanded a bribe of Kshs. 5,000/= in order to forbear charging him for the traffic offence. EACC conducted a sting operation and recovered Kshs. 4,000/= from the suspect.

The EACC report forwarded to the DPP on 12th June2018 recommended that the suspects be charged with offences under ACECA, Bribery Act and National Police Service Act (NPSA) namely:

- Receiving a bribe contrary to Section 6 (1) of Bribery Act

- Concealing of evidence contrary to section 66(1) of ACECA
- Failure to record a complaint contrary to Sec 50(1) and (4) as read with Section 129 of NPSA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 30th June2018,directing that prosecution ensues. The case Makueni ACC 1/2018 is ongoing.

### 76. EACC/OPS/171/2017 ODPP/CAM/018/5/940

The EACC and NTSA conducted a joint operation to arrest motorists flouting traffic laws and offering bribes to avoid being charged.

Their investigations established that whereas the motorist committed a traffic offence, the officers conducting the operation entrapped him to giving Kshs. 1000as bribe.

The EACC report forwarded to the DPP on 12th June2018 recommended that the file be closed for insufficient evidence but NTSA to arraign the suspect for traffic offences namely: operation of a public service vehicle without a valid license by the Authority under Regulation 15(1) of the NTSA (Operation of Public Service Rules).

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspect and directed that the file be closed.

## STATUS

The file was returned to EACC on 29th June2018,directing that the file be closed.

### 77. CR.148/34/2017 ODPP/CAM/018/5/850

**Inquiry Into Allegations Of Bribery Against A Motor Vehicle Inspector With NTSA**

The EACC investigated reports that an NTSA motor vehicle inspector requested for a Kshs. 5,000 benefit from the complainant as an inducement to facilitate the release of number plates for his motor vehicle. In a trap operation, an agent received Kshs. 7, 000 on behalf of the officer.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the officer be charged with receiving a bribe contrary to Section 6 (1) as read with Section 18 (1). The agent be charged with the offence of assisting in bribery contrary to Section 13 (1) (a) as read with Section 18(1) and (2) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 20th June 2018,directing that prosecution ensues. The case Milimani ACC No. 21/2018 is ongoing.

### 78. EACC.NKR/INQ/OPS/1/2017 ODPP/CAM/018/5/887

**Inquiry Into Allegations Of Bribery Against A Motorist Who Bribed A Motor Vehicle Inspector Attached To NTSA Kakamega**

The EACC investigations revealed that the motorist drove a public service vehicle without a valid TLB licence, contrary to section 41 of the National Transport and Safety Authority Act, 2012. In his attempt to forbear charges against him, he offered and gave a Kshs. 500 financial benefit to an NTSA officer.

The EACC report forwarded to the DPP on 27th April2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 11th June2018, directing that prosecution ensues.

### 79. EACC/KSM/EL/INQ/24/2017 ODPP/CAM/018/5/926

**Inquiry Into Allegations That An ODM Nominee For Manyatta B Ward, Kisumu East**

**Constituency, Kisumu County Had No Academic Papers**

The EACC investigations revealed that the nominee did not meet the minimum qualifications to vie for the MCA for Manyatta B Ward in Kisumu County. She sat for her KCSE examination as a private candidate in 2015 and obtained a D mean grade. She then enrolled at the KCA University for a one-year diploma course in County Management and Governance in January 2016 but had not graduated.

She submitted a self-declaration form from EACC declaring herself a diploma holder and a letter purportedly from KCA University confirming that she had successfully completed her diploma course. The letter from KCA was not authentic. A clerk at the KCA University without authority prepared it.

The EACC report forwarded to the DPP on 22nd May 2018 recommended that the suspects be charged with:

- Forgery contrary to section 349, making a document without authority contrary to section 357 of the Penal Code
- Providing false information to the EACC contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

## STATUS

The file was returned to EACC on 6th June2018 directing that further investigations be conducted and the file resubmitted for further directions.

### 80. EACC/GSA/EL/INQ/003/2015 ODPP/CAM/018/5/927

**Inquiry Into Allegations Of Irregular Recruitment Of Abalatiro Assistant Chief By The Deputy County Commissioner Ijara Sub County**

The EACC investigations revealed that a vacancy for the post of Assistant Chief occasioned by the promotion of then Assistant Chief to the position of Chief, Kotile Location. Adverts were prepared, applications received and applicants shortlisted and invited for interviews. However, the Assistant Chief in question did not apply nor participate in the interviews. It was established that the suspect misled the Regional Coordinator into irregularly appointing the Assistant Chief.

The EACC report forwarded to the DPP on 22nd May2018 recommended that the suspects be charged with:

- Abuse of office contrary to section 46,
- Knowingly using a misleading document to one's principal contrary to section 41(1) as read with section 48(1) of ACECA and
- Providing false information to EACC contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act, 2012.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 12th June2018 directing that prosecution ensues. The case Garissa ACC 1/2019 is ongoing.

### 81. EACC/ISL/EL/INQ 18/2017 ODPP/CAM/018/5/883

**Inquiry Into Allegations Of Diversion Of Relief Food By An Employee Of The National Drought Management Authority(NDMA)**

The EACC investigations revealed that the principal of Leparuka Mixed Day Secondary School instructed a driver atNDMA to deliver food meant for the school to Towfiq timber yard within Isiolo Town so that it could be collected later. The principal also stated that he had made plans for storage of the food and its transport if the driver was unable to deliver it.

The EACC report forwarded to the DPP On 27th April2018 recommended that the file be closed and administrative action be taken against the Principal of Leparuka Mixed Day Secondary School and the driver of NDMA.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed.

## STATUS

The file was returned to EACC on 12th June2018 directing that the file be closed.

### 82. EACC/EL/INQ/119/2015 ODPP/CAM/018/5/876

**Inquiry Into Allegations Of Falsification Of Academic Papers To Secure Employment As A Public Officer With The Ministry Of Agriculture**

The EACC investigations revealed that a public officer at the Ministry of Agriculture had secured employment using false documents. He had worked since 1989.

The EACC report forwarded to the DPP on 13th April 2018 recommended that the suspect be charged with uttering false document contrary to section 353 of the Penal Code as read with section 349 and impersonating of a person named in a certificate contrary to section 384 of the Penal Code.

Upon perusal of the file, the DPP found gaps and directed further investigations along the identified areas.

**STATUS**

The file was returned to EACC on 30th June 2018 directing that further investigations be conducted and the file resubmitted for further directions.

### 83. EACC/EL/INQ/25/2016 ODPP/CAM/018/5/875

**Inquiry Into Allegations Of Unethical Conduct Against Officers Of Migori County Government And Kenya Defence Forces Sharing Both KCPE AND KCSE Certificates**

The EACC investigations revealed that two officers shared similar certificates. One suspect gained employment at the National Police Service by presenting documents belonging to an officer working at Kenya Defence Forces.

The EACC report forwarded to the DPPon 13th April2018 recommended administrative action against the suspect by the Kenya Police Force and further that the suspect be charged with the offence of personation of a person named in a certificate contrary to Section 384 of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 9th May2018 directing that prosecution ensues. The case Milimani ACC 48 of 2018 is ongoing.

### 84. EACC/ KIS/EL/INQ/5/2017 ODPP/CAM/018/5/877

**Inquiry Into Allegations Of Forgery And Uttering Of False Academic Documents Against A Ward Administrator At Masige East Ward In Kisii County To Secure Employment**

The EACC investigated reports that the Ward Administrator forged and uttered false documents to secure employment at the County Government.

The EACC report forwarded to the DPP on 13th April2018 recommended that the suspect be charged with forgery of a document contrary to Section 349 of the Penal Code and uttering a false document contrary to Section 353 as read with Section 349. The Commission further recommended recovery of the salary amounting to Kshs. 3,162,452.90/= he had irregularly earned.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 9th May2018 directing that prosecution ensues. The case is ongoing.

### 85. EACC/ISL/EL/INQ/09/2017 ODPP/CAM/018/5/872

**Inquiry Into Allegations Of Irregular Employment Of Health Officers By Meru County Executive Committee Member For Health**

The EACC investigated reports of irregularities in the appointment of three officers at the Meru County Government by the County Service Board.The appointments were irregular as alleged and that the officers had not been introduced to the county payroll yet they continued to serve.

The EACC report forwarded to the DPPon 13th April2018 recommended that the County Executive Committee Member for Health be charged with offence of abuse of office contrary to section 46 as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 23rd May2018 directing that prosecution ensues. The case Meru ACC 4/20018 is ongoing.

### 86. EACC/OPS/INQ/92/2017 ODPP/CAM/018/5/952

**Inquiry Into Allegations Of Bribery Against An Operations Officer Of Perimeter Protection Limited At Kenyatta Market**

The EACC investigations revealed that an Operations Officer demanded a Kshs. 3,000 benefit to renew a contract of one of the employees of Perimeter Protection Limited.The suspect solicited for Kshs. 3,000/= and received Kshs. 2,000through his colleague.

The EACC report forwarded to the DPP on 19th June2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) as read with section 18 of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 29th June2018 directing that prosecution ensues. The case Nyahururu ACC 1 of 2018 is ongoing.

### 87. EACC/KSM/EL/INQ/2/2016 ODPP/CAM/018/5/959

**Inquiry Into Allegations Of Rape, Defilement, And Child Prostitution By Two Kisii County Assembly Members**

The EACC investigations revealed that two members of County Assembly defiled schoolgirls hence contravening the Leadership and Integrity Act. They had already been charged with sexual offences for infringement of children's rights to protection from sexual exploitation, rape and defilement against three school going girls.

The EACC report forwarded to the DPP on 19th June2018 recommended that the file be closed since the accused wereno longer state officers and that the criminal matter pending in court against them be pursued to finality.

Upon perusal of the file, the DPP directed that the inquiry file be held in abeyance pending the outcome of the criminal case and thereafter resubmit the file together with the judgment for further direction.

## STATUS

The file was returned to EACC on 29th June2018 directing that the file be held in abeyance pending the outcome of the criminal case against the suspects.

### 88. EACC/ELD/ EL/ INQ /5/2015 ODPP/CAM/018/5/957

**Inquiry Into Allegations That The Chief Koilot Location Failed To Assist The Nandi East District Surveyor Execute A Court Order Within His Jurisdiction**

The EACC investigated reports that the Chief failed to assist the Nandi East District Surveyor execute a court order dated 2nd August2011 that required the said surveyor to subdivide a parcel of land.

The suspect did not hinder the subdivision of the suit property since every time there was an attempt to subdivide the suit property the suspect would send his Assistant Chief to represent him.

The EACC report forwarded to the DPP on 19th June2018 recommended that the file be closed for lack of evidence.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed.

## STATUS

The file was returned to EACC on 30th June 2018 directing that the file be closed.

### 89. EACC/MLD/EL/INQ/7/2017 ODPP/CAM/018/5/958

**Inquiry Into Allegations That There Was Lack Of Transparency And Fairness In The Recruitment Of Drivers By Kilifi County Public Service Board**

The EACC investigated reports of lack of transparency and fairness in recruitment of drivers by the Kilifi County Service Board. The Board advertised for the driver vacancies and 57 were successful for the position. The recruitment process followed the right procedure and no service board member acted unethically.

The EACC report forwarded to the DPP on 19th June2018 recommended that the file be closed for lack of evidence.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the Board Members and directed that the file be closed.

### STATUS

The file was returned to EACC on 30th June2018 directing that the file be closed.

### 90. EACC/EL/INQ/96/2015 ODPP/CAM/018/5/965

**Inquiry Into Allegations That A Women Representative Refused To Service A UN – SACCO Loan Repayment Of Kshs. 8,605,908.40**

The EACC investigations revealed that the suspect took a loan of Kshs. 8,605,908.40 from UNSACCO while she worked at UN World Food Programme. She defaulted in repayment after resigning and joining politics in 2013.

The EACC report forwarded to the DPP on 19th June2018 recommended that the file be closed with no further action for lack of evidence.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the file be closed.

### STATUS

The file was returned to EACC on 30th June2018 directing that the file be closed.

### 91. EACC/MCKS/EL/INQ/7/2016 ODPP/CAM/018/5/960

**Inquiry Into Allegations Of Payment Of Per Diem To Officers For A Two Day Workshop At Kenya School Of Government Nairobi Which Was Never Attended By The Officers Of Kitui County Government**

The EACC investigated reports of funds embezzlement in Kitui County Government through false per diem claims for a training that never occurred.

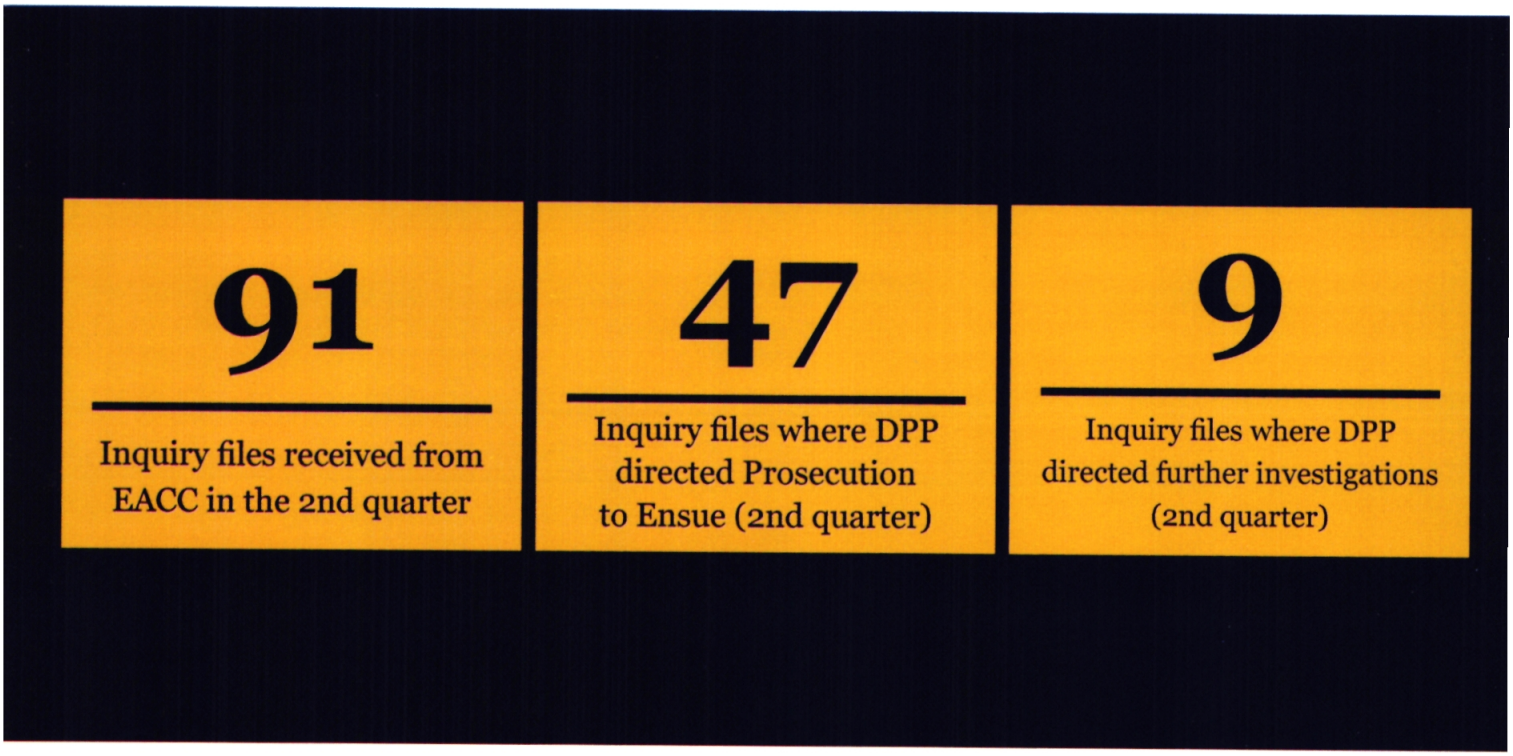
Four Kitui County Government representatives attended a meeting at KSG in April 2016 and were not paid per diem. The group that was paid Kshs. 167,300 were staff members who had gone for an inspection exercise in March 2016. Evidence obtained showed that all March 2016 payments were supported by the required documents. Investigations further established that there were no false claims for per diem and hence no breach of any law or procedure and or regulations.

The EACC report forwarded to the DPP on 19th June 2018 recommended that the file be closed.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the officers and directed that the file be closed.

### STATUS

The file was returned to EACC on 30th June 2018 directing that the file be closed.



## 3.2 The Third (3rd) Quarter Investigation Files Submitted by EACC to ODPP for the Period 1st July, 2018 to 30th September, 2018.

### 1. EACC/FI/INQ/ELD/25/2018 ODPP/CAM/018/5/1009

**Inquiry Into Allegations Of Irregular Purchase Of Maize By Officials Of The National Cereals And Produce Board From Unscrupulous Businessmen**

The EACC investigated reports that National Cereals and Produce Board (NCPB) officials purchased maize from brokers and unregistered farmers who had not been vetted to supply maize to the Board. As a result, genuine farmers were denied an opportunity to sell their maize to NCPB.

The NCPB officials were required to purchase maize only from registered locally vetted farmers. However,they failed to adhere to the guidelines issued for maize intake and authorized payments to traders who did not qualify as farmers and had not been properly vetted to supply maize. Further, the Permanent Secretary, Agriculture, authorized spending of funds to purchase maize under the Strategic Food Reserve (SFR) without seeking necessary approvals from the SFR Board as legally required. The accounting officer and NCPBofficials failed to ensure that the funds allocated to the entity was properly utilized to pay genuine maize farmers.

The EACC report forwarded to the DPP on 23rd July 2018 recommended that senior Ministry of Agriculture officials, senior NCPB officials and traders, be charged with the following offences namely:

- Willful failure to comply with the law, applicable procedures and guidelines relating to management of public funds contrary to section 45(2) (b) as read with section 48 of ACECA;
- Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of ACECA;
- Abuse of office contrary to section 46 as read with section 48(1) of ACECA;
- Dealing with suspect property contrary to section 47 (1) as read with section 47 (2) (a) and 48 (1) of ACECA;
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA;
- Conspiracy to defraud the public contrary to section 317 of the Penal Code;
- Neglect of official duty contrary to section 128 as read with section 36 of the Penal Code and unauthorized spending of public money contrary to Section 196 (1) as read with section 196 (6) of Public Finance Management Act (PFMA).

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspects with the proposed charges and directed that prosecution ensues.

**STATUS:**

The file was returned to EACC on 29th August 2018 with directions that prosecution ensues. The matter was registered in court in Kisumu ACC. No. 5 of 2018 and is ongoing.

### 2. EACC/MLD/FI/INQ/18/2016 ODPP/CAM/018/5/1006

**Inquiry Into Allegations That Certain Employees Of Kilifi County GovernmentHad Irregularly Paid A Sum Of Kshs. 51,569,775.00 To Six Private Companies Namely: Daima One Enterprises, Zohali Services Limited, Makegra Supplies Limited, Kilingi Investments Company Limited, Leadership Edge Associates Limited And Jahazi Investments Company, For Goods Not Supplied Or Services Not Rendered**

The EACC investigated allegations of irregular payments by employees of Kilifi County Government.Six private companies unlawfully acquired public funds from the County Government of Kilifi for goods not supplied or services not rendered. It was further revealed that Kilifi County Government officials facilitated and authorized irregular payments totaling to Kshs 51,569,775 to the said six companies without any supporting documentation. In addition, the officials falsified documents to facilitate fraudulent payments for goods that were never supplied.

The EACC report forwarded to the DPP on 23rd July 2018 recommended that the suspects be charged with the following offences namely:

- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA;
- Fraudulently making payment from public revenue contrary to section 45 (2) (a) as read with section 48 of ACECA;
- Making a document without authority contrary to section 357 of the Penal Code;
- Uttering a false document contrary to section 353 of the Penal Code;
- Engaging in an action that is prohibited contrary to section 196 (1) as read with section 196 (7) of PFMA;
- Dealing with proceeds of crime contrary to section 4 of the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA).

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found sufficient evidence and directed prosecution to ensue.

**STATUS**

The file was returned to EACC on with directions that prosecution ensues. The case Malindi ACC 2 of 2019 is ongoing.

### 3. EACC/FI/INQ/88/2016 ODPP/CAM/018/5/997

**Inquiry Into Allegations Of Abuse Of Office, Money Laundering, Bribery, Conflict Of Interest And Failure To Protect Public Property By Senior Officials Of The Nairobi City County And The Governor Of Nairobi City County**

The EACC investigated allegations of embezzlement against the officials of Nairobi City County Government. Senior employees of the Nairobi City County Government authorized irregular payments of Kshs 213,327,300to directors of Ngurumani Traders and Lodwar Wholesalers without any supporting payment documents and for services not rendered. The directors failed to pay tax in respect to the said amount. Investigations further established that senior officials of Nairobi City County Government received benefits from the said companies pursuant to the said unlawful payments.

The EACC report forwarded to DPP on 13th July2018 recommended that the suspects, be charged with the following offences under ACECA namely:

- Conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48 (1);
- Abuse of office contrary to section 46 as read section 48;
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1);
- Dealing with suspect property contrary to section 47 (1) as read with section 47 (2) (a) and 48 (1) and
- Unlawful failure to pay taxes to a public body contrary to section 45 (1) (d) as read with section 48 (1).

Upon perusal and careful consideration of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspects with the proposed charges and directed that prosecution ensues.

**STATUS:**

The file was returned to EACC on 7th August 2018 with directions that prosecution ensues. The case, Milimani ACC No. 32 of 2018 is ongoing.

### 4. EACC/FI/INQ/91/2015 ODPP/CAM/017/5/768

**Inquiry Into Allegations Of Irregularities In The Procurement And Overpricing In Relation To The Tender No. SU/QT/3264F/14 Awarded To M/S Aero Dispenser Valves Ltd By Kenya Pipeline Ltd For Supply Of Hydrant Pit Valves Complete With Isolation Valves And Two Years' Operating Spares Costing USD 6,409,491.89 (Approximately Kshs. 550,000,000).**

The EACC investigated allegations of irregular procurement of pit latrines by the Kenya Pipeline Company.

The Kenya Pipeline Company Limited (KPC) tender award no. SU/QT/3264F/14 to Aero Dispenser Valves Limited to supply Hydrant pit valves complete with

isolation valves and two years' operational spares, had procurement irregularities. The KPC tender committee approved the use of direct procurement from Claval but instead the tender document were sent to Aero Dispenser Valves Limited, which had not been proposed or approved by the tender committee.

Aero Dispenser Valves Limited submitted the tender document with fraudulent supporting documents. KPC's accounting officer failed to enter into a written contract with Aero Dispenser Valves Limited. Investigations further established that the supplier was paid Kshs. 58,271,533.12 prior to the supply of goods.

The EACC report forwarded to the DPP on 6th July2018 recommended that the suspects be charged with the following offences:

- Abuse of office contrary to section 46 as read with section 48(1)of ACECA
- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of ACECA
- Unlawful acquisition of a benefit contrary to section 45(1) (a) as read with section 48 of ACECA
- Conspiracy to defraud contrary to section 317 of the Penal Code and engaging in a fraudulent practice in a procurement contrary to section 41 (1) as read with section 41(4) of the Public Procurement and Disposal Act, 2005 (PPDA)

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspects. However, he directed that further investigations be carried out to address the gaps identified and the file resubmitted for further directions.

## STATUS

The inquiry file was returned to EACC On 13th September 2018 with directions that further investigations be conducted and the file resubmitted for further directions.

## 5. EACC/MSA/FI/INQ/39/2016 ODPP/CAM/018/5/976

### Inquiry Into Allegations Of Irregular Procurement For Hire Of Trucks, Bulldozers And Shovels For Garbage Collection And Disposal By The County Government Of Mombasa During The Financial Year 2013/2014

The EACC investigated allegations of irregular procurement of trucks by the County Government of Mombasa.

Investigations established that there was no specific budgetary allocation for garbage collection and disposal services in the Procurement Plan and budget for the financial year 2014/2015. The contract with the successful bidder was entered into and executed before the successful bidder had even accepted the offer. The contractor who was awarded the tender was not technically qualified for the award and was engaged before the contract was signed. The date of execution of the contract was backdated and the contract was awarded in breach of the provisions of Public Procurement laws and procedures in awarding this tender.

The EACC report forwarded to the DPP on 6th July2018 recommended that the suspects, be charged with the following offences under ACECA:

- Willful failure to comply with the law and applicable procedures and guidelines relating to procurement contrary to section 45(2) as read with section 48
- Concealing evidence contrary to section 66 (1) (c ) as read with section 66(2)
- Fraudulently making payment from public revenue contrary to section 45(2) (a) as read with section 48 (1)
- Abuse of office contrary to section 46 as read with section 48 and conspiracy to commit an offence of economic crime contrary to section 47 A (3) as read with section 48 (1)

Upon perusal of the inquiry file, the DPP found several gaps and deficiencies that needed to be further investigated..

**STATUS:**
The inquiry file was returned to EACC on 23rd August2018 with directions that further investigations be conducted on the areas identified and the file resubmitted for further directions.

### 6. EACC/NYR/FI/INQ/28/2016 ODPP/CAM/018/5/977

**Inquiry Into Allegations Of Irregular Variation In The Contract For Renovation Of The County Assembly Of Laikipia In 2014/2015 Financial Year**
The EACC investigated allegations of irregular variation of a contract by the County Assembly of Laikipia.

The suspects defrauded the County Government of Laikipia Kshs. 11,948,400 by presenting a false document, a certificate of registration for contractors' serial number 128107, to be awarded a tender for data and voice communication system installations works.

The EACC report forwarded to the DPP on 6th July2018 recommended that the suspects be charged with fraudulent practice in procurement proceedings contrary to section 41(1)(4) as read with section 137 of the public procurement and disposal Act, 2005.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

**STATUS**
The inquiry file was returned to EACC On 17th September, 2018directing further investigations.

### 7. EACC/ NKR/INQ/FI/60/2016 ODPP/CAM/018/5/1039

**Inquiry Into Allegations That A Former Member Of County Assembly Representing Kabati Ward In Subukia Constituency In Nakuru County Had Allegedly Accumulated Unexplained Wealth**
The EACC investigated allegations that the suspect had acquired unexplained wealth.The suspect became a public officer after being elected as a Member of the County Assembly in the County Government of Nakuru. The officer disclosed his assets, income, and liabilities as per the provisions of Public Officer Ethics Act and claimed that his assets were proportionate with his income, contrary to the allegations raised by the complainant.

The EACC report and forwarded to the DPP on 28th August 2018 recommended closure of the inquiry file due to lack of evidence to warrant a prosecution.

Upon perusal of the inquiry file and evidence contained therein, the DPP found that there was no criminal culpability against the suspect and directed that the file be closed.

**STATUS:**
The inquiry file was returned to EACC on 15th August 2018 with directions that the file be closed.

### 8. EACC/FI/INQ/111/2017 ODPP/CAM/018/5/975

**Inquiry Into Allegations Of Embezzlement By Embakasi South CDF Of Kshs 2.2 Million Earmarked For The Purchase Of 44 Computers For Embakasi Girls And Emmaus School**
The EACC investigations established that the suspect, a former Embakasi South Constituency Development Fundaccount manager used the request for quotations method to award tender no. EMBAKASI SOUTH/ PUR/007/13-14 for the supply of 44 computers, worth Kshs. 2.2 million.

The value of the contract was above the prescribed maximum threshold of Kshs. 500,000hence restricted under the selected method of procurement. The suspect irregularly signed the award letter whilst knowing that the tender committee had not adjudicated or awarded the tender in question. He entered into a written contract before the lapse of the statutory 14 days period, provided under section 68 (2) of the PPDA.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be charged with the following offences under ACECA:

- Abuse of office contrary to section 46 as read with section 48
- Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspects on the proposed charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to EACC on 30th August 2018 with directions that prosecution ensues.

### 9. EACC/KSM/FI/INQ/19/2016 ODPP/CAM/018/5/991

**Inquiry Into Allegations Of Abuse Of Office Against A Marketing Officer At Chemilil Sugar Company Contrary To Section 46 As Read With Section 48 (1) Of The Anti-Corruption And Economic Crimes Act**

The EACC investigations established that the suspect received and accepted various favours from the clients of Chemilil Sugar Company and was therefore compromised in the discharge of her duties. Her conduct conflicted section 11 of the Public Officers Ethics Act (POEA) prohibiting the receipt of gifts and favours in circumstances that may lead to or be perceived to be in conflict with his public duties.

The EACC report forwarded to the DPPon 6th July2018 recommended that administrative action be taken against the suspect for contravening Article 75 (2) (a) of the Constitution and Section 36 (1) (b) of the Leadership and Integrity Act.

Upon perusal, the DPP found insufficient evidence to warrant criminal charges against the suspect and directed that she should face disciplinary action for the said ethical breaches.

## STATUS

The inquiry file was returned to EACC on 20th August 2018 with directions that the file be closed and the matter dealt with administratively.

### 10. EACC/MLD/INQ/FI/12/2015 ODPP/CAM/018/5/978

**Inquiry Into Allegations Of Irregular Procurement Process In Respect To Construction Of A Three-Story Dormitory For Lamu Girls Secondary School**

The EACC investigated allegations of irregular procurement of construction services by the school board of Lamu Girls Secondary School. It established that the suspects did not follow the tendering process during the award of tender number CDF/LW/2013-2014 to Saaray General Supplies, for the construction of a dormitory at Lamu Girls' Secondary school.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspects be charged with:

- Willful failure to comply with the law, applicable regulations and guidelines relating to procurement contrary to section 45(2)(b) as read with section 48(1) of) of the Anti – Corruption and Economic Crimes Act No. 3 of 2003
- Abuse of office contrary to section 46 as read with section 48(1) of) of the Anti – Corruption and Economic Crimes Act No. 3 of 2003
- Conspiracy to commit an offence of Economic Crime Contrary to section 47a(3) as read with section 48(1) of) of the Anti – Corruption and Economic Crimes Act No. 3 of 2003

Upon perusal of the inquiry file, the DPP found several gaps and deficiencies that needed further investigations.

## STATUS

The inquiry file was returned to EACC on 16th October2018 that further directions that further investigations be conducted and the file resubmitted for directions.

### 11. ODPP/CAM/5/019/094 EACC/FI/INQ/19/2017

**Inquiry Into Allegations That Kenya Railways Corporation And The National Land Commission Paid Compensation To Persons/ Entities Affected By The Standard Gauge Railway For Land Which Lay On The Railway Line Reserve, Flight Path And Marshalling Yard In Embakasi Area**

The EACC investigated allegations that the Kenya Railways Corporation and the National Land Commission irregularly paid compensation to persons who were occupying illegally acquired public land.

It was established that there were no approvals for allocation of the land in question, which had been designated as a railway reserve, marshalling yard, and flight path. Any allocations done in respect of the same were invalid. The committee on the review of grants and dispositions of land had revoked the titles for land parcel L.R numbers 9805, 9806, 9807, and 9808, which had been illegally acquired by Dasahe Investments Limited.

Further, the National Land Commission (NLC) chairman irregularly granted approvals for compensation of Kshs 221,375,000 in favour of Dasahe Investments Limited for the revoked allocations. Senior National Lands Commission officials prepared and authorized the compensation.

The EACC report forwarded to the DPP on 23rd July 2018 recommended that the suspects be charged with abuse of office contrary to section 46 as read with Section 48 (1) and unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) (a).

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspects and directed that prosecution ensues.

### STATUS

The inquiry file was returned to EACC on 10th August 2018 with directions that prosecution ensues. The case, Milimani ACC No 33 of 2018 is ongoing.

## 12. EACC/FI/INQ/121/2015 ODPP/CAM/016/5/578

**Inquiry Into Allegations That Kenya Ports Authority Retirement Benefits Scheme (KPARBS 2012) Irregularly Entered Into A Sale Agreement For The Purchase Of 100 Acres**

The EACC investigated alleged irregular sale of Public property by the Kenya Ports Authority Retirement Scheme.It established that the Authorities Board of Trustees resolved to purchase 100 acres of land located in Kikambala as an investment for the scheme. However, the resolution executors, the chairman and pension administrators, were not diligent in ensuring that the interest of the authority was well protected in all the transactions that they entered into. Therefore, the land acquisition process was laced with irregularities.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the suspects be charged with:

- Abuse of office contrary to section 46 to section 48 (1) of ACECA
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Dealing with suspect property contrary to section 47 (2) (a) as read with section 48 (1) of ACECA
- Conspiracy to commit an economic crime contrary to section 47A (1) as read with section 48 of ACECA and breach of public trust contrary to section 127 of the Penal code

Upon perusal and careful consideration of the inquiry file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to EACC on 7th December 2018 with directions that prosecution ensues. The case, Mombasa ACC 13 of 2018 is ongoing.

## 13. EACC/ MSA/FI/INQ/9/2014 ODPP/CAM/018/5/1043

**Inquiry Into Allegations That The Principal Of Ramisi Secondary School Falsified Records To Inflate Numbers Of Registered Students So As To Defraud The Ministry Of Education Through Free Secondary Education Programme Fund**

The EACC investigated allegations that the suspect had falsified school records to defraud the Ministry of Education through the Free Secondary Education Fund.

It established that on various dates, Ramisi Secondary School's principal misled the District Education Officer by inflating the total number of students so as to receive excess funds from the free secondary education fund, an act that led the to loss public funds by the Ministry of Education.

The EACC report forwarded to the DPP on 28th August 2018 recommended that the suspect be charged with the offence of knowingly making misleading statements to one's principal contrary to section 41(1) as read with section 48(1) of the Anti- Corruption and Economics Crimes Act.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

### STATUS

The Inquiry file was returned to EACCon 15th October 2018 with directions that further investigations be conducted and resubmission of the file for directions.

### 14. EACC. NKR/INQ/FI/103/2015 ODPP/CAM/018/5/984

**Inquiry Into Allegations Of Abuse Of Office By The Subukia Sub-County Revenue Officer In The Transfer Of Plot Commercial Kabazi**

The EACC investigated allegations of abuse of office by a Revenue Officer at Subukia Sub County. It established that the suspect used her position and irregularly transferred plot number 17, a commercial plot, located at Kabazi Trading Centre, whilst knowing that the said plot belonged to the complainant.

The suspect obtained and used the information contained in the said plot's green card ledger instead of the automated recording system to irregularly transfer the said plot. The second suspect, a clerical officer at Subukia Sub County, irregularly made an entry on the said plot's green card to fraudulently reflect rent payment.

The EACC report forwarded to the DPP on 6th July2018 recommended that the suspects, be charged with abuse of office contrary to section 46 as read with section 48 (1) of ACECA and conspiracy to defraud contrary to section 317 of the Penal Code.

Upon perusal of the inquiry file, the DPP found that the evidence in the file disclosed criminal culpability on the part of the suspects. However,he found gaps and deficiencies that needed further investigations.

**STATUS**

The inquiry file was returned to EACC on 25th September 2018 with directions that further investigations be conducted and the file resubmitted for directions.

### 15. EACC/KSM/FI/INQ/01/2014 ODPP/CAM/018/5/1051

**Inquiry Into Allegations Of Procurement Irregularities In The Procurement And Award Of Contracts For The Renovation Of Governors Office, County Offices, Supply Of Generators Among Other Good Works And Services Amounting To Kshs. 60 Million In The County Government Of Busia**

The EACC investigations established that the County Tender Committee members failed to comply with the Public Procurement and Disposal Act, 2005 in the procurement of various projects for the County Government. These included the renovation of Governors office, county offices, supply of generators among other good works and services amounting to Kshs. 60 million.

The EACC report forwarded to the DPP on 6th September2018 recommended that the suspects be charged with willful failure to comply with the law relating to the management of public funds contrary to section 45(2) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

**STATUS**

The inquiry file was returned to EACC on 2nd October 2018 with directions that further investigations be conducted and the file resubmitted for directions.

### 16. EACC/NKR/FI/INQ/61/2016 ODPP/CAM/018/5/1048

**Inquiry Into Allegations Of Abuse Of Office And Fraudulent Acquisition Of Public Property Against A Former Councilor Of Litein Ward**

The EACC investigated a complaint made against, a former elected Councilor of Litein Ward for raising funds from members of the public to construct a school and later registering it to himself. It established that the evidence obtained did not reveal any fraudulent or corrupt conduct against the suspect.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the file be closed.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that the inquiry file be closed.

**STATUS**

The file was returned to EACC on 18th October2018 with directions that the file be closed.

### 17. EACC/ELD/FI/INQ/33/2015 ODPP/CAM/018/5/1063

**Inquiry Into Allegations Of Abuse Of Office Against The Office Manager Of The Member Of County Assembly Kiptoror-Chepsiro Ward Trans-Nzoia County**

The EACC investigated allegations of abuse of office against the office manager of the Member of the County Assembly of Kiptoror-Chepsiro Ward Trans- Nzoia County.It established that they demanded a bribe from the officials of Ushirikiano Disabled Group so as to hand them a cheque of Kshs. 80,000which had been issued by the County Government of Trans- Nzoia as a grant in favor of the said self-help group.

The EACC report forwarded to the DPP on 25th September 2018 recommended civil recovery of the sum of Kshs. 80,000 from the suspect.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that prosecution ensues.

#### STATUS

The inquiry file was returned to EACC on 20th December 2018 with directions that prosecution ensues.

### 18. EACC/NKR/INQ/FI/167/2015 ODPP/CAM/018/5/1062

**Inquiry Into Allegations That Officers In Charge Of Kericho G.K. Main Prison, Kericho Medium Prison And Kericho Women's Prison Fraudulently Made Payments From Public Revenue For Goods Not Supplied Or Not Supplied In Full To Nyasco Commercial Enterprises And Other Companies Belonging To Civil Servants In The County Treasury**

The EACC investigated allegations that the Kericho G.K. Main Prison, Kericho Women Prison and Kericho Medium Prison had made fraudulent payments to Nyasco Commercial Enterprises for goods not delivered. It established that the suspect, the Chief Accountant at the Kericho County District Accounts Office and a member of the District Tender Committee, failed to disclose his personal interest as a Director of Nyasco Commercial Enterprise by adjudicating and awarding the said company the tender number KCO/1/2015/2016/17to supply and deliver dry food stuffs.

The EACC report forwarded to the DPP on 25th September 2018 recommended that the suspect be charged with the offence of failure to disclose a private interest to one's principal contrary to section 42(1) (a) and (b) as read with Section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

Upon perusal and careful consideration of the inquiry file and evidence contained therein, the DPP found sufficient evidence to charge the suspect and directed that prosecution ensues.

#### STATUS

The inquiry file was returned to EACC on 17th December 2018 with directions that prosecution ensues.

### 19. EACC/GSA/EL/INQ/4/2018 ODPP/CAM/018/5/1064

**Inquiry Into Allegations That Wajir County Chief Officer For Public Works And Housing Used A Forged Degree Certificate To Get Employed**

TheEACC investigated allegations that Wajir County Chief Officer for public works and housing was employed using a forged degree certificate.

It established that the suspect provided false information to the Wajir County Public Service Board by submitting a forged Bachelor of Science in Information Science Degree Certificate Number 01610478 purporting it to be a valid degree certificate issued by Mount Kenya University.

The EACC report forwarded to the DPP on 25th September 2018 recommended that the suspect be charged with providing false information to a public entity, contrary to section 46(1) (d) as read with Section 46(2) of the Leadership and Integrity Act, 2012.

Upon careful perusal of the inquiry file and the evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect on the proposed charges and directed prosecution to ensue.

#### STATUS

The inquiry file was returned to EACC on 27th November 2018 with directions that that prosecution ensues.

## 20. EACC/KSM/EL/INQ/11A/2017 ODPP/CAM/018/5/1026

**Inquiry Into Allegations Of Abuse Of Office, Fraudulent Acquisition Of Property And Forgery Against The Vice Chancellor And Fixed Assets Officer Of Masinde Muliro University Of Science And Technology**

The EACC investigated reports that Masinde Muliro University's Vice-Chancellor misappropriated finances and abused office in relation to his house allowance.

It established that the Vice - Chancellor continued to receive his full house allowance of Kshs 85, 616 per month while the University paid rent for the duty house he was residing in. Further, at his behest the furnishings and generator for the house were irregularly purchased. Evidence revealed that the Fixed Assets Officer falsified records to give the impression that the purchased items had been entered into the University's Assets Register.

The EACC report forwarded to the DPP on 25th September2018 recommended that the suspects be charged with offences namely;

- Abuse of office contrary to section 46 as read with section 48 (1) (a) of ACECA,
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Deceived or knowingly mislead EACC contrary to section 46 (1) (b) of the Leadership and Integrity Act.

Upon perusal of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

### STATUS

The inquiry file was returned to EACC on 21st December 2018 with directions for further investigations.

## 21. EACC/NKR/INQ/EL/04/2015 ODPP/CAM/018/5/1046

**Inquiry Into Allegations Of Unethical Conduct Against The Member Of Parliament For Nakuru Town East Constituency**

The EACC investigated reports that on 7th April 2015, the Member of Parliament (MP) for Nakuru Town East Constituency engaged in unethical conduct by assaulting Nakuru County officials while they were undertaking their duties. This contravened Chapter Six of the Constitution of Kenya, 2010.

It established that the suspect mobilized traders to obstruct the County officials in carrying out their duties by resisting demolition of illegally constructed structures. The suspect's actions clearly violated the constitutional provisions of Article 75 by compromising and undermining the authority of the County Government which is mandated to give approvals for construction of structures within the County.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the suspect be issued with a caution and warning pursuant to Regulation 30(1) of the Leadership and Integrity Regulations, 2015.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP directed that the file be retained pending review of criminal files related to the suspect to enable final directions to be given.

### STATUS

The inquiry file was retained by the DPP pending review of criminal files related to the suspect to enable comprehensive directions to be given.

## 22. EACC/GSA/EL/INQ/7/2017 ODPP/CAM/018/5/1032

**Inquiry Into Allegations Against A Former Chief Officer For Education, Vocational Training And Sport, Tana River County For Embezzlement Of Kshs. 2,956,400 Belonging To Tana River County Being Monies Meant To Facilitate Youth From The County To Attend The Inter-County School Sports Competition Held In Siaya County**

The EACC investigated reports that the suspect embezzled Kshs 2,956,400 to facilitate attendance of youth from county in the Kenya Youth Inter County Sports Association competition held in Siaya County.

It established that the suspect raised an imprest of Kshs 2,956,400, which was approved, and payment made to his personal account after conclusion of the event. Further, it was revealed that the suspect had failed to surrender the imprest.

The EACC report forwarded to the DPP on 7th August2018 recommended that the suspect be charged with unlawful acquisition of public property contrary to section 45 (1) (a) of ACECA.

Upon perusal and careful consideration of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that prosecution ensues.

## STATUS

The inquiry file was returned to EACC on 29th October 2018 with directions that prosecution ensues.

### 23. EACC/KIS/EL/10/2017 ODPP/CAM/018/5/1037

**Inquiry Into Allegations Of Abuse Of Office By A Former Managing Director Of South Nyanza Sugar Company Limited**

The EACC investigated allegations of Abuse of Office by a former Managing Director of South Nyanza Sugar Company Limited.

It established that the suspect, the Managing Director of South Nyanza Sugar Company Limited, abused her position to improperly recruit another person as the Head of Marketing Business Development without the Board.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the suspect be charged with the offence of Abuse of Office contrary to Section 46 as read with Section 48 of the Anti- Corruption and Economic Crimes Act.

Upon perusal of the inquiry file and consideration of the evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect but directed further investigations on identified areas and re-submission of the file.

## STATUS

The inquiry file was returned to EACC on 18th October 2018 with directions that further investigations be carried out.

### 24. EACC/EL/INQ/47/2015 ODPP/CAM/015/5/457

**Inquiry Into Allegations That An Employee Of The Kisii County Government Used Fake Recommendation Letter Purported To Have Been Written By Wakenya Pamoja Society Limited To Secure His Current Employment At Kisii County Government**

The EACC investigated allegations that the suspect, an officer employed by Kisii County Government, used a fake recommendation letter purported from his former employer Wakenya Pamoja Sacco Society Limited to secure employment at the County Government of Kisii.

It established that there was no evidence indicating that the suspect used a fake recommendation letter from Wakenya Pamoja Sacco to apply for his current job. However, investigations established that the suspect filed and submitted to EACC and Kisii County Government a self-declaration form in which he failed to declare that he had been dismissed from his previous employment for lack of integrity and that he had a pending criminal court case.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the suspect be charged with the offences of:

- Providing false information to EACC contrary to section 46 (1) (d) as read with section 46 (2) of the LIA,
- Providing false information to Kisii County Government contrary to section 46(1) (d) as read with section 46 (2) of the LIA
- False declaration contrary to section 11 of the Oaths and Statutory Declarations Act.

Upon perusal of the inquiry file and the evidence contained therein, the DPP found sufficient evidence to warrant prosecution. However, he directed further investigations be carried out on the gaps identified and file be resubmitted for directions.

## STATUS

The inquiry file was returned to EACC on 3rd October 2018 directing further investigations.

## 25. EACC/GSA/EL/INQ/1/2015 ODPP/CAM/018/5/1008

**Inquiry Into Allegations Of Irregular Recruitment Of Garissa County Assembly Speaker**

The EACC investigated allegations of irregular recruitment of Garissa County Assembly Speaker.

It established that the suspect resigned from NHIF-Garissa branch before being elected Speaker of the Garissa County Assembly. There was no evidence to establish that the suspect forged the signature in the NHIF letter dated 18/03/2013 acknowledging the receipt of his resignation.

The EACC report forwarded to the DPP on 13th July 2018, recommended that the file be closed with no further action.

Upon perusal of the inquiry file and evidence contained therein, the DPP declined the recommendation for closure and directed the suspect be charged with the offence of making a document without authority contrary to section 358 of the Penal Code and uttering a false document contrary to section 353 of the Penal Code.

### STATUS

The inquiry file was returned to EACC on 24thSeptember 2018 directions that prosecution ensues.

## 26. EACC/EL/INQ/10/2016 ODPP/CAM/018/5/990

**Inquiry Into Allegations That A Senior Director At The Ministry Of Transport Had Falsely Accounted For Per Diem Received For An Official Trip To South Sudan**

The EACC investigated allegations that a senior officer at the Ministry of Transport falsely accounted for per diem received for an official trip to South Sudan.

It established that the suspect applied and surrendered for seven days imprest to South Sudan yet he only travelled for one day. The evidence further revealed that the suspect took the surrender imprest documents he had submitted for the said imprest and failed to return them, once the subject investigations into the matter commenced.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be charged with:

- Deceiving principal contrary to section 41 (2) as read with section 48 (1) of the ACECA, abuse of office contrary to section 46 as read with section 48 (1) of the ACECA
- Concealing information on public finances contrary to section 198 (c) as read with section 199 of the PFMA.

Upon perusal and consideration of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

### STATUS

The file was returned to EACC on 5th September 2018 with directions for further investigations.

## 27. EACC/NKR/INQ/EL/07/2017 ODPP/ CAM/018/5/985

**Inquiry Into Allegations That A Public Officer Employed By Teachers Service Commission Was Appointed As A Board Member Of Bomet County Assembly While At The Same Time Employed As A Teacher By Teachers Service Commission Prejudicing Her Service To The Pupils Of Kugunoi Primary School**

The EACC investigated allegations that a teacher at Kugunoi Primary School was appointed a board member of Bomet County Assembly conflicting her duties.

It established that the suspect, employed by the Teachers Service Commission, successfully applied to become a member of the County Assembly Service Board for Bomet County Assembly; thus being employed by two public offices contrary to section 26 of the Leadership and Integrity Act.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be cautioned against engaging in activities compromising her duties by being employed twice. Further, the TSC be advised to caution its employees against engaging in activities that compromises their duties, while the Bomet County Assembly be advised to remove the suspect from the board.

Upon perusal of the inquiry file and evidence contained therein, the DPP found no criminal liability against

the suspect in respect to the allegations and directed the inquiry file be closed with a caution to TSC as recommended by EACC and replacement of the suspect from the County Assembly Board.

### STATUS

The inquiry file was returned to EACC On 20th August 2018 with directions that the inquiry file be closed.

### 28. EACC/ISL/EL/INQ/NO/01/2015 ODPP/CAM/018/5/987

**Inquiry Into Alleged Unethical Conduct Of The Chief East Location And Assistant Chief Mwangaza Sub-Location Located Within Isiolo County**

The EACC investigated reports that the suspect, an Assistant Chief of Mwangaza sub-location used her position to intimidate residents of Mwangaza and was involved in land grabbing.

There was no evidence linking the Chief of East Location to any of the allegations. Further, there was no tangible evidence showed the suspect's involvement in land grabbing or aiding land grabbers and was intimidating members of the public.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 6th July, 2018 recommending that the file be closed with no further action.

Upon perusal of the inquiry file, the Director of Public Prosecutions found there was insufficient evidence and directed the inquiry file be closed.

### STATUS

The inquiry file was returned to EACC on 19th September, 2018, with directions that the inquiry file be closed.

### 29. EACC/NYR/OPS/INQ/02/2018 ODPP/ CAM/018/5/999

**Inquiry Into Allegations Of Corruption Against Traffic Police Officers Based At Karatina Traffic Sub-Base**

The EACC investigated allegations of corruption against traffic police officers based at Karatina Traffic Sub base. It established that the suspects being police officers requested and received Kshs. 2600 from motorists plying Nyeri- Karatina route.

The EACC report forwarded to the DPP on 13th July 2018 recommended that the suspects be charged with receiving a bribe contrary to section 6(1) (b) of the Bribery Act, and abuse of office contrary to section 46 of the Anti- Corruption and Economics Crimes Act 2003.

Upon perusal of the inquiry file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to EACC on 15th August 2018 with directions that prosecution ensues.

### 30. EACC/MLD/OPS/INQ/4/2018 ODPP/CAM/018/5/1001

**Inquiry Into Allegations That A Driver Of A Public Service Vehicle From Mombasa To Malindi Offered A Bribe Of Kshs 2000To ANNTSA Officer To Forbear Charging Him With A Traffic Offence**

During a joint EACC and NTSA operation at Mida Creek Area along Mombasa-Malindi Highway on 31st December2017, officers arrested a public service vehicle driver for driving without a driving license and a class 'A' endorsement on his license.

The suspect gave an NTSA officer Kshs 2,000to forbear charging him with the offence of driving without a driving license and a class 'A' endorsement on his license.

The EACC report forwarded to the DPP on 13th July 2018 recommended that the suspect be charged with giving a bribe contrary to section 5 (1) as read with section 18 (1) of the Bribery Act No. 47 of 2016.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution. However, he directed that administrative action be taken against the suspect.

### STATUS

The inquiry file was returned to EACC on 13th December 2018, directing administrative action and the inquiry file be closed.

### 31. EACC/MLD/OPS/INQ/1/2018 ODPP/CAM/018/5/998

**Inquiry Into Allegations That A Public Service Vehicle Driver Offered A Bribe Of Kshs 2000 To A NTSA Officer To Forbear Charging Him With A Traffic Offence**

During a joint EACC and NTSA operation at Mkangagani along Mombasa-Malindi Highway on 2nd January2018, a public service vehicle driver was arrested for speeding. An NTSA officer using a speed gun observed that the suspect was speeding at 89kph instead of the maximum set limit speed of 80kph.

EACC investigations did not find sufficient evidence that Kshs. 2000 given to the NTSA officer was a bribe.

The EACC report forwarded to the DPP on 13th July 2018 recommended that the file be closed for lack of sufficient evidence.

Upon perusal of the inquiry file the DPP found insufficient evidence and directed that the inquiry file be closed.

**STATUS**

The inquiry file was returned to EACC on 3rd August2018 with directions that the inquiry file be closed.

### 32. EACC/MSA/OPS/INQ/1/2018 ODPP/CAM/018/5/1000

**Inquiry Into Allegations Of Corruption Against A Deputy OCS At Kiembeni Police Station**

The EACC investigated complaints received on 8th January2018 that the deputy OCS Kiembeni Police Station requested a Kshs 10,000bribe to facilitate the release of a member of Nguu Tatu Community Based Organization from police custody.It established that the Deputy OCS requested for Kshs 10,000and received Kshs 8,000as bribe.

The EACC report forwarded to the DPP on 13th July 2018 recommended that the deputy OCS be charged with three counts of the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal and consideration of the inquiry file, the DPP found gaps and deficiencies that needed further investigations.

**STATUS**

The inquiry file was returned to EACC on 28th September 2018 with directions that further investigations and resubmission for directions.

### 33. EACC/MLD/OPS/INQ/3/2018 ODPP/CAM/018/5/993

**Inquiry Into Allegation That A Public Service Vehicle Driver Plying Mombasa –Malindi Route Offered A Bribe Of Kshs. 2,000 To A National Transport And Safety Authority Officer To Forbear Charging Him With A Traffic Offence**

The EACC and NTSA conducted a joint operation at Mkangagani along Mombasa-Malindi Highway on 2nd January 2018, to seize motorists offending traffic laws and involved in bribery activities.
EACC investigations established that the suspect, a driver of a public service vehicle, gave Kshs 2,000 to an NTSA officer to forbear charging him with the offence of overspending contrary to section 42 (1) as read with section 43 of the Traffic Act.

The EACC report forwarded to the DPP on 12th June 2018 recommended that the suspect be charged with one count of the offence of giving a bribe contrary to section 5 (1) as read with section 18 (1) of the Bribery Act No. 47 of 2016.

Upon perusal of the inquiry, file the DPP found sufficient evidence to warrant prosecution of the suspect. However, he declined to file charges noting the amount did not justify the amount of time and resources to be expended in the prosecution of the matter.

**STATUS**

The inquiry file was returned to EACC on 13th December 2018 with directions that administrative action be taken against the suspect.

## 34. CR.148/29/2017 ODPP/CAM/017/5/791

### Inquiry Into Allegations Of Bribery Against The Chairperson Of Liquor Licensing Committee For Embakasi East Sub-County And A Liquor Licensing Clerk At Nairobi City County Government

The EACC investigated allegations of bribery against the chairperson of liquor licensing committee for Embakasi East Sub- County and a liquor-licensing clerk at Nairobi City County Government.

It established that the suspects conspired and requested for a Kshs 15,000 bribe. One suspect received Kshs 12,000from the complainant as an inducement for granting the authority for the renewal of the complainant's liquor license. The suspects were consequently charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act.

The EACC report forwarded to the DPP on 6th July2018 recommended that the case, which was already in court, proceeds to its logical conclusion.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspect on the proposed charges and directed the case in court to proceed to a logical conclusion.

### STATUS

The inquiry file was returned to EACC on 20th February 2019 with directions that the case in court proceeds to logical conclusion. The case, Milimani ACC. 16/2017 is ongoing.

## 35. EACC/MLD/OPS/INQ/3/2017 ODPP/CAM/018/5/986

### Inquiry Into Allegations Of Corruption Against An Employee Of Kilifi Mariakani Water And Sewerage Company

The EACC investigated allegations of corruption against an employee of Kilifi Mariakani Water and Sewerage Company Limited.

It established no evidence to support allegations that the suspect requested for a Kshs. 4,310bribe from the complainant as the amount was statutory fee to regularize the complainant's water reconnection.

The EACC report forwarded to the DPP on 6th July 2018, recommended that the inquiry file be closed.

Upon perusal of the inquiry file, the DPP found no evidence of any criminal culpability on the suspect but directed that the suspect be subjected to administrative action.

### STATUS

The inquiry file was returned to EACC on 13th August 2018 with directions g that administrative action be taken against the suspect.

## 36. EACC/MSA/OPS/INQ/31/2017 ODPP/CAM/018/5/989

### Inquiry Into Allegations Of Corruption Against A Police Officer Attached To Lunga Lunga Police Station

The EACC investigated allegations of corruption against a police officer attached to Lunga Lunga Police Station.

It established that the suspect requested a Kshs 3,000 bribe from the complainant so as to facilitate the arrest of some persons whose cattle had destroyed crops at the complainant's farm.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect, a police officer, be charged with two counts of the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) of the Bribery Act, 2016.

Upon perusal of the inquiry file, the DPP found insufficient evidence to warrant prosecution of the suspect but the evidence was sufficient to warrant administrative action against the suspect.

### STATUS

The inquiry file was returned to EACC on 11th December 2018 with directionsthat administrative action be taken against the suspect.

## 37. EACC/MKS/OPS/INQ/21/2017 ODPP/CAM/018/5/983

### Inquiry Into Allegations Of Corruption Against Two Traffic Police Officers Attached To Matuu Police Station

The EACC investigated allegations of corruption against two traffic police officers attached to Matuu Police Station.

:t established that the traffic police officers demanded ɔenefits of Kshs. 1,000from each truck carrying goods ınd Kshs. 100 from each public service vehicle plying :he Garissa- Matuu road. Two traffic police officers that :orruptly received Kshs. 1,000 were arrested during a ɜting operation.

The EACC report forwarded to the DPP on 6th July2018 :ecommended that the suspects be charged with:

- Dealing with suspect property contrary to section 47 (2) (a) as read with section 48 (1) of ACECA
- Abuse of office contrary to section 46 ACECA Obstruction contrary to section 66 (1) (a) as read with section 66 (2) of ACECA

Upon perusal of the inquiry file, the DPP found sufficient evidence to support the charges of obstruction against one suspect and found insufficient evidence against the other suspect. However, he directed against prosecution because the amount in issue and resources to be expended it, would not make economic sense, and time if the charges are filed.

## STATUS

The inquiry file was returned to EACC on 13th December 2018 with directions that administrative action be taken against the suspect.

### 38. CR. 627/409/2017 ODPP/CAM/018/5/979

**Inquiry Into Allegations Of Corruption Against A National Intelligence Officer Based At The Kisumu Immigration Office**

The EACC investigated allegations of corruption against a National Intelligence Service officer based at the Kisumu Immigration Office.

It established that the suspect, a senior intelligence officer requested and received a financial benefit of Kshs. 4,000 from the complainant to irregularly clear him at the Immigration Vetting Board in Kisumu and fast track the issuance of a Kenyan passport he had applied for.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be arrested and charged with the offence of receiving a bribe contrary to Section 6(1) (a) as read with Section 18(1) of the Bribery Act, 2016.

Upon perusal and consideration of the inquiry file, the DPP found several gaps and deficiencies that needed further investigations before charges are filed in court.

## STATUS

The inquiry file was returned to EACC On 3rd October 2018 with directions thatfurther investigations be carried out.

### 39. EACC/OPS/ 159/2017 ODPP/CAM/018/5/980

**Inquiry Into Allegation Of Bribery Against A Private Motor Vehicle Driver Contrary To Section 5 (1) As Read With Section 18 (1) (2) Of The Bribery Act**

During a joint EACC and NTSA operation at Joyland area along Kakamega – Mumias Highway on 23rd December2017 at around 11 pm, a drunk motorist offered Kshs. 5000 to anNTSA officer to forbear being charged with the offence of driving under the influence of alcohol.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be charged with two counts of giving a bribe contrary to section 5 (1) as read with section 18 (1) of the Bribery Act No. 47 of 2016.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspect and directed prosecution ensues.

## STATUS:

The inquiry file was returned to EACC on 25th September 2018 with directions that prosecution ensues.

### 40. CR.148/20/2017 ODPP/CAM/018/5/981

**Inquiry Into Allegations Of Corruption Against Traffic Police Officers Based At Narok Police Station**

The EACC investigated allegations of corruption against traffic police officers based at Narok Police Station.

It established that the traffic police officers demanded bribes from the motorists plying the Narok- Maasai Mara and Narok-Bomet Roads. Two traffic police officers were arrested and Kshs. 7,150 recovered during an EACC organized sting operation.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the case before the court to proceed to its logical conclusion. The suspects were charged with:

- Receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act
- Abuse of office contrary to section 46 as read with section 48 of ACECA
- Dealing in suspect property contrary to section 47 (2) (a) as read with section 48 (1) of ACECA

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that the case in court proceeds to logical conclusion.

### STATUS

The inquiry file was returned to EACC on 28th September 2018 with directions that the case in court proceeds to logical conclusion. The case ACC. 986/2017 is ongoing.

## 41. CR.148/6/2018 ODPP/CAM/015/5/249

**Inquiry Into Allegations Of Corruption Against Police Officers Based At Kabete Police Station**

The EACC investigations established that the suspects requested for and received a Kshs 20,000 financial benefit. They further requested anotherKshs 30,000 so as not to charge the complainant for the offence of stealing. The suspects were arrested and charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the prosecution of the case already in court proceeds to logical conclusion.

Upon perusal of the inquiry file, the DPP found sufficient evidence and directed the case in court proceeds to logical conclusion.

### STATUS:

The inquiry file was returned to EACC that the case in court proceeds to its logical conclusion. The case is pending judgment in Milimani ACC NO. 3 of 2018.

## 42. EACC/OPS/INQ/169/2017 ODPP/CAM/018/5/992

**Inquiry Into Allegations Of Corruption Against The Driver Of Vehicle Registration Number KCK 805K**

The EACC investigated allegations of corruption against the driver of vehicle registration number KCK 805K.

It established that the suspect, a public service vehicle driver, offered a Kshs. 1,000 financial benefit to a National Transport and Safety Authority officer to forbear being charged with a traffic offence of driving a motor vehicle without a Road Service License.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be charged with the offence of giving a bribe contrary to Section 5(1) as read with Section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges. However, considering that the anticipated amount of time and resources to be used in prosecution would not make economic sense to both government and taxpayers, he directed that other alternatives to prosecution be employed.

### STATUS

The inquiry file was returned to EACC on 13th December2018 with directions that other alternatives to prosecution be employed and the file be closed.

## 43. EACC/MSA/OPS/INQ/29/17 ODPP/CAM/018/5/988

**Inquiry Into Allegation Of Corruption Against An Employee Of Kenya Power And Lighting Company Limited Based In Mombasa County**

The EACC investigated complaints that an employee of Kenya Power and Lighting Company Limited (KPLC) requested for a Kshs. 3,000 financial benefit to improperly reconnect electricity at the complainant's residence in Mshomoroni, Mombasa.

It established that the suspect requested a Kshs. 3,000 bribe and received Kshs. 2,000 from the complainant, after completing the electricity reconnection.

The EACC report forwarded to the DPP on 6th July 2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution. However, he directed against prosecution noting that the amount in issue does not justify the anticipated amount of time and resources to be expended in the prosecution of the matter.

## STATUS

The inquiry file was returned to EACC on 17th December 2017 with directions that administrative action be instituted against the suspect.

### 44. CR. 421/75/2018 ODPP/CAM/018/5/1034

**Inquiry Into Allegations Of Corruption Against The Assistant Chief For Turingwi Sub- Location Within Meru County**

The EACC investigations established that the suspect requested for a Kshs 30,000 financial benefit and received Kshs. 16,000 from the complainant as an inducement to allow the complainant to conclude a land transaction.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the prosecution proceeds to logical conclusion for the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act subject to some amendments to the charge.

Upon perusal of the inquiry file, the DPP found sufficient evidence and directed that the case in court proceed to logical conclusion.

## STATUS

The inquiry file was returned to EACC on 4th October 2018 with directions that the case proceeds to logical conclusion. The case Isiolo ACC 1/2018 is ongoing.

### 45. EACC/EL/INQ/106/2017 ODPP/CAM/018/5/1035

**Inquiry Into Bribery Allegations Against Persons Who Purported To Be Nairobi City County Government Enforcement Officers**

The EACC investigated allegations of extortion by people purporting to be Nairobi City County Government Enforcement officers. Using threats, they attempted to extort, Kshs 300,000 from the complainant to forbear charging him in court for allegedly flouting the Nairobi City Government County construction regulations. Only one suspect identified himself as a Nairobi City County Government official and not the other two suspects.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the suspect be charged under the Penal Code for attempted extort by threats contrary to section 300 (1) (a) and personating a person employed in public service contrary to section 105 (b).

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspects and directed that prosecution ensue in the normal Criminal Chief Magistrate's Court as the proposed charges were all under the Penal Code.

## STATUS

The inquiry file was returned to EACC on 10th December 2018 with directions that prosecution ensues.

### 46. EACC/OPS/INQ/128/2017 ODPP/CAM/018/5/1038

**Inquiry Into Bribery Allegations Against Assistant Chief, Senior Chief,And Assistant County Commissioner Of Highridge Location Westlands Sub- County, Nairobi County**

The EACC investigations established that the suspects conspired and requested for a Kshs 100,000 bribe.They received Kshs 30,000 from the complainants so as to forbear effecting a purported eviction order.

The EACC report forwarded to the DPP on 7th August 2018 recommended that the suspects be charged with:

- Conspiracy to commit an offence of corruption contrary to section 47A (3) (a) as read with section 48 of the ACECA
- Receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act
- Uttering a false document contrary to section 353 of the Penal Code

Upon perusal of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies that needed further investigations.

## STATUS

The inquiry file was returned to EACC on 12th October 2018 with directions for further investigations.

### 47. EACC/OPS/INQ/39/2018 ODPP/CAM/018/5/1033

**Inquiry Into Allegations That A Survey Assistant At The County Government Of Murang'a Received A Bribe To Facilitate Survey Works**

The EACC Investigations revealed that the suspect requested and received a financial benefit of Kshs. 2,000 from the complainant as an inducement to facilitate survey works on the complainant's parcel of land in Maragua.

The EACC report forwarded a report to the DPP on 7th August 2018 recommended that the suspect be charged with the offence of receiving a benefit contrary to Section 6 (1) as read with section 18 (1) of the Bribery Act No,47 of 2016.

Upon perusal of the inquiry file and consideration of the evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect. However, he directed against prosecution noting the amount in issue does not justify the anticipated amount of time and resources to be expended in the prosecution of the matter.

**STATUS**

The inquiry file was returned to EACC on 2nd October 2018 with directions that administrative action be taken against the suspect and that the inquiry file be closed.

### 48. EACC/MSA/OPS/INQ/21/2018 ODPP/CAM/018/5/1049

**Inquiry Into Allegations That An Employee Of SGS Kenya Limited Based At Mtwapa Weighbridge Requested For A Bribe Of Kshs 30,000To Facilitate The Release Of Truck Registration Number KBH 607Y Which Had Been Detained At The Weighbridge On Account Of Overloading**

The EACC Investigations established that the suspect requested a financial benefit of Kshs 30,000 and received Kshs 22,000 after negotiations with the complainant to facilitate the release of truck registration number KBH 607Y that had been detained for overloading at the Mtwapa weighbridge.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that prosecution ensues.

**STATUS:**

The inquiry file was returned to EACC on 27th September 2018 with directions that prosecution ensues.

### 49. EACC/OPS/INQ/153/2017 ODPP/CAM/018/5/1044

**Inquiry Into Allegation Of Corruption Against Two Purported Officers Of The Rent Restriction Tribunal**

The EACC investigations established that the suspects purported to be officers from the Rent Restriction Tribunal requested a Kshs. 40,000 financial benefit and received Kshs. 35,000 from the complainant in order to stall a rent dispute case.

The EACC report forwarded a report to the DPP on 6th September 2018 recommended that the suspects be charged with the offence of receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution and directed prosecution to ensue.

**STATUS:**

The inquiry file was returned to EACC on 3rd October 2018 with directions that prosecution ensues. The case in Nairobi ACC. 4 of 2019 is ongoing.

### 50. EACC/MKS/OPS/INQ/60/2017 ODPP/CAM/018/5/1047

**Inquiry Into Allegations Of Corruption Against A Land Adjudication Officer Attached To Kilungu Lands Office**

The EACC investigations established that the suspect, a public officer, initially requested a Kshs. 30,000 financial advantage and received Kshs. 20,000 so as to withdraw a land case for land parcels 570 and 628 from Kilome Police Station. The suspect was subsequently charged with the offence of receiving a bribe contrary to section 6(1) as read with section 18(1) of the Bribery Act and abuse of office contrary to section 46 as read with section 48 of the ACECA.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the case in court proceeds to logical conclusion.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution and directed the case in court proceeds to logical conclusion.

## STATUS

The inquiry file was returned to EACC on 28th September 2018 with directions that prosecution proceeds to logical conclusion. The case Machakos ACC 8/2017 is ongoing.

### 51. EACC/OPS/INQ/166/2017 ODPP/CAM/018/5/1050

**Inquiry Into Allegations Of Corruption Against A Public Service Vehicle Driver Of Motor Vehicle Registration Number KCL 661F**

During an EACC and NTSA joint operation at Showground area along Machakos – Kyumbi road on 25th December2017,a public service vehicle driver was arrested for driving a motor vehicle without a night travel license.

The investigationsestablishedthat the suspect drove a motor vehicle without a night travel license contrary to section 28 as read with section 41 of the NTSA Act. The suspect offered an NTSA officer a f Kshs. 1,000bribe.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act.

Upon perusal of the inquiry file and the evidence contained therein, the DPP found sufficient evidence to warrant prosecution, but directed further investigations to cover gaps identified and that the file be resubmitted for further directions.

## STATUS

The inquiry file was returned to EACC on 27th September 2018 with directions that further investigations be carried out and that the file be resubmitted.

### 52. EACC/MSA/OPS/INQ/4/2018 CR. NO 021/4/2018

**Inquiry Into Allegation Of Corruption Against A Children's Officer Based In Mvita**

The EACC investigations established that a children's officer in Mvita, requested a Kshs. 15,000 financial benefit. Hereceived Kshs. 10,000 from the complainant to draw correspondence to Tononoka Law Courts in Case No. 62 of 2017 to seek orders for release of the complainant's child who was in the custody of Salama Children's Home. The suspect was arrested and charged with the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act No 47 of 2016.

The EACC report forwarded to the DPP on 6th September 2018 recommended that the case in court proceeds to logical conclusion.

Upon perusal of the inquiry file, the DPP found sufficient evidence and directed that the case in court proceed to logical conclusion.

## STATUS

The inquiry file was returned to EACC on 28th September 2018,directing that the case in court Mombasa ACC 1/2018 proceed to logical conclusion.

### 53. EACC/GSA/OPS/INQ/02/2018 ODPP/CAM/018/5/1059

**Inquiry Into Bribery Allegations Against A Clerical Officer At Civil Registration Office Based At Hola Office**

The EACC investigations established that officers from the Civil Registrar's office in Hola requested a Kshs. 200 financial benefitfor each birth certificate application in order to fast track the process.

It established that the required amount for each birth certificate application is Kshs. 150/=. The suspect requested Kshs. 200 for each application and received an extra Kshs 50 from each application. The suspect was charged with receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act No 47 of 2016 and dealing with suspect property contrary to section 47 as read with section 48 (1) of the ACECA.

The EACC report forwarded to the DPP on 25th September 2018, recommended that the case in court proceed to logical conclusion.

Upon perusal of the inquiry file, the DPP found sufficient evidence to sustain the charges before court. Howeverdue to the amount involved, it was not in the public interest to prosecute the charges.

### STATUS

The inquiry file was returned to EACC on 27th November 2018 with directions that administrative action be taken against the suspect. The case Garissa ACC 1/2018 was withdrawn.

## 54. EACC/ISL/OPS/12/2017 ODPP/CAM/018/5/1058

**Inquiry Into Allegations Of Corruption Against An Administration Police Officer Manning A Road Block Along Moyale-Marsabit Road In Marsabit County**

The EACC investigations revealed that the suspect, an administration police officer, requested a Kshs. 100,000 financial benefitand received Kshs. 20,000 from the complainant to forbear charging him for allegedly being in Kenya illegally.

The EACC report forwarded to the DPP on 25th September 2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18(1) and (2) of the Bribery Act.

Upon perusal of the inquiry fileand evidence contained therein, the DPP found sufficient evidence to sustain the charges proposed and directed that prosecution ensues.

### STATUS

The inquiry file was returned on 15th October 2018 with directions that prosecution ensues.

## 55. EACC/MLD/OPS/INQ/02/2018 ODPP/CAM/018/5/1060

**Inquiry Into Allegations Of Bribery Against A Driver Of A Public Service Vehicle**

During a joint EACC and NTSA operation at Mkangagani along Kilifi-Malindi road.on 2nd January 2018, a public service vehicle (PSV) driver was arrested for not having a class "A" endorsement in his driving license and a PSV badge.

EACC investigations revealed that the suspect was arrested for driving a PSVvehicle without class "A" on his driving licence and PSV badge. He offered and gave an NTSA officer Kshs. 3000 for purposes of placing his bail.

The EACC report forwarded a report to the DPP on 25th September, 2018 recommended that the file be closed for insufficient evidence to support a charge against the suspect.

Upon perusal of the inquiry file, the DPP found that the evidence was insufficient to warrant prosecution and directed that the inquiry file be closed.

### STATUS

The inquiry file returned was to EACC on 18th October 2018, directing that the file be closed.

## 56. CR. 911/624/2017 ODPP/CAM/018/5/1066

**Inquiry Into Allegations Of Corruption Against A Driver And Court Clerk Based At The Bungoma Law Courts**

The EACC investigations revealed that the suspects corruptly solicited for and received a financial benefit of Kshs. 50,000 from the complainant as an inducement to facilitate the release of a motor vehicle registration number KCA 964K which was detained at Bungoma Law Court.

The suspects were charged with:

- Soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) and section 27 of the Bribery Act,
- Receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) and section 27 of the Bribery Act
- Concealing evidence contrary to section 66 (1) (c) as read with section 66 (2) of the ACECA.

The EACC report forwarded to the DPP on 25th September 2018 recommended that the case in court proceeds to logical conclusion.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution and directed that prosecution ensues.

## STATUS

The inquiry file was returned to EACC on 14th November2018 with directions that prosecution ensues. The case Bungoma ACC 2/2017 is ongoing.

### 57. EACC/OPS/INQ/51/2017 ODPP/CAM/018/5/1065

**Inquiry Into Allegations Of Bribery Against An Employee Of Stanbic Bank**

The EACC investigated reports that a Stanbic Bank employeesolicited and received a Kshs 50,000 bribe from the complainant as an inducement to facilitate approval of a Kshs. 1.4 million car loan.

It established that the suspect received Kshs. 50,000 from the complainant.He used it to settle a personal loan he had with a colleague. However, from the evidence obtained, it was difficult to prove that the suspect solicited the amount as a bribe from the complainant to facilitate the approval of her car loan application. The suspect misled the complainant into believing that his colleague was would approve her loan yet he knew that the money was meant to settle a personal debt. The offence established was obtaining by false pretense contrary to section 313 of the Penal Code.

The EACC report forwarded to the DPP on 25th September 2018 recommended the inquiry file be forwarded to the Directorate of Criminal Investigations (DCI) for further necessary action.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to sustain charges against the accused for the offenses of receiving a bribe under the Bribery Act and obtaining money by false pretenses contrary to section 313 of the Penal Code.

## STATUS

The inquiry file was returned to EACC on 4th December 2018 directing that prosecution ensues.

### 58. EACC/MSA/OPS/INQ/26/2018 ODPP/CAM/018/5/1057

**Inquiry Into Allegations Of Corruption Against An Employee Of National Hospital Insurance Fund (NHIF) At Kilifi County**

The EACC investigations revealed that the suspect, an employee of NHIF Kilifi branch, requested Kshs. 25,000 and received Kshs. 23,000 financial advantage to influence the Registration and Compliance officer to waive a Kshs 19,200 payment levied to Mazeras Junior Academy for delayed payments of NHIF contributions.

The EACC report forwarded to the DPP on 25th September 2018 recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) as read with section 18(1) and (2) of the Bribery Act.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to EACC on 18th October 2018 with directions that prosecution ensues.

### 59. EACC/ELD/OP/10/2018 ODPP/CAM/018/5/1061

**Inquiry Into Bribery Allegations Against Traffic Police Officers Along Kapenguria-Chepareria Road**

The EACC investigations revealed that the suspects, while controlling traffic along the Kapenguria-Chepareria road collected bribes from motorists. Upon the officers conducting a search, a total of Kshs. 7,940 was recovered in two vehicles belonging to the two suspects.

The EACC report forwarded to the DPP on 25th September 2018 found that the evidence was not sufficient to sustain a conviction against the suspects and recommended that the pending case be withdrawn. EACC further recommended that appropriate administrative action be taken against the suspects in view of their conduct.

Upon perusal of the inquiry file, and evidence contained therein, the DPP found insufficient evidence to sustain the charges already pending before court and directed that the case be withdrawn under section 87A of the CPC.

## STATUS

The inquiry file was returned to EACC on 20th November 2018 directing that the case already before court Kitale ACC 1 of 2018 be withdrawn under section 87A of the CPC.

**60. EACC/OPS/INQ/168/2017**
**ODPP/CAM/018/5/1036**

### Inquiry Into Allegations That A Driver Of A Commercial Motor Vehicle Offered An Inducement To NTSA Officer For Forbearance Not To Be Charged For A Traffic Offence

During a joint EACC and NTSA operation at Pap Ondit area along Kendu Bay- Kisumu Highway on 20th December 2018, a driver of a commercial van belonging to Otoma Mini Bakeries, was arrested for driving a motor vehicle on a public road with worn out tyres.

The EACC investigations revealed that the suspect gave an NTSA officer Kshs. 1,000 as an inducement to forbear charging him with the offence of driving a motor vehicle on a public road with worn out tyres.

The EACC report forwarded to the DPP on 7th August 2018, recommended that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act.

Upon perusal of the inquiry file and consideration of the evidence contained therein, the DPP found sufficient evidence to sustain the charge. However, he directed against prosecution noting the amount in issue did not justify the anticipated amount of time and resources to be expended in prosecuting the matter.

### STATUS

The inquiry file was returned to EACC on 4th December 2018 with directions that administrative action be taken against the suspect.



## 3.3 The Fourth (4th) Quarter Investigation Files Submitted by EACC to ODPP for the Period Covering 1stOctober, 2018 to 31st December, 2018

### 1. EACC/FI/INQ/42/2016 ODPP/CAM/017/5/1104

**Inquiry Into Allegations Of Irregular Payment Of Kshs. 68,000,000Made By Nairobi City County To A Firm Of Advocates**

The EACC investigations revealed that Kshs. 68,000,000 was unlawfully paid/transferred to a firm of advocates as purported legal fees for representing the Nairobi City Council in a fictitious suit. The monies were thereafter transferred to the accounts of some of the suspects.

The EACC report forwarded to the DPP on 11th December 2018 recommended the suspects to be charged with:

- Conspiracy to commit an economic crime contrary to Section 47A (3) as read with section 48 (1) of ACECA
- Unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Dealing with suspect property contrary to Section 47(2)(a) as read with sections 47(1) and 48(1) of ACECA
- Fraudulent payments from public revenues for services not rendered contrary to Section 45(2) (iii) as read with Section 48 of ACECA

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out along the identified areas.

**STATUS**

The inquiry file was returned to EACC on 13th March 2019 with directions that further investigations be carried out and the file be resubmitted for further directions. The case ACC 8 of 2019 is ongoing.

### 2. EACC/ISL/EL/INQ/5/2015 ODPP/CAM/018/5/1116

**Inquiry Into Allegations Of Irregular Recruitment Of Assistant Chief Waso Sub-Location By The Deputy County Commissioner Isiolo Sub-County**

The EACC investigated complaints that the Assistant Chief Waso Sub-Location did not meet the requirements for appointment to the position.

It established that indeed the person did not meet the requirements for appointment to the position due to facts including the fact that she was 28 years old yet for one to be appointed one ought to be at least 35 years old. She also did not meet the academic requirements as she had a mean grade D instead of a C plain required.

Further, a candidate who met both age and academic qualifications was denied the opportunity by being ranked position two for unexplained reasons.

The EACC report forwarded to the DPP on 11th December 2018, recommended the suspects be charged for the offences of Abuse of office contrary to Section 46 as read with Section 48 of ACECA, and deceiving principal contrary to section 41(2) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out along the identified areas.

**STATUS**

The inquiry file was returned to EACC on 5th March 2019 with directions that further investigations be carried out and the file resubmitted for further directions.

### 3. EACC/FI/INQ/127/2015 ODPP/CAM/018/5/1111

**Inquiry Into Allegations That The Chairman Of The National Industrial Training Authority (NITA) Board Irregularly Received Allowances Amounting To Kshs. 3, 487, 864**

The EACC investigations revealed that on various dates during the period under review the Chairman received a payment of Kshs. 1,396,684 for sitting allowance claims without proper or requisite supporting documents.

Further, the Chairman was paid Kshs. 80,000 as sitting allowance and Kshs. 70,000 as transport and

accommodation allowance for an official visit to Western and Nyanza Region on 27th to 30th October 2013 which he did not attend. Evidence on record further shows that he received Kshs. 134, 850 for an official visit to the North Rift Region between 5th and 9th September 2013. Senior officers at NITA who also failed to ensure they had the requisite supporting documents authorized the payments.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspects be charged with:

- Forgery contrary to section 347(a) as read with section 349 of the Penal Code,
- Uttering false documents contrary to section 353 of the Penal Code,
- Deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA,
- Unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of ACECA
- Abuse of office contrary to section 46 as read with section 48 (1) of ACECA.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out along the identified areas.

## STATUS

The inquiry file was returned to EACC on 7th March 2019 with directions that further investigations be carried out and the file be resubmitted for further directions.

### 4. EACC. NKR/FI/INQ/53/2017 ODPP/CAM/018/5/1115

**Inquiry Into Allegations Of Abuse Of Office And Procurement Irregularities By The Managing Director Of Pyrethrum Processing Company Of Kenya In The Award Of A Contract For Estate Management**

EACC investigations revealed that the Pyrethrum Processing Company (PPCK) formerly known as Pyrethrum Board of Kenya's managing director abused his office and violated the procurement laws and regulations in awarding a contract for estate management to Bonnkam Ventures Limited.

Further, on 20th January 2017 vide award letter ref PPCK/NKR/001/2017, he gave a Notice of Conditional Contract Award to a firm to offer estate management services without following due procurement process as required by the Public Procurement and Asset Disposal Act 2015.

In addition, the investigations revealed that he received Kshs. 363,773.50 advanced to him by the finance manager without following the provisions of regulation 93 of the Public Finance Management (National Government) Regulations 2015.

The EACC report forwarded to the DPP on 11th December 2018 recommended that the suspects be charged with:

- Financial misconduct by public officers contrary to Section 197(1)(o)(i) as read with Section 199 of the Public Finance Management Act
- Unlawful acquisition of public property contrary to Section 45 (1)(a) as read with Section 48(1) (a) of ACECA
- Willful failure to comply with the law and regulations relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) (a) of ACECA

The Commission further recommended that proceedings be instituted to recover the outstanding imprest of Kshs. 363,773.50 from the managing director and Kshs. 738,010 from the senior officials. Also,that the members of the evaluation committee be subjected to disciplinary measures in accordance with the State Department of Agriculture and or the PPCK disciplinary measures and the PPAD Act, 2015 pursuant to the provisions of Section 46(5) of the Public Procurement and Disposal Act, 2015.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out.

## STATUS

The file was returned to EACC on 12th March 2019 with directions that further investigations be carried out and the file resubmitted for further directions.

## 5. EACC/EL/INQ/57/2016 ODPP/CAM/018/5/1107

**Inquiry Into An Allegation Of Unethical Conduct Of An Assistant Director Of Education-Embu East Sub- County**

EACC investigations revealed that a Ministry of Education employee used fake academic certificates to earn a promotion to job group 'P'.

The criteria for selecting and promoting officers was not followed as stipulated in the Revised Scheme of Service for Education Officers. The officer misled the Public Service Commission in order to gain an edge over fellow candidates during the interview. At the time of interview, he did not have a Master's degree certificate.

Further, the investigations found that a senior lecturer at Mount Kenya University and the current dean of the School of Education, misled the Ministry of Education Principal Secretary by indicating that the candidate had completed his Master's degree and awaited graduation.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspects be charged with deceiving the Ministry of Education contrary to section 46(b) of the Leadership and Integrity Act, and giving false information to a person employed in the public service contrary to section 129(a) of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out before conclusive recommendations can be made.

### STATUS

The inquiry file was returned to EACC on 14th March 2019 with directions that further investigations be carried out along the identified areas and the file resubmitted for directions.

## 6. EACC/GSA/EI/INQ/10/2015 ODPP/CAM/018/5/1110

**Inquiry Into Allegations That The Former Principal Garissa University College Earned Double Salary From Both The University Of Nairobi And Garissa University For The Period Between February 2013 And November 2013**

EACC investigations revealed that a former Garissa University College Principal earned double salary from Garissa University and University of Nairobi from February 2013 to November 2013.In April 2014, he demanded his February 2013 to October 2013 salary and allowance arrears from Garissa University. He was paid even though he was still earning from the University of Nairobi.

Further,he was appointed Garissa University College Principal with effect from 14th February 2013.However, he failed to inform the University of Nairobi about the appointment. In April, 2014 Garissa University College paid his arrears as follows: salary Kshs.1, 022,330, house allowance Kshs.17, 673,responsibility allowance Kshs.108, 035, entertainment allowance Kshs.129, 321 and telephone allowance Kshs.76, 071. He thus earned double salary from the University of Nairobi and GarissaUniversity College from February 2013 to the month of November 2013.

The EACC report forwarded to the DPPA on 11th December 2018, recommended administrative action on the public officer for breach of Chapter Six of the Constitution and Public Officers Ethics Act and recovery of salary paid by the University of Nairobi.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out before conclusive recommendations can be made.

### STATUS

The inquiry file was returned to EACC on 5th March 2019 with directions that further investigations be carried out along the identified areas and the file resubmitted for further directions.

## 7. EACC/FI/INQ/59/2015 ODPP/CAM/015/5/434

**Inquiry Into Allegations Of Irregular Payment Of Kshs.30 Million To Redline Limited By Kenya Pipeline Company Through Their Account Domiciled At Commercial Bank Of Africa For The Supply, Installation And Commissioning Of Three Autotransformers Procured From AGECELEC Industry Of France**

EACC investigations revealed that Kenya Pipeline Corporation (KPC) procured autotransformers from M/s Agecelec Industries of France (AIF) through the local agent, M/s Redline Limited without following the relevant procurement law. It was also reported that KPC irregularly paid a sum of Kshs.30 Million to Redline Ltd.

Redline Limited did not install autotransformers neither did it commission any installation of the said autotransformers. Despite this, KPC in addition to paying for the value of the autotransformers supplied, paid Redline Ltd for the alleged "installation and commissioning of the said transformers" in the sum of Euros 8695.65 (translated to Kshs.112x8695.65=Kshs. 973,912.80, based on the then prevailing exchange rate).

The EACC report forwarded to the DPP on 28th October2015, recommended that the suspects be arraigned in court.

Upon perusal of the file, the DPP was satisfied that the evidence was sufficient to warrant prosecution of the suspects and directed that prosecution should ensue. However, the matter could not proceed in light of the decision in the Court of Appeal in Civil Appeal No. 102 of 2016: Eng. Michael Sistu Mwaura Kamau vs. EACC & 4 others.

Based on this decision, the DPP withdrew this case under section 87A of the Criminal Procedure Code on 24th October2017 and returned the file to the Commission vide a letter dated 30th October 2017 with directions that EACC re-investigates the matter afresh.

The Commission, having been properly constituted and in compliance with the aforesaid Court of Appeal decision, launched fresh investigations, recorded statements and obtained all the relevant documents.

Further investigations revealed that the public officers who were concerned with the management of public property authorised and approved payments without due diligence.

The EACC report forwarded to the DPP on 11th December 2018 recommended the following charges:

- Making of false document contrary section 347 (a) as read together with sections 349 of the Penal Code,
- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of ACECA and
- Abuse of office contrary to section 46 as read with section 48 (1) of ACECA.

Upon perusal of the file, the DPP directed that the file be returned for further investigations before giving a final decision in the matter.

### STATUS

The file was returned to EACC on 7th March 2019 with directions that further investigations be carried out and the file be resubmitted for further directions.

## 8. EACC/GSA/FI/INQ/05/2017 ODPP/CAM/018/5/1082

### Inquiry Into Allegations Of Theft Of Relief Food In Ijara Sub County By The Deputy County Commissioner, Ijara Sub County

EACC investigations revealed that the Deputy County Commissioner (DCC) Ijara Sub County misappropriated relief food received from the Directorate of Special Programmes. It is alleged that on the night of 7th February2017, the DCC sold rice meant for hunger stricken members of the sub county.

Further, the DCC was the person in charge of the store and was the custodian of the keys to the store. However he could not account for 78 bags of rice, 13 bags of beans and 5 bales of fortified food hence the reasonable presumption that he had misappropriated the food. Investigations also revealed that he forged the payment schedule to surrender the imprest purportedly applied to pay loaders.

The EACC report forwarded to the DPP on 24th October 2018 recommended the following charges:

- Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section (48) (1) of ACECA
- Giving a false document contrary to section 197 (1)(n) as read with section 199 of the Public Finance Management Act, 2012
- Forgery contrary to section 349 as read together with section 345-348 of the Penal Code
- False accounting contrary to section 331as read with section 331(2) of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 12th February 2019 with directions that prosecution ensues. The case Garissa ACC 1/2019 is ongoing.

### 9. EACC/F1/INQ/90/2016 oDPP/CAM/018/5/1093

**Inquiry Into Allegations Of Over Expenditure Of Kshs. 268,889,993 Under Vote Head 005501 Item 2630101 In The Financial Year 2015/2016 By Ministry Of Health**

EACC investigations revealed an over allocation of Kshs. 268,889,993 paid to Kenya Medical Training College (KMTC) under vote head 005501 item 2630101 in the financial year (FY) 2015/2016 at the Ministry of Health (MOH) based on an Internal Audit Report dated 29th August2016.

The internal auditor alleged in his report that the Ministry of Health had transferred more funds to KMTC than what was required. He noted a net of Kshs. 2,208,947,224 ought to have been transferred after deducting the Appropriation in Aid (AIA) of Kshs. 1,068,700,000.

He alleged that vote head 005501 item 2630101 to KMTC (current grants to semi-autonomous government agencies) had an over expenditure of Kshs. 268,889,993. It thus appeared to the auditor that the grant transferred was more than what was authorized (Kshs. 2,208,947,224).

Investigations further established that KMTC received a total of Kshs. 2,423,903,794 from MOH during the 2015/2016 financial year hence the reason why MOH is seen to have disbursed more than what was provided for in the FY 2015/2016 printed estimates. MOH had pending bills of Kshs. 184,078,935 since it had not paid KMTC the June2016 grant. Therefore, there was no evidence of misappropriation of funds on the part of either MOH or KMTC.

The EACC report forwarded to the DPP on 16th November 2018,recommended that the file be closed with no further action.

Upon perusal of the file and the evidence therein, the DPP found gaps and deficiencies and directed further investigations be carried out along the identified areas.

## STATUS

The inquiry file was returned to EACC on 14th March 2019 with directions that further investigations be carried out and the file resubmitted for directions.

### 10. EACC/EL/INQ/01/2018 ODPP/CAM/018/5/1078

**Inquiry Into Allegations That TheMember Of Parliament For Ugenya Constituency Forged A Letter Purportedly From Alfarooq Hospital, Mombasa And Used The Same Letter In A Petition Challenging His Election At The High Court In Kisumu**

EACC investigations revealed that the Member of Parliament for Ugenya Constituency, uttered a false affidavit in Election Petition No. 1 of 2017. He was elected the Member of National Assembly for Ugenya Constituency having contested for the position on an Orange Democratic Movement (ODM) ticket in the August 2017 General Elections. He emerged the winner and was given the certificate by the Returning Officer. His election was however contested by one of the candidates who filed an election petition. The Hon. MP did not file his response immediately meaning he was statutorily barred from filing a response to the petition. He however filed a Notice of Motion dated 25th September2017 seeking to have his response to the petition admitted out of time.

The Member of Parliament (MP) swore a supporting affidavit deposited on 23rd September 2017 stating that he was unwell and had been admitted from 6th to 13th September 2017 and by the time he was being discharged, time for filing his response to the election petition had lapsed. He attached a letter from Alfarooq Hospital dated 6th September 2017 to buttress his claim.

However, investigations established that the Hon. Member of Parliament was not sick and that he was never admitted at the alleged hospital. He thus deposited an affidavit with the intent of misleading the court.

The EACC report forwarded to the DPP on 16th October 2018 recommended the following charges against the MP:

- Forgery contrary to section 349 of the Penal Code

- Uttering false document contrary to section 353 as read with section 349 of the Penal Code
- Making a document without authority contrary to section 357(a) of the Penal Code, perjury contrary to section 108 (a) of the Penal Code and
- Providing misleading information contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out and the file resubmitted for directions..

## STATUS

The file was returned to EACC on 4th March 2019 with directions that further investigations be carried out and the file be resubmitted for further directions.

### 11. EACC/FI/INQ/55/2017 ODPP/CAM/018/5/1095

**Inquiry Into Allegations That The Principal Chania Girls' High SchoolPurchased 10 Computers At A Cost Of Kshs. 403,100Without Following Procurement Procedures**

EACC investigated complaints received on 9th July 2016 that the Principal Chania Girls High School procured 10 computers at a cost of Kshs. 403,100without following the procurement procedures.

It established that on 21st October 2015,the school advertisedfor goods and services in the daily newspaper under tender number CGHS/19/2016 for the supply of computer accessories. The school needed to refurbish its ICT infrastructure. Three suppliers presented their quotations.On 5th February 2016,The school's Procurement Committee evaluated the bids and awarded the contract to supply 10 computers to the lowest evaluated bidder which had quoted the cost of each computer at Kshs. 32,500.

The allegation against the Principal that she procured 10 computers at a cost of Kshs. 403,100 was untrue. However, the procurement procedure was not strictly adhered to.

The EACC report and forwarded to the DPP on 16th November 2018 recommended that the Principal be charged with willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48(1) (a) of ACECA and forgery contrary section 349 as read together with sections 345 – 348 of the Penal Code.

It further recommended that the Director of the winning bid be charged for corruptly giving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 (2) of the Bribery Act. The School Bursar and the Computer Studies Teacher be charged with corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 (2) of the Bribery Act.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out along the identified areas.

## STATUS

The inquiry file was returned to EACC on 8th March 2019 with directions that further investigations be carried out and the file resubmitted for further directions.

### 12. EACC/MSA/EL/INQ/14/2017 ODPP/CAM/018/5/1079

**Inquiry Into Allegations Of Unfair Dismissal Of A Former Employee By The Managing Director Coast Development Authority**

EACC investigated complaints received on 11th October 2017 from a former employee of Coast Development Authority (CDA) that he had been unfairly dismissed after lodging a complaint against the managing director of CDA at the EACC.

EACC established that on 10th October 2016, CDA board meeting resolved to dismiss the complainant as a project manager. The complainant instituted a court case disputing his dismissal which is still pending. However, the investigations did not establish any evidence against the managing director on the various accusations leveled against him.

The EACC report forwarded to the DPP on 16th October 2018,recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspect and directed that the investigation file be closed with no further action.

## STATUS

The file was returned to EACC on 4th December 2018 with directions that the file be closed.

### 13. EACC/ELD/FI/INQ/34/2015 ODPP/CAM/018/5/1095

**Inquiry Into An Allegations That The CEO & Chaplain Of Moi Teaching And Referral Hospital Demanded Bribes In Order To Employ Staff Of The Hospital Contrary To The Laid Down Hospital Regulations**

EACC investigated complaints received on 9th July 2015 alleging abuse of office by the Chief Executive Officer (CEO) and the Chaplain of Moi Teaching and Referral Hospital. Amongst the serious allegations identified were issues of corruption during staff recruitment through the office of the CEO.

The Complainant further alleged that in March 2015 he applied for an Information Communication Technology job at the hospital. He met the Chaplain who informed him that he had connections with the CEO who was in a position to employ him upon payment of Kshs. 150,000.

Investigations established that the Chaplain corruptly solicited and received money from the complainant promising to facilitate his employment at Moi Teaching and Referral Hospital.

The EACC report forwarded to the DPP on 16th October 2018, recommended that the suspect be charged with:

- Corruptly soliciting a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 of the Bribery Act
- Corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA as read with section 27 of the Bribery Act
- Obtaining money by false pretense contrary to section 313 of the Penal Code

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out.

## STATUS

The file was returned to EACC on 22nd November 2018 with directions that further investigations be carried out and that the file be resubmitted for further directions.

### 14. EACC/KSM/PI/2/2014 ODPP/CAM/018/5/1096

**Inquiry Into Allegations Of Irregularities In The Recruitment Of Staff Of The County Assembly By The County Assembly Service Board Of Busia County Government**

EACC investigated complaint received on 17th November 2014 alleging irregularities in the recruitment of staff of the County Assembly by the County Assembly Service Board of Busia County Government.

The investigations established that all recruited employees (110) applied, were shortlisted and interviewed apart from the 47 former employees of the defunct Local Authority who were subjected to a suitability test. There was no evidence indicating bribery, favoritism, or nepotism. However, regional balance was found to be a challenge. Nevertheless, implementation of the 1/3rd regional balance is a progressive rule to be attained over time.The County Assembly demonstrated willingness to implement it by setting measures to incorporate employees from other communities as proposed in the Justice and Legal Affairs Committee's report.

The EACC report forwarded to the DPP on 16th November 2018,recommended that the file be closed but issue an advisory to the County Government of Busia advising them on the identified loopholes and recommend ways to address them in recruitment processes.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out along the identified areas.

## STATUS

The inquiry file was returned to EACC on 1st January 2019 with directions that further investigations be carried out along the identified areas and the file re-submitted for further directions.

### 15. EACC/KIS/EL/INQ/14/2017 ODPP/CAM/018/5/1081

**Inquiry Into Allegations Of Abuse Of Office Against The Governor Of Nyamira County**

EACC investigated allegations that the Governor for Nyamira County disregarded the County Public Service Board's recommendation (CPSB) and unilaterally appointed the ICT chief officer.

The Governor, being the appointing authority, disregarded the CPSB that had not recommended the appointed candidates for the positions of Chief Officers. However, their names were forwarded to the County Assembly for approval and later appointed by the Governor as Chief Officers for Education & ICT and Transport Roads & Public Works respectively.

The EACC report forwarded to the DPP on 16th October 2018,recommended that the Governor be charged with abuse of office contrary to section 46 as read with section 48 of ACECA.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out.

### STATUS

The file was returned to EACC on 29th November 2018 with directions that further investigations be carried out in the identified areas and the file resubmitted for further directions.

### 16. EACC/MCKS/FI/NQ/43/2017 ODPP/CAM/018/5/1077

**Inquiry Into Allegations That Machakos County Assembly Members Were Paid Subsistence Allowance To Attend World Ploughing Competition In Bordeaux France In 2014 But Did Not Attend**

The Auditor General's Report on Financial Statements for the County Government of Machakos for the financial year ended 30th June 2015, indicated that some members of Machakos County Assembly were allegedly paid conference fee amounting to Kshs. 756,000 for World Ploughing Competition (WPC) in Bordeaux, France with each member being paid an amount of Kshs. 252,000being allowances.

EACC investigations established that the Agricultural Society of Kenya (ASK) wrote to the Speaker of County Assembly of Machakos, to facilitate travel for three members of the County Assembly nominated to attend a World Ploughing Contest in France.On 5th August 2014,it was resolved that the nominated members travel for the event in France. They travelled on 30th August 2014 and returned on 8th September 2014.However, instead of staying for eleven (11) days, they stayed for ten (10) days hence were supposed to refund the allowances for one extra day.

The EACC report forwarded to the DPP on 16th October 2018,recommended closure of the file. The Commission further recommended that the Machakos County Assembly recover the outstanding sum of Kshs. 6,752from the former Members of County Assembly.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the former Members of the County Assembly and directed that the investigation file be closed with no further action.

### STATUS

The file was returned to EACC on 20th December 2018 with directions that the file be closed and that outstanding monies be recovered.

### 17. EACC/ISL/FI/INQ/53/2016 ODPP/CAM/018/5/1076

**Inquiry Into Allegations Of Procurement Irregularity By The Managing Director Meru County Investment And Development Corporation In The Procurement Of Consultancy Services For The Refurbishment Of Meru County Hotel**

EACC investigated several allegations of corruption against the managing director (MD) of Meru County Investment and Development Corporation (Corporation).

Investigations revealed several irregularities in the public procurement of consultancy services for the detailed design, preparation of bidding documents and supervision of refurbishment of the Meru County Hotel. Further, procurement procedures were breached as provided in the PPDA and PPDR including using the wrong method of procurement and not applying the prescribed evaluation criteria.

The EACC report forwarded to the DPP on 16th December 2018, recommended that the suspects be charged in their capacity as Tender Committee Members with willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) as read with section 48 of ACECA.

It further recommended that the managing director be charged for willful failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of ACECA.

Upon perusal of the file, the DPP established sufficient evidence to warrant prosecution of the suspects and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 4th March2019 with directions that prosecution ensues.

### 18. EACC/FI/INQ/ELD/29/2018 ODPP/CAM/018/5/1086

**Inquiry Into Allegations Of Irregular Purchase Of Maize By Officials Of The National Cereals And Produce Board From Unscrupulous Businessmen**

EACC investigations revealed that officials of the National Cereals and Produce Board purchased maize from brokers and unregistered farmers not vetted to supply maize. It was reported that unscrupulous businessmen smuggled maize from a neighboring country and sold to the National Cereals and Produce Board (the Board) denying genuine farmers an opportunity to sell their maize.

Four traders covered in the investigations were allowed to supply maize without the requisite approvals as envisaged in the guidelines issued to the depot managers. The officers involved in the vetting exercise did not verify the information supplied by the purported farmers. The traders not only used a flawed vetting process but also abused the process further by supplying beyond the quantities stated in the irregular vetting forms.

The EACC report forwarded to the DPP on 6th November 2018, recommended that the suspects be jointly charged with:

- Willful failure to comply with the laws relating to the management of public funds contrary to section 45(2) (b) as read with section 48(1) of ACECA
- Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of ACECA
- Conspiracy to defraud the public contrary to section 317 of the Penal Code
- Neglect of official duty contrary to section 128 as read with section 36 of the Penal Code
- Abuse of office contrary to section 46 as read with section 48(1) of ACECA
- Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of ACECA
- Dealing with suspect property contrary to section 47(1) as read with section 47(2)(a) and 48(1) of ACECA

Upon perusal of the file, the DPP established sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 7th December 2018 with directions that prosecution ensues. The case Kisumu ACC 5/2018 is ongoing.

### 19. EACC/NYR/FI/INQ/33/2016 ODPP/CAM/018/5/1083

**Inquiry Into Allegation Of Irregular Procurement And Irregular Payment For Analyzing A Facebook Page For Kirinyaga County Government And The Governor In The Year 2013**

EACC investigations revealed an irregular payment of Kshs. 1,231,280 to a private company for offering a service of analyzing a Facebook page for the County Government of Kirinyaga. It is alleged that the County Government paid Kshs. 410,640on the 11th March 2013 for services which were offered between 27th July 2013 and 27th October 2013 while the contract was signed on 9th October 2013.

There was no budget or plan in the Financial Year 2012/2013. The tender awarded to the private company by the Tender Committee in their meeting held on 12th September 2013 was irregular.

The EACC report forwarded to the DPP on 24th October 2018, recommended that the Interim Head of Supply Chain Management and the Interim County Secretary be charged with :

- Willful failure to comply with the law relating to the protection of public property and revenue contrary to section 45 (2) (b) as read with section 48 of ACECA,

- Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA and

- Abuse of office contrary to section 46 as read with section 48(1) of ACECA.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out along identified areas.

## STATUS

The inquiry file was returned to EACC on 1st March 2019 with directions that further investigations be carried out and that the file resubmitted for further directions.

### 20. EACC/ISL/PI/INQ.43/2015 ODPP/CAM/018/5/1080

**Inquiry Into Allegations Of Irregular Procurement Of Tractors, Ploughs, Harrows, Planters And Mobile Driers By Samburu County Government Through Tender No. SCG/009/2014-2015**

EACC investigations revealed that the County Executive Committee Member (CECM) for Livestock and Agriculture in Samburu County Government embezzled public funds during the purchase of tractors. It is alleged that each tractor cost Kshs. 2.5 million but was bought at Kshs. 6 million each.

The Annual Procurement Plan for the Department of Agriculture, Livestock and Fisheries (ALF) for Financial Year 2014/2015 projected the purchase of six (6) tractors and implements through open tender at an estimated cost of Kshs. 41 million. It also projected purchase of one boom sprayer and six motorized mist sprayers at an estimated cost of Kshs. 1 million.

Investigations further established breaches in the procurement and payment process. The Chief Officer Finance who was the AIE holder and the Head of Supply Chain Management at Samburu County Government breached the PFM Act. The officers sanctioned and approved an unlawful payment.

The EACC report forwarded to the DPP on 16th October 2018, recommended that the suspects be charged for willful failure to comply with applicable law relating to procurement in tendering of contract contrary to section 45(2) (b) as read with section 48 of ACECA. In addition, that disciplinary action is carried out against the vote book accountant and the authorizing or approving officer for breach of the PFM Act.

Upon perusal of the file, the DPPfound sufficient evidence to warrant prosecution of the suspects with the proposed charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 14th March 2019 with directions that prosecution ensues.

### 21. EACC/FI/69/2018 ODPP/CAM/018/5/1094

**Inquiry Into Allegations Of Irregular Withdrawal Of Kshs. 26.1 Million From The Imprest Account Number 1141515873 Held By The County Government Of Wajir At The Kenya Commercial Bank, Wajir Branch Without Supporting Documents Through Cheques Numbers 007482 To 007487 Signed By One Signatory**

EACC investigations revealed that County Government of Wajir officials collaborated with Kenya Commercial Bank (KCB) officialsto fraudulently withdraw public funds amounting to Kshs. 26.1 million from the imprest account number 1141515873 held by the County Government at the KCB Wajir Branch.

TheFinance County Executive Committee Member (CECM) wrote a letter unlawfully introducing the Head of Treasury as the sole signatory to the imprest account. Based on the authority, he collected and signed six cheques and presented toKCB for payment. The branch manager authorized the withdrawal of Kshs. 26.1 million. The money was never surrendered at the cash office but was embezzled.

The EACC report forwarded to the DPP on 23rd November 2018, recommended charges against the CECM – Finance and Planning, County Secretary and Head of Public Service, Head of Treasury and Economic Advisor to the Governor and Branch Manager, Kenya Commercial Bank Wajir Branch. The proposed offences included:

- Conspiracy to commit an economic offence contrary to Section 47A (3) as read with section 48 (1) of ACECA

- Abuse of office contrary to Section 46 as read together with Section 48 of ACECA
- Willful failure to comply with the law relating to management of public property contrary to Section 45(2) (b) as read with Section 48(1) (a) of ACECA
- Willful failure to comply with the law relating to custody of public property contrary to Section 45(2) (b) as read with Section 48(1) (a) of ACECA
- Unlawful acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Forgery contrary to section 347(a) as read with section 349 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 24th November 2018 with directions that prosecution ensues. The matter Milimani ACC 47/2018 is ongoing.

### 22. EACC/EL/INQ/50/2017 ODPP/CAM/018/5/1105

**Inquiry Into Allegations That A Gubernatorial-Candidate In Taita Taveta County Had Forged Academic Certificates**

EACC investigations revealed that a Wiper Party ticket gubernatorial candidate for Taita Taveta County forged his academic certificates.

The aspirant submitted a self-declaration form to the Commission as required for all candidates. He attached his academic certificates purportedly acquired from Kenyatta University. However, the investigations established discrepancies in the documents attached to the self-declaration form submitted to the Commission and the records at Kenyatta University. The aspirant engaged in acts of forgery, uttered false documents and contravened provisions of the Leadership and Integrity Act.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspect be charged with providing false information contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act, Cap 182 and uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out.

## STATUS

The file was returned to EACC on 6th February 2019 with directions that further investigations be carried out and that the file be resubmitted for directions.

### 23. EACC/OPS/INQ/41/2018 ODPP/CAM/018/5/1114

**Inquiry Into Allegations Of Bribery Against A Kenya Revenue Authority Employee**

EACC investigations revealed that a revenue officer at the Kenya Revenue Authority (KRA) requested a Kshs. 150,000 financial benefit to cover penalty of Kshs. 500,000 accruing from the complainant's failure to file rental tax returns for the year 2016 and 2017.

The suspect was arrested in a trap operation after receiving Kshs. 100,000. The evidence gathered revealed that the suspect had indeed requested for a financial benefit of Kshs. 150,000.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the proposed charges and directed that prosecution ensues.

## STATUS

The file was returned to EACC on 5th February 2019 with directions that prosecution ensues .The case Milimani ACC 10/2014 is ongoing.

### 24. CASE FILE REF. NO. 755/284/2018 ODPP/CAM/018/5/1108

**Inquiry Into Allegations Of Corruption Levelled Against An Officer Serving In The Judiciary And Stationed At The Nanyuki Law Courts**

EACC investigations revealed that a clerical officer employed by the Judicial Service Commission stationed at the Nanyuki Law Courts demanded Kshs. 10,000 to facilitate verification of title deeds for use as security/ surety for the release of a person from custody pending trial.The suspect was arrested during a trap operation after receiving the bribe money of Kshs. 10,000/-.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 and abuse of office contrary to Section 46 as read together with Section 48 of ACECA.

Upon perusal of the file, the DPPfound sufficient evidence to sustain the charges recommended by EACC and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 31st January 2019 with directions that prosecution ensues.

### 25. EACC/NYR/OPS/INQ/3/2018 ODPP/CAM/018/5/1109

**Inquiry Into Allegations Of Corruption Against An Officer Serving In The Ministry Of Transport, Infrastructure, Housing And Urban Development**

EACC investigations revealed that a senior clerical officer at the Ministry of Transport, Infrastructure, Housing and Urban Development, based at the Ministry's regional office in Nyeri, demanded a Kshs. 5,000bribe to assist the complainant in tracing her late father's Personnel File and furnishing her with the requisite information.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016 and abuse of office contrary to Section 46 as read with Section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 20th February 2019 with directions that prosecution ensues. The matter Nyeri ACC 1/2018 is ongoing.

### 26. EACC/OPS/INQ/57/2017 ODPP/CAM/018/5/1117

**Inquiry Into Allegations Of Conspiracy To Commit An Economic Crime Against A GSU Officer During A Police Recruitment Exercise At The CID Training School, South C In Nairobi**

EACC investigated the matter following surveillance conducted during the countywide police recruitment that was held on 11th May 2017. Officers from the Commission covertly monitored the exercise to arrest those found engaging in corrupt practices. One of the recruitment centres was the DCI Training School, at South C (Recruitment Centre).

During the surveillance a police constable from the General Service Unit attached to the Sports office at the Police Headquarters was spotted in a telephone conversation with someone. Investigations established that this police officer had been spotted receiving money from a person in a suspicious transaction. The said officer and two other persons were arrested and search was Kshs. 148,200 recovered from the officer. They were later released on cash bail after recording their statements.

The EACC report forwarded to the DPP on 11th December 2018, recommended that administrative action be taken against the officer.

Upon perusal of the file, the DPP found insufficient evidence to sustain prosecution of the suspect and directed that administrative action be taken against him.

**STATUS**

The file was returned to EACC on 22nd February 2019 with directions that the matter is dealt with administratively.

## 27. EACC/ELD/OP/11/2018 ODPP/CAM/018/5/1113

**Inquiry Into Bribery Allegations Against A Police Officer Attached To Olngatongo Police Post**

EACC investigations revealed that police officers at Olngatongo Police Post seized and detained livestock and demanded a Kshs. 29,500 bribe to release them. The suspect was arrested during a trap operation after receiving Kshs. 20,000 bribe.

The EACC report forwarded to the DPP on 29th November 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 already pending in court be prosecuted to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to support the proposed charges and directed that the case pending before the court should proceed to logical conclusion.

### STATUS

The file was returned to EACC on 11th February 2019 with directions that prosecution ensues. The case is ongoing.

## 28. EACC/ISL/OPS/8/2018 ODPP/CAM/018/5/1089

**Inquiry Into Allegations That A Police Officer Based At Maua Police Station In Meru County, Requested For A Bribe Of Kshs. 5,000 So As To Release A Driving License, National Identity Car And Equity Bank ATM Card That He Had Confiscated From A Taxi Operator In Meru Township**

EACC investigations revealed that a police officer based in Maua requested a Kshs. 5,000 bribe to release a driving license, national identity card and ATM Card that he had confiscated from a taxi operator in Meru Township.

The suspect solicited for Kshs. 5,000 and later on reviewed downwards to Kshs. 2,000. However, the operation was not successful since the suspect did not receive the money.

The EACC report forwarded to the DPP on 21st November 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found insufficient evidence to sustain the proposed charges and directed that the file be closed.

### STATUS

The file was returned to EACC on 31st January 2019 with directions that the file be closed.

## 29. EACC/ISL/OPS/INQ. 7/2018 ODPP/CAM/018/5/1103

**Inquiry Into Allegations Of Requesting For And Receipt Of A Financial Advantage By A Clerical Officer In The Registration Of Persons South Imenti Office, Meru County**

EACC investigations revealed that a clerical officer at the Registration of Persons, Imenti South Office requested a Kshs. 200 bribe in order to facilitate the issuance of a national identity card (ID) to an applicant who is the complainant.

A trap operation was organised which established that the suspect had solicited and received Kshs. 200/-.

The EACC report forwarded to the DPP on 21st November 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

Upon perusal of the file, the DPP found insufficient evidence to base any criminal charge and directed that the case in court be withdrawn and the accused be dealt with administratively.

### STATUS

The file was returned to EACC on 5th March 2019 with directions that the case pending in court be withdrawn and that the suspect be dealt with administratively.

### 30. EACC/OPS/INQ/138/2017 ODPP/CAM/018/5/1091

**Inquiry Into Allegations Of Bribery Against Traffic Police Officers Based At The Athi River Weighbridge Police Station**

EACC investigations revealed that a traffic police officer at Athi River Weighbridge Police Station, requested a Kshs. 10,000 financial benefit as inducement to forbear charging the complainant with over speeding.

A trap operation established that the suspect solicited for Kshs. 10,000 and received Kshs. 2,000culminating to his arrest.

The EACC report forwarded to the DPP on 16th November 2018, recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out.

**STATUS**

The file was returned to EACC on 13th December 2018 with directions that further investigations be carried out and the file resubmitted for further directions.

### 31. EACC/MKS/OPS/INQ/7/2016 ODPP/CAM/018/5/1092

**Inquiry Into Allegations Of Corruption Against An Employee Of The National Police Service**

EACC investigations revealed that traffic police officers at Salama Police Station detained a lorry belonging to a businessman ferrying goods from Mombasa to Nairobi. The police officers alleged that the lorry did not have the relevant documents for transporting goods and demanded a Kshs. 10,000 bribe from the driver to facilitate the release.

A sting operation conducted culminated in the arrest of an employee of the Ministry of Interior and Co-ordination of National Government – National Police Serviceafter he received Kshs. 15,000/- treated money.

EACC compiled a report and forwarded to the Director of Public Prosecutions on 16th November 2018 recommending the case pending before the court against the suspect for soliciting for a benefit and receiving a benefit contrary to section 39 as read with section 48 of ACECAproceeds to logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 10th December 2018 with directions that the case against the accused persons pending before court proceeds to logical conclusion. The case Machakos ACC no 4/2016 is ongoing.

### 32. EACC/MCKS/OPS/INQ/01/2018 ODPP/CAM/018/5/1088

**Inquiry Into Investigations In Respect Of Allegations Of Receiving A Bribe Against An Assistant Chief Attached To Kamukuti Sub-Location In Kitui County**

EACC investigations revealed that an Assistant Chief attached to Kamukuti Sub-Location, Kitui County demanded Kshs. 1,000 from a couple in order to fill a form from Kenya Electricity Transmission Company Ltd. (KETRACO) towards compensation in favour of the complainant.

A trap operation organised established that the suspect solicited for and received Kshs. 1,000 culminating to his arrest.

The EACC report forwarded to the DPP on 16th November 2018, recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016 proceeds to its logical conclusion.

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations be carried out.

**STATUS**

The file was returned to EACC on 7th December 2018 with directions that further investigations to be carried out and the file resubmitted for further directions.

### 33. EACC/NKR/INQ/OPS/12/2017 ODPP/CAM/018/5/1090

**Inquiry Into Allegations Of Receiving A Benefit Contrary To Section 6(1) (A) As Read With Section 18 Of The Bribery Act No. 47 Of 2016**

EACC investigations revealed that some land officials at the Narok Lands Registry at Narok County Lands Registry solicited for Kshs. 54,000 from an applicant to facilitate a Self Help Group to obtain the Land Control Board (LCB) letter of consent.

A trap operation organised established that the suspect solicited for Kshs. 30,000 and received Kshs. 20,000 culminating to the arrest of three land officials.

The EACC report forwarded to the DPP on 16th November 2018, recommended that the officials be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act no. 47 of 2016and concealing evidence contrary to section 66(1(c) as read with section 66(2) of ACECA.

Upon perusal of the file, the DPPfound gaps and deficiencies and directed that further investigations be carried out.

**STATUS**

The file was returned to EACC on 20th February 2019 with directions that further investigations be carried out and the file resubmitted for further directions.

### 34. EACC/ELD/OPS/INQ/12/2018 ODPP/CAM/018/5/1087

**Inquiry Into Bribery Allegations Against A Police Officer Of Nyayo Police Patrol Base-Trans-Nzoia County**

EACC investigated reports that a police officer attached to Nyayo Police Patrol base solicited a Kshs. 10,000 benefit from the complainant threatening to arrest his wife if he defaulted.

A trap operation organised established that the suspect solicited for Kshs. 10,000 and received Kshs. 5,000 culminating to his arrest.The recorded conversation did not establish the police officer demanding a bribe. However, the officer exceeded and abused his powers by arresting and placing the complainant in custody without following the procedures under the National Police Service Act and the applicable Service Standing Orders.

The EACC report forwarded to the DPP on 16th November 2018, recommended that appropriate disciplinary action be taken by the officer.

Upon perusal of the file, the DPP found insufficient evidence to sustain prosecution and directed that administrative action be taken against the suspect.

**STATUS**

The file was returned to EACC on 31st January 2019 with directions that the matter be dealt with administratively.

### 35. EACC/MSA/OPS/INQ/33/2018 ODPP/CAM/018/5/1068

**Inquiry Into Allegations That A Businessman Offered A Bribe Of Kshs. 5 Million To The Governor Nairobi City County So As To Allow Construction Of A Hotel Known As Grand Manor Without Requisite Building Approvals From The Nairobi City County Government**

EACC investigated complaints by the Governor of Nairobi County that a businessman and proprietor of Grand Manor Hotel offered him a Kshs. 5,000,000 bribe to allow him continue constructing his Hotel built on LR No. 91/239,and whose construction had been stopped by the County Government of Nairobi City on 16th August 2018.

The suspect was arrested after a sting operation established that he offered and gave Kshs.1 million.

The EACC report forwarded to the DPP on 16th October 2018, recommended that the businessman be charged with offering a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that prosecution ensues.

**STATUS**

The file was returned to EACC on 12th March 2019 with directions that prosecution ensues. The matter Mombasa ACC 10/2018 is ongoing.

### 36. EACC/OPS/INQ/146/2018 ODPP/CAM/018/5/1074

**Inquiry Into Allegations Of Bribery Against An Assistant Chief In Donholm Location And A Village Elder**

EACC investigated reports that an assistant chief and a village elder in Donholm location requested a Kshs. 1,000financial benefit as inducement to release the complainant's household items.A trap operation organised did not establish any solicitation or receipt of a bribe from the suspect.

The EACC report forwarded to the DPP on 16th October 2018, recommended that the inquiry file against the suspects be closed with no further action for lack of evidence to sustain any charge.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution of the suspects and directed that the investigation file be closed with no further action.

**STATUS**

The file was returned to EACC on 14th December 2018 with directions that that the file be closed.

### 37. EACC/ISL/OPS/18/2017 ODPP/CAM/018/5/112

**Inquiry Into Allegations That The Officer Commanding Maralal Police Station Demanded A Benefit Of Kshs. 30,000 To Release Two Betting Machines Confiscated From A Business Man In Maralal Township**

EACC investigated reports that the Officer Commanding Police Station (OCS), Maralal Police Station in Samburu County requested a Kshs. 30,000/- bribe from a businessman to release two betting machines confiscated from his business premises as well as malicious damage.

A trap operation conducted on 17th July 2017 was unsuccessful. However, investigations established that the suspect had solicited Kshs. 30,000, which was negotiated to Kshs. 20,000.

The EACC report forwarded to the DPP on 11th December 2018, recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be undertaken.

**STATUS**

The file was returned to EACC on 29th January 2019 with directions that further investigations and the file resubmitted for further directions.

### 38. CR.NO.421/128/2018 ODPP/CAM/018/5/1073

**Inquiry Into Allegations Of Requesting And Receiving A Bribe By The Director Procurement Tharaka Nithi County**

EACC investigated reports that the director of procurement Tharaka Nithi County requested a Kshs. 40,000financial benefit from a businessman as inducement to prequalify his company in the list of prequalified bidders.

Investigations established that the officer received Kshs. 20,000 from the complainant. However, there was no evidence of solicitation and it appeared that he was entrapped.

The EACC report forwarded to the DPP on 16th October 2018,noted that the evidence was insufficient,and recommended that prosecution commenced against the suspect be terminated and administrative action be instituted. In addition,the complainant be investigated with a view of charging him with the offence of offering a bribe contrary to section 5 as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP found insufficient evidence to base any criminal charges and directed that the case in court, ACC No. 1 of 2018 be withdrawn and administrative action be taken against the suspect.

**STATUS**

The file was returned to EACC on 23rd November 2018 with directions that the case be withdrawn and that administrative action be taken against the suspect.

### 39. EACC/ELD/OP/15/2017 ODPP/CAM/018/5/1069

**Inquiry Into Allegations Against The National Land Commission Coordinator - Trans-Nzoia County**

EACC investigated reports that Trans-Nzoia County's National Land Commission (NLC) coordinator demanded a Kshs. 300,000bribe to facilitate the issuance of a lease certificate to the complainant.

The suspect was arrested after a trap operation established that he solicited and received Kshs. 100,000.

The EACC report forwarded to the DPP on 3rd October 2018, recommended that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out.

**STATUS**

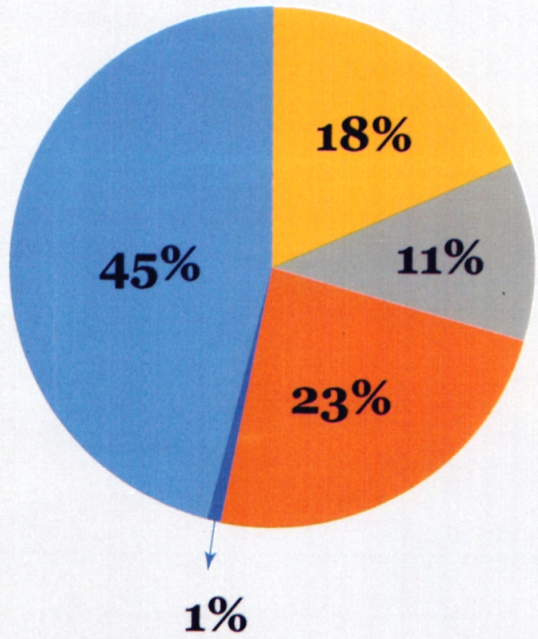
The file was returned to EACC on 17th December 2018,directing that further investigations be carried out and the file re-submitted for further directions.

## 3.5 Cases Forwarded to ODPP by EACC Between 1st January to 31st December 2018.

| EACC inquiry files submitted: 1st January to 31st December 2018. | | Quarters | | | |
|---|---|---|---|---|---|
| **S/no** | **Particulars** | **2nd** | **3rd** | **4th** | **Total** |
| 1 | Files where DPP directed prosecution to ensue | 47 | 27 | 11 | **85** |
| 2 | Files where DPP directed further investigations | 9 | 14 | 20 | **43** |
| 3 | Files where DPP directed administration action & other actions | 8 | 9 | 4 | **21** |
| 4 | Files where DPP directed closure | 21 | 9 | 4 | **34** |
| 5 | Files where DPP directed withdrawal | 2 | 0 | | **2** |
| 6 | Files where awaiting DPP's action | 0 | 9 | 4 | **1** |
| 7 | Files concluded with acquittal | 2 | 0 | | **2** |
| 8 | Files concluded with conviction | 1 | 1 | | **1** |
| 9 | Files retained for further review | 1 | | | **1** |
| | **Total number of inquiry files submitted by EACC to ODPP** | **91** | **60** | **39** | **190** |

## Figure: DPP's Directions on File forwarded by EACC

**Statistical Summary of Cases forwarded to ODPP by EACC between 1st January to 31st December 2018**




- Files where DPP directed Prosecution to ensue
- Files where DPP directed further investigations
- Files where DPP directed Administration & other action
- Files where DPP directed Closure
- Files where DPP directed withdrawal

**39**

Inquiry files received from EACC in the 4th quarter

**11**

Inquiry files where DPP directed Prosecution to Ensue (4th quarter)

**190**

Inquiry files received from EACC in 2018

**20**

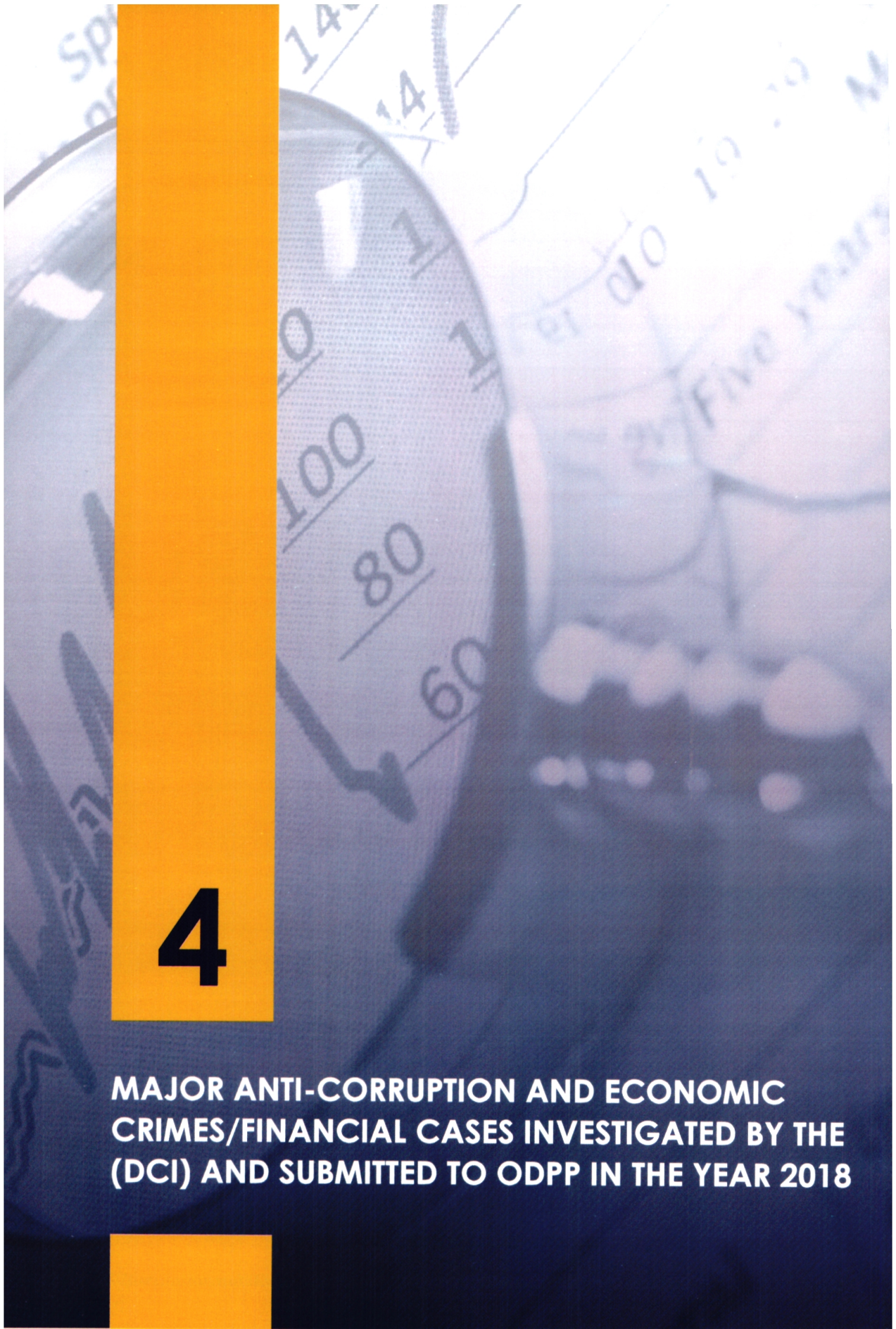
Inquiry files where DPP directed further investigations (4th quarter)

**85**

Inquiry files where DPP directed Prosecution to Ensue

**43**

Inquiry files where DPP directed further investigations



# 4

# MAJOR ANTI-CORRUPTION AND ECONOMIC CRIMES/FINANCIAL CASES INVESTIGATED BY THE (DCI) AND SUBMITTED TO ODPP IN THE YEAR 2018

## 4.0 MAJOR ANTI-CORRUPTION AND ECONOMIC CRIMES/FINANCIAL CASES INVESTIGATED BY THE DIRECTORATE OF CRIMINAL INVESTIGATION (DCI) AND SUBMITTED TO THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN THE YEAR 2018

Article 244 (b) of the Constitution of Kenya 2010, mandates the National Police Service to prevent corruption and promote transparency and accountability. The DCI as established under Section 28 of the National Police Service Act is under the direction, command, and control of the Inspector General of the National Police Service. Relatable, the functions of the DCI as outlined in Section 35 of this Act, include undertaking investigations on serious crimes such as money laundering and economic crimes.
Therefore, the Constitution mandates the DCI to prevent corruption and investigate possible corrupt acts.Indeed the DCI has been investigating corruption related offences and recommending charges under the Penal Code and other legislations save for ACECA. For instance the NYS 1 and 2 cases among others. The DCI and EACC have concurrent mandate to investigate corruption matters.

### 4.1 Inquiry Files Submitted by the Directorate of Criminal Investigations (DCI) To ODPP in the Year 2018 to 23rd May2019

**1. SCU INQUIRY FILE NUMBER 102/2017 ODPP/CAM/018/5/922**

**Inquiry Into Allegations Of Suspected Fraud Of Kshs. 605,583,394 And Money Laundering Involving Payments Made By The Ministry Of Environment Water And Natural Resources To 18 Companies Owned By An Employee Of The National Treasury**

The DCI investigated reports by the Interim Director General FRC that they suspected fraudulent transactions of Kshs. 605,583,394 and money laundering involving payments made by the ministry to companies owned by an employee of the National Treasury in respect of goods and services rendered to the Ministry through tenders awarded to companies owned by the said employee.

Investigations established that all payments made by the ministry to the companies under investigation supplied goods and services during the period under review and they complied with standard government procurement procedures and therefore found no culpability on the said employee.

The DCI communicated their investigation findings to the DPP vide letter dated 17th May 2018 recommending that the file be closed for lack of evidence.

Upon Perusal of the file, the DPP found gaps and deficiencies that needed further investigations.

**STATUS**

The file was returned to DCI on 1st November 2018 with directions that further investigations be undertaken and that the file be resubmitted for further directions.

**2. DCI INQUIRY FILE NUMBER 118/2018 ODPP/CAM/018/5/1053**

**Inquiry Into Allegations Of Importation Of Substandard Potassium Nitrate Fertilizer**

The DCI investigated reports that a Nairobi based company imported 12,000 bags of substandard Potassium Nitrate fertilizer into the country from Belgium.

Investigations established that the 12,000 bags were released into the Kenyan market before results of the laboratory test by Kenya Bureau of Standards was released. The results from KEBS revealed that the sample tested failed in total nitrogen and was therefore substandard and should not have been released into the market.

The DCI communicated their investigation findings to the DPP vide letter dated 18th September 2018, recommending that some officers from Customs Office, KRA, KEBS and the importer be charged with several offences including:

- Disobedience of lawful statutory duty contrary to section 130 of the Penal Code
- Issuing a false certificate by public officers contrary to section 102 of the Penal Code
- Entering into an agreement to release substandard goods contrary to section 200 of the East African Community Customs Management Act
- Neglect to prevent a felony contrary to section 243 of the Penal Code

Upon Perusal of the file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

### STATUS

The file was submitted to DCI on 19th September2018 with directions that that prosecution ensues. The matter is registered in court vide Milimani Criminal Case No. 1781 of 2018 and is ongoing.

## 3. DCI INQUIRY FILE NUMBER 171/2016 ODPP/CAM/018/5/1100

**Inquiry Into Allegations Of Fraudulent Appointment/Registration Of A Director/ Shareholder And Misappropriation Of Park Towers Limited Assets**

The DCI investigated complaints by directors of Park Towers Limited that one of its shareholders had fraudulently filed a return in the year 2002 in which he appointed himself as a director and allotted himself 9,998 shares without their knowledge.

Investigations established that the complainants had no genuine claim as the assertions were based on false allegations, which they failed to substantiate against the suspect, and such complaints did not disclose a criminal aspect.

The DCI communicated their findings to the DPP vide letter dated 23rd November 2018 recommending that the complainant and his accomplices be charged with the following offences namely:

- Giving false information to a person employed in the public service
- Making false documents
- Uttering false documents and
- Preparation to commit a felony

The DCI further recommended that the complainant should pursue his claims over directorship through civil remedy.

Upon Perusal of the file, the DPP found gaps and deficiencies that needed further investigations. The areas were covered and file resubmitted on 22nd February 2019. The DPP then found sufficient evidence to sustain the prosecution of the suspects and directed that prosecution ensues.

### STATUS

The file was returned to DCI on 27th February 2019 with directions that prosecution ensues. The matter was registered in court vide Milimani Criminal Case No. 405/2019 and is ongoing.

## 4. DCI INQUIRY FILE NUMBER. 121/42/2018 ODPP/CAM/018/5/1027

**Inquiry Into Allegations Of Importation And Clearance Of Substandard Brown Sugar Custom Entry Number 2018MSA6935720 And 2018MSA6935697 From Egypt**

The DCI investigated reports that substandard brown sugar imported from Egypt by a company Florah Bakers Limited had been released into the country by a letter from KEBS indicating that the sugar had undergone laboratory tests and failed. The sugar was marked for testing following a random surveillance.

Investigations established that officials from KEBS and Kenya Ports Authority unlawfully released 5000*50kg bags of substandard Egyptian brown sugar into the Kenyan market despite having failed standard tests of quality.

The DCI communicated their findings to the DPP vide letter dated 16th August 2018, recommending that the suspects be charged with the offences of abuse of office and conspiracy to defraud.

Upon Perusal of the file, the DPP found gaps and deficiencies that needed further investigations.

### STATUS

The file was returned to DCI on 18th August 2018 with directions that the areas identified are investigated further and that the file be resubmitted for directions.

## 5. DCI INQUIRY FILE NUMBER 62/2016 ODPP/CAM/018/5/996

**Inquiry Into Allegations Of Fuel Theft By Unknown Persons Valued At Kshs 1,362,957 That Was Consumed By The Office Of The County Director And TVET Kisumu County During Financial Year 2014/2015**

The DCI investigated reports that the secretary to the County Director TVET Kisumu County defrauded the Ministry of Education Kshs. 1,362,957 through theft of a detail order booklet. The secretary is alleged to have signed detail orders for fueling motor vehicles belonging

to the Ministry of Education despite having no authority to do so.

The investigations established that the suspect fraudulently and unlawfully signed and presented to Berlin Equipment Limited detail orders amounting to Kshs 1,362,957 for supply of fuel to the Ministry of Education in Kisumu without authority to do so. The company that had been procured to supply the fuel did not have a fuel station and would thus not have been able to supply fuel to the Ministry.

The DCI communicated their findings to the DPP on 9th July 2018, recommending that the secretary to the County Director TVET be charged with the offence of stealing by servant contrary to section 283 of the Penal Code in relation to fuel lost due to her own actions.

Upon Perusal of the file, the DPP found gaps and deficiencies that needed further investigations.

## STATUS

The file was forwarded DCI on 27th September 2018 with directions that further investigations be undertaken and that the file be resubmitted for further directions.

## 6. DCI INQUIRY FILE NUMBER 6/2017 ODPP/CAM/018/5/857

### Inquiry Into Allegations Of Fraud In Supply And Distribution Of Sugar To Kenyatta National Hospital

The DCI investigated reports that 300 bags of sugar (50kg each) were partially delivered to Kenyatta National Hospital.

The investigations established that KNH issued an LPO for the supply of 300 bags of sugar. However there was a lot of inconsistency in the witness statement on how many bags were received by KNH. DCI concluded that there was no clear evidence to support the allegations.

The DCI communicated their findings to the DPPon 12thFebruary 2018, recommending that the file be closed with no further police action.

Upon Perusal of the file, the DPP found gaps and deficiencies that needed further investigations.

## STATUS

The file was returned to the DCI on 12th March 2018 with directions that further investigations be undertaken.

## 7. DCI INQUIRY FILE NUMBER 120/2018 ODPP/CAM/018/5/1097

### Inquiry Into Allegations Of Various Corruption Scandals Within The National Hospital Insurance Fund

The DCI investigated reports of misappropriation of public funds, irregular award of tenders, irregular extension of contracts for provision of integrated revenue collection services and unlawful payment of commissions to Webtribe Limited trading as Jambo Pay by NHIF.

The investigations established that the Integrated Revenue Collection System was neither factored in the procurement plan for the financial year 2013/2014 nor the supplementary procurement plan approved by the board of management. Further, NHIF breached procurement laws by single sourcing for the system from Webtribe Limited and failing to notify the unsuccessful bidders who had tendered for the same bid. The CEO extended the contract for one year despite the flawed procurement process that led into the contract.

The DCI communicated their findings to the DPPvide letter dated 19th November 2018, recommending that the suspects be charged with various criminal offenses including:

- Engaging in a project without prior planning contrary to section 45 (2)(c) as read with section 48 of ACECA
- Willful failure to comply with the law relating to procurement contrary to section 45 (2)(b) as read with section 48 of ACECA
- Abuse of office contrary to section 46 as read with section 48 of ACECA, deceiving a principal contrary to section 41(2) as read with section 48 of ACECA
- Knowingly withholding notification to unsuccessful tenderers contrary to section 176(1) of the Public Procurement and Asset Disposal Act 2015

- Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of ACECA

Upon Perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed the prosecution ensues.

## STATUS

The file was submitted to DCI on 6th December 2018 with directions that prosecution ensues. The matter is registered in court vide Milimani ACC No. 48/2018 and is ongoing.

## 8. DCI INQUIRY FILE NUMBER 58(B)/2018 ODPP/CAM/018/5/974

### Inquiry Into Allegations Of Misappropriation Of Funds And Irregular Awarding Of Tenders At Nairobi City County Assembly

The DCI investigated formal complaints by the Speaker of Nairobi County Assembly on 11th June 2018, alleging payment of undelivered goods and services, double payments to suppliers, supply of goods and services at exaggerated prices and endless payment to contractors.

The investigations established that no books were procured and delivered at the Nairobi County Assembly's Resource Centre. That further, there had been deliberate attempts to misrepresent the true facts in an effort to defraud the Nairobi County Assembly Kshs. 997,926.

The DCI report forwarded to the DPP on 9th July 2018 recommended that various County Government officials be charged with the following offences:

- Conspiracy to defraud contrary to Section 317 of the Penal Code
- Abuse of office contrary to Section 101 (2) as read with section 36 of the Penal Code
- Stealing contrary to Section 279 (2) of the Penal Code undue influence contrary to section 176 (1) (d) of the Public Procurement and Disposal Act, 2015
- Conflict of interest contrary to Section 42 (1) of the Anti – Corruption and Economic Crimes Act, 2003

Upon perusal of the inquiry file and the evidence contained therein, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

## STATUS

The file was returned to DCI on 24th August 2018 with directions that prosecution ensues. The matter was filed in court vide Milimani ACC. 36 OF 2018, duly prosecuted and the accused were acquitted under Section 210 of the Criminal Procedure Code on the 12th February2019. The DPP filed an appeal against the acquittal which is currently pending before the High Court.

## 9. DCI INQUIRY FILE NUMBER 58 (C)/ 2018 ODPP/CAM/018/5/1016

### Inquiry Into Allegations Of Double Payments To Touchdown Tours Ltd Company By The Nairobi City County Assembly

The DCI investigated allegations of improper payments to Touchdown Tours Ltd.,one of the companies offering ticketing services for Nairobi County Assembly.

The investigations established double payment to Touchdown Tours Ltd Company by having the same payment vouchers approved and paid twice. This anomaly was detected by an internal audit showing laxity on the accounting department officers.

The DCI report forwarded to the DPP on 16th July2018,recommended that various county government officers be charged with failure to keep records contrary to Section 197 (1) (l) as read with Section 199 of the Public Finance Management Act and making improper payment contrary to Section 197 (1) (o) as read with Section 199 of the same Act.

Upon perusal of the inquiry file and the evidence contained therein, the DPP found gaps that needed further investigations.

## STATUS

The file was returned to the DCI on 20th September 2018 with directions that further investigations be carried out and that the file be resubmitted for further directions.

## 10. DCI INQUIRY FILE NUMBER 141/309/2018 ODPP/CAM/018/5/1052

**Inquiry Into Files Related To Allegations That A Senior Principal Administrative Officer In The Office Of The Director Of Public Prosecutions Abused His Office By Arbitrarily Directing The Use Of A Fuel Card For The Purchase Of Fuel, Lubricants And Pit Stop Services Valued At Kshs. 7,902,250.28**

The DCI investigated reports by the Transport Fuel and Management Audit team from the ODPP that revealed various irregularities relating to the management of transport fuel by the Senior Principal Administrative Officer, which caused loss to the ODPP amounting to Kshs. 7,902,250.28.

The report forwarded to the DPP recommended that the suspect be charged with abuse of office contrary to Section 101 (1) as read with 102 A of the Penal Code and stealing by a person employed in the public service contrary to Section 280 of the Penal Code.

Upon perusal of the inquiry file and the evidence contained therein, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The case ACC 40 of 2018 is ongoing.

## 11. DCI INQUIRY FILE CR NO. 121/439/2018 ODPP/CAM/019/5/1119

**Inquiry Into Allegations Of Conspiracy To Defraud The Government Of Kenya Revenue By Concealing Import Goods Of Nine (9) Containers Containing Hayat Palm Oil, Olein Brand Of Cooking Oil**

The DCI investigated allegations to defraud the Government of revenue by concealing import goods. The investigations established that the suspects were public officers employed by the Kenya Revenue Authority, Kenya Bureau of Standards and clearing and forwarding agents. The said public officers occasioned public loss amounting to approximately 65 million through concealment of imported goods.

Thereport forwarded to the DPP recommended that the suspects be charged with the offence of concealment of un-customed goods and other charges in the Kenya Revenue Authority Act.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution of suspects and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The case CR. 2422 of 2018 is ongoing.

## 12. DCI INQUIRY FILE NUMBER 116/2018 ODPP/CAM/018/5/1055

**Inquiry Into Allegations Of Importation Of Substandard Adult Diapers**

The DCI investigations established that imported adult diapers from India failed quality standards after samples were inspected.

The report forwarded to theDPP on 18th September 2018, recommended that the suspects be charged with:

- Abuse of Office
- Neglect of official duty
- Acquiesces to permit interferencewith goods under customs control contrary to section 9(i) b of the East Africa Customs Management Act
- Entering into an agreement to release substandard goods contrary to section 14(ii)(b) of the Standard Act

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution against the accused persons and directed prosecution to ensue.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The case CR. 1783 of 2018 is ongoing.

## 13. DCI INQUIRY FILE NUMBER 117/2018 ODPP/CAM/018/5/1054

**Inquiry Into Allegations Of Importation Of Substandard Tyres, Tyre Tubes, And Flaps**

The DCIinvestigations established that imported tyres, tyre tubes, and flaps from Vietnam failed quality standards after samples were inspected.

The report forwarded to the DPP on 18th September 2018, recommended that the suspects be charged with:

- Abuse of Office
- Neglect of official duty
- Acquiesces to permit interference with goods under customs control contrary to section 9(i) b of the EACMA
- Entering into an agreement to release substandard goods contrary to section 14(ii)(b) of the Standard Act

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution against the accused persons and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI on 19th September 2018with directions that prosecution ensues. The case CR. 1782 of 2018 is ongoing.

## 14. DCI INQUIRY FILE NUMBER 115/2018 ODPP/CAM/018/5/1056

**Inquiry Into Allegations That Employees Of Kenya Revenue Authority And Kenya Bureau Of Standards Conspired With Rogue Importers And Clearing Agents To Allow Importation Of Substandard Rice**

The DCI investigations established that substandard goods were cleared at Kilindini port after samples analyzed failed the Kenyan standard test.

The report forwarded to the DPP on 17th September 2018, recommended that the suspects be charged with:

- Abuse of Office
- Breach of trust contrary to section 127 of the penal code
- Entering into an agreement to release substandard goods contrary to section 14(ii)(b) of the Standard Act

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution against the accused persons.

### STATUS

The file was returned to DCI on 24th September 2018 with directions that prosecution ensues. The matter CR. 1780 of 2018 is ongoing.

## 15. DCI INQUIRY FILE NUMBER 151/2016 ODPP/CAM/4/839

**Inquiry Into Allegations Of Mismanagement Of Funds Meant For Team Kenya Which Participated In 2016 Rio Olympic Games And Misappropriation Of Public Funds Allocated For The Games**

The DCI investigations established that top sports ministry and NOCK officials were involved in overpayment of allowances to athletes and officials of the games central management committee amounting to Kshs. 15.9 million. It was further established that former Cabinet Secretary of Sports included six unauthorized persons in the Kenyan contingent to the Rio games.

The report forwarded to the DPP on 18th September 2018, recommended that the suspects be charged with Abuse of Office contrary to section 46 as read with section 48 of ACECA, and willful failure to comply with laws relating to management of public funds, contrary to section 45(2)(b) of ACECA.

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution against the accused persons and directed that prosecution ensues.

### STATUS

The file was returned to EACC on 15th October 2018 with directions that prosecution ensues. The case ACC 45 of 2018 is ongoing.

## 16. DCI INQUIRY FILE NUMBER 154 OF 2018 ODPP/CAM/018/5/1099

**Inquiry Into Allegations Of Misappropriation Of Public Funds Meant For The Construction Of Kisumu Oil Jetty By Kenya Pipeline Company**

The DCI investigations established that the Kisumu Oil Jetty was not budgeted. The initial budget provision vide board paper number 25/02/09 was Kshs. 999,526,000.

The report forwarded to the DPP on 16th November 2018, recommended that the suspects be charged with:

- Conspiracy to commit a felony contrary to section 393 of the penal code
- Abuse of office contrary to section 101(1) as read with section 102A of the penal code
- Conspiracy to commit an offence of economic crime contrary to section 47A(3) as read with section 48 of ACECA
- Willful failure to comply with laws relating to management of public funds, contrary to section 45(2)(b) of ACECA

Upon perusal of the inquiry file and evidence contained therein, the DPP found sufficient evidence to warrant prosecution against the accused persons.

### STATUS

The file was returned to DCI on 6th December 2018 with directions that prosecution ensues.The case ACC 49 of 2018 is ongoing.

## 17. DCI INQUIRY FILE NUMBER 171/2017 ODPP/CAM/018/5/863

**Inquiry Into Allegations Of Fraudulent Double Payment To Suppliers And Double Cash Vouchers To Thika Water And Sewerage Company**

The DCI investigations established that the acting secretary to the managing director was responsible for printing cheques and forwarding the payment vouchers for signing thus took advantage in availing unsupported cheques for double payments.

The report forwarded to the DPP on 8th February 2018, recommended that the suspect be charged with the offence of stealing by servant contrary to section 281 of the penal code.

Upon perusal of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies and directed further investigations.

### STATUS

The inquiry file was returned to DC1 on 12th February 2019 with directions that further investigations be carried out and that the file be resubmitted for further directions.

## 18. DCI INQUIRY FILE NUMBER 9 OF 2017(B) ODPP/CAM/018/5/862

**Inquiry To Establish The Circumstances Under Which Individual Staff Of Turkana County Government And Companies Received A Total Of Kshs.205, 905,035 From The County Government Into Their Personal Bank Accounts Between January 2014 And March 2016 Which Was Later Withdrawn**

The DCI investigations established that the suspects being county officials used their individual accounts to receive unlawful monies from the County Government of Turkana County.

The report forwarded to the DPP on 28th March 2018, recommended that the inquiry file be closed for lack of insufficient evidence.

Upon perusal of the inquiry file and evidence contained therein, the DPP found several gaps and deficiencies and directed further investigations.

### STATUS

The inquiry file was returned to DC1 on 8th May 2018 with directions that further investigations be carried out and that the file be resubmitted for further directions.

## 19. DCI INQUIRY FILE NUMBER 60/2018 ODPP/CAM/2/1103

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving Ersatz Enterprises**

The DCI investigations established that Ersatz Enterprises was issued with four local purchase orders for supplies of workshop and drilling equipment and accessories for a total value of Kshs 26,660,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP on 8th May 2018, recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Willful failure to comply with procurement procedures contrary to section 45(2) of the ACECA, Abuse of office contrary to section 46 as read with section 48(1) of the ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 11/2018 which was consolidated with ACC 9/2018 and ACC 13/2018. The case ACC 11/2018 is ongoing.

## 20. DCI INQUIRY FILE NUMBER 53/2018 ODPP/CAM/2/1096

### Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving Arkroad Holdings Limited

The DCI investigations established that Arkroad Holdings Limited was issued with three local purchase orders for supplies of workshop and drilling equipment and accessories for a total value of Kshs 24,866,800. Investigations unearthed a well- orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP on 8th May 2018, recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Willful failure to comply with procurement procedures contrary to section 45(2) of the ACECA, Abuse of office contrary to section 46 as read with section 48(1) of the ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 13/2018 which was consolidated with ACC 9/2018 and ACC 11/2018. The case ACC 11/2018 is ongoing.

## 21. DCI INQUIRY FILE NUMBER 59/2018 ODPP/CAM/2/1102

### Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving Kalabash Food Supplies

The DCI investigations established that Kalabash Food Supplies was issued with one local purchase order for supplies of foodstuffs for a total value of Kshs 9,072,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff, and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP on 8th May 2018, recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA,
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 9/2018 which was consolidated with ACC 13 /2018 and ACC 11/2018. The case ACC 11/2018 is ongoing.

## 22. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Njewanga Investments**

The DCI investigations established that M/S Njewanga Investments was issued with eight local purchase orders for supplies of foodstuffs for a total value of Kshs 16,590,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 12/2018 which was consolidated with ACC 15 /2018 and ACC 8/2018. The case ACC 8/2018 is ongoing.

## 23. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Jerry Cathy Enterprises**

The DCI investigations established that M/S Jerry Cathy Enterprises was issued with eight local purchase orders for supplies of foodstuffs and equipment for a total value of Kshs 57,872,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA

Upon perusal of the file, the DPP found the evidence sufficient to support the recommended charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 13/2018 which was consolidated with ACC 16 /2018, ACC 10/2018, ACC 17/2018 and ACC 13/2018. The case ACC 10/2018 is ongoing.

## 24. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

### Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Ngiwaco Investments

The DCI investigations established that M/S Ngiwaco Enterprises was issued with eight local purchase orders for supplies of foodstuffs for a total value of Kshs 56,493,738. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA
- Breach of trust by persons employed in the public Service contrary to section 127(1) as read with section 127(2) of the Penal Code
- Fraudulent false accounting contrary to section 330(b) of the Penal Code and neglect of official duty contrary to section 128 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 17/2018 which was consolidated with ACC 16 /2018, ACC 10/2018, and ACC 13/2018. The case ACC 10/2018 is ongoing.

## 25. DCI INQUIRY FILE NUMBER 54 OF 2018 ODPP/CAM/2/1097

### Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Kunjiwa Enterprises

The DCI investigations established that M/S Kunjiwa Enterprises was issued with local purchase orders for supplies of equipment for a total value of Kshs 23,415,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers; finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA
- Breach of trust by persons employed in the public Service contrary to section 127(1) as read with section 127(2) of the Penal Code
- Fraudulent false accounting contrary to section 330(b) of the Penal Code and neglect of official duty contrary to section 128 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 12/2018 which was consolidated with ACC 15 /2018 and ACC 8/2018. The case ACC 8/2018 is ongoing.

## 26. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Firstling Supplies Limited**

The DCI investigations established that M/S Firstling Supplies Limited was issued with local purchase orders for supplies of equipment for a total value of Kshs. 115,354,000. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers, finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA
- Fraudulent false accounting contrary to section 330(b) of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 15/2018 which was consolidated with ACC 12 /2018 and ACC 8/2018. The case ACC 8/2018 is ongoing.

## 27. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Ameri Trade Supplies Limited**

The DCI investigations established that M/S Firstling Supplies Limited was issued with local purchase orders for supplies of equipment for a total value of Kshs 28,766,700. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers; finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property 45 (1) (a) as read with section 48 (1) of ACECA
- Failure to comply with tendering contrary to section 45(1) a of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA
- Failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) (a) of the ACECA
- Fraudulent false accounting contrary to section 330(b) of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 8/2018 which was consolidated with ACC 12 /2018 and ACC 15/2018. The case ACC 8/2018 is ongoing.

## 28. DCI INQUIRY FILE NUMBER 52/2018 ODPP/CAM/2/1095

**Inquiry Into Allegations Of Fraudulent Activities At The National Youth Service (NYS) Involving M/S Annwaw Investment**

The DCI investigations revealed that M/S Annwaw Investment was issued with eight local purchase orders for supplies of foodstuffs for a total value of Kshs 59,846,750. Investigations unearthed a well-orchestrated scheme by the AIE holder, procurement officers, purported suppliers; finance staff and MTB staff to defraud the Government of Kenya.

The report forwarded to the DPP on 8th May 2018, recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 (1) of ACECA
- Wilful failure to comply with procurement procedures contrary to section 45(2) of the ACECA
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

### STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The proposed charges were filed in court vide ACC 10/2018 which was consolidated with ACC 16/2018, ACC 13/2018, and ACC 17/2018. The case ACC 10/2018 is ongoing.

## 29. DCI KISUMU INQUIRY FILE NUMBER 8/2017 ODPP/CAM/018/5/866

**Inquiry Into Allegations That Two County Employees Had Defrauded The Kisumu County Government Through False Claims For Sitting Allowances For The Month Of December 2017**

The DCI investigations established that the County Secretary, Kisumu received a letter addressed to the Payroll manager to facilitate payment of sitting and transport allowance amounting to Kshs 104,000 for one County Service Board member. The letter did not have any attachment to confirm attendance to any meeting. It was further revealed that there was no such meeting.

The report forwarded to the DPP recommended that the suspects be charged with:

- Conspiracy to defraud contrary to section 317 of the Penal Code
- False claims by person employed in public service contrary to section 100 of the Penal Code
- Abuse of Office contrary to section 101(2) of the Penal Code

Upon perusal of the file, the DPP found gaps and deficiencies that needed further investigations before final directions were given.

### STATUS

The inquiry file was returned to DCI with directions that further investigations along the identified areas and the file be resubmitted for directions.

## 30. DCI/IB/SEC/4/3/1/VOL.X/208 ODPP/CAM/018/5/1085

**Inquiry Into Allegations Of Forgery Of Payment Vouchers Purported To Have Originated From Eldama Ravine G.K Prison Totaling To Kshs.29,889,597.05**

The DCI investigations established that a prison officer working at the Accounts department and dealing with voucher preparation and a clerical officer I at the Ministry of Interior and Coordination's Correctional Services Department registered a company, Eravine Water Services Company. They were the directors. They opened an account at Equity Bank, Eldama Ravine Branch. An amount totaling to Kshs. 29,889,597.05 was paid into this account. This was meant to pay water bills

to be cashed into Eldama Ravine Water and Sewerage Company Limited.

The report forwarded to the DPP recommended that the suspects be charged with making a document without authority contrary to section 357 of the Penal Code, and forgery contrary to section 349 of the Penal Code and Stealing by Servant contrary to section 281 of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies that needed further investigations before final directions were given.

## STATUS

The inquiry file was returned to DCI with directions that further investigations along the identified areas be carried out and that the file be resubmitted for further directions.

## 31. BFIU INQUIRY FILE NO 424 OF 2016 ODPP/CAM/018/5/973

### Inquiry Into Allegations Of Impropriety And Irregular Acquisition Of NSSF Houses

The DCI investigations established that between 6th December 2012 and 18th August 2016, an Advocate of the High Court of Kenya and a Land Registrar in Kilifi County colluded to irregularly secure the transfer and fraudulent registration of houses belonging to the National Social Security Fund.

The report forwarded to the DPP recommended that the suspects be charged with conspiracy to commit a felony contrary to section 393 of the Penal Code and willfully procuring registration by false pretense contrary to section 320 of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies that needed further investigations before final directions.

## STATUS

The inquiry file was returned to DCI on 26th September2018 with directions that further investigations be carried out and that the file be resubmitted for directions.

## 32. DCI INQUIRY FILE NUMBER 103 OF 2018 ODPP/CAM/018/5/1040

### Inquiry Into Allegations Of Misappropriation Of Funds Of Over 10,000,000 From Thika Technical Training Institute

The DCI investigations established that the Principal and other officials committed the offences between January 2016 and June 2018. The officials withdrew money from the Institution's account without authorization and proper procedures as provided under the Public Finance and Management Act, 2012.

The report forwarded to the DPP recommended that the suspects be charged with:

- Stealing by Servant contrary to section 281 of the Penal Code
- Conspiracy to commit a felony contrary to section 393 of the Penal Code
- Conspiracy to defraud contrary to section 317 of the Penal Code
- Fraudulent False accounting by servants contrary to section 330(b) of the penal code
- Abuse of office contrary to section 100(1) of the Penal Code
- Neglect of official duty contrary to section 128 of the Penal Code
- False claims by persons employed in the public services contrary to section 100 of the Penal code
- Stealing by Persons Employees in the public service contrary to section 280 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the proposed charges and directed that prosecution ensues.

## STATUS

The inquiry file was returned to DCI with directions that prosecution ensues. The case No. 6905 of 2018 is ongoing.

## 33. BFID INQ FILE NO 573 OF 2015 ODPP/CAM/018/5/911

### Inquiry Into Allegations Of Fraudulent Payment Of Kshs 9,956,000 To Gilgrains General Supplies By The Ministry Of Public Service (Gilgil NYS College)

The DCI investigations established that NYS placed a Tender and pre-qualification notice for supply and delivery of foodstuff and equipment in the Daily Nation Newspaper on 14th May 2014. Upon receiving bids from suppliers, the tender opening committee met on 3rd June 2014 and opened tenders in the presence of 17 bidders. Gilgrains General Supplies was awarded the tender. However, there was no evidence from the user department to confirm whether the items advertised were actually needed.

The report forwarded to the DPP recommended that the suspects be charged with:

- Neglect of official duty contrary to section 128 as read with section 36 of the Penal code
- Making a document contrary to section 357(a) of the Penal Code
- Uttering a document with intent to deceive contrary to section 357(b) of the Penal Code

Upon perusal of the file, the DPP found gaps and deficiencies and directed further investigations.

### STATUS

The inquiry file was returned to DCI with directions that the identified areas be covered by way of further investigations and that the file be resubmitted for further directions.

## 34. DCI/INQUIRY FILE NO. 118/2018 ODPP/CAM/018/5/1053

### Inquiry Into Allegations That The Employees Of Kenya Bureau Of Standards Conspired To Defraud The Government Of Kenya

The DCI investigated reports that the suspects conspired to defraud the Government of Kenya by releasing substandard fertilizer allegedly before the test results were out. The investigations confirmed Kenya Bureau of Standards employees released the fertilizer on 1st March2018, before the test results were out.

The report forwarded to the DPP recommended that the suspects be charged with various criminal offenses including:

- Breach of trust by a person employed in the public service contrary to section 127 of the Penal Code
- Abuse of office contrary to section 101 of the Penal Code
- Cheating contrary to section 315 of the Penal Code and attempted murder contrary to section 220 (b) of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges. However, some accused persons filed a petition with the High Court and were granted conservatory orders. The High Court matter is to be argued on 3rd July 2019.

### STATUS

The file was submitted to DCI on 22ndJune 2019 with directions that prosecution ensues. The matter Cr. No. 1151 of 2018 is ongoing.

## 35. DCI/INQUIRY FILE NO.121/211/2018 ODPP/CAM/018/5/946

### Inquiry Into Allegations That Employees Of Kenya Bureau Of Standards Made Conspired To Defraud The Government Of Kenya Kshs. 882,000,000Through A Contract To Supply KEBS Quality Marks.

The DCI investigated reports of conspiracy to defraud the government of Kenya through a contract to supply KEBS Quality marks.Investigations established that Kenya Bureau of Standards employees conspired to defraud the government of Kenya Kshs. 882,000,000through a contract to supply KEBS Quality marks.

The DCI report forwarded to the DPP recommended that the suspects be charged with various criminal offenses including:

- Aiding commission of a felony contrary to section 128 A (a) of the Penal Code
- Abuse of office contrary to section 101 of the Penal Code

- Breach of trust contrary to section 127 (a) of the Penal Code

- Selling substandard goods contrary to section 9 (2) (4) as read with section 15 of the Standards Act

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges.

## STATUS

The file was submitted to DCI on 22ndJune 2018 with directions that prosecution ensues. The matter is registered in court vide Milimani Cr. No. 1152 of 2018. The case was stayed vide Judicial Review 316/2018.

### 36. DCI/INQUIRY FILE NO.121/231/2018 ODPP/CAM/018/5/971 A

**Inquiry Into Conspiracy By Kenya Power And Lighting Company LimitedEmployees To Commit An Offence Of Economic Crime By Failing To Comply With Procedures And Guidelines Relating To Procurement Which Led To Fraudulent Payments Of Kshs. 159,195,364 To Companies That Were Not Procedurally Prequalified For Labour And Transport Services Vide Tender No. KP1/9AAA-2/OT/58/PJT/16-17**

The DCI investigated reports of conspiracy to commit economic crime by failing to comply with procedures and guidelines relating to procurement, which led to fraudulent payments.

The investigations established that Kenya Power and Lighting Company Limited employees conspired to commit economic crime by failing to comply with procedures and guidelines relating to procurement and led to fraudulent payments of Kshs. 159,195,364to companies that were not procedurally prequalified for labour and transport services vide Tender No. KP1/9AAA-2/OT/58/PJT/16-17.

The DCI report forwarded to the DPP recommended that the suspects be charged with various criminal offenses including:

- Conspiracy to commit an offence of economic crime contrary to section 47 (a) (3) as read with section 48 of ACECA

- Willful failure to comply with the law relating to management of public funds contrary to section 45 (2) (b) as read with section 48 of ACECA

- Willful failure to comply with the law relating to procurement contrary to section 45 (2) as read with section 48 of ACECA

- Abuse of office contrary to section 46 as read with section 48 of ACECA

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges.

## STATUS

The file was returned to EACC on 16th July2018 with directions that prosecution ensues. The case ACC. No. 25 of 2018 is ongoing.

### 37. DCI/INQUIRY FILE NO.121/233/2018 ODPP/CAM/018/5/917

**Inquiry Into Conspiracy by Kenya Power And Lighting Company Limited Employees To Commit An Offence Of Economic Crime Namely Fraudulent Acquisition Of Public Property Of Kshs. 4,081,920, Supply Of Transformers Vide Tender No. KP1/9AA-3/PT/09/11-12 By Ms. Muwa Trading Company Limited**

The DCI investigated reports of conspiracy to commit economic crime namely fraudulent acquisition of public property, supply of transformers. The investigations established that Kenya Power and Lighting Company Limited employees conspired to commit economic crime namely fraudulent acquisition of public property of Kshs. 4,081,920, supply of transformers vide Tender No. KP1/9AA-3/PT/09/11-12 by Ms. Muwa Trading Company Limited.

The DCI report forwarded to the DPP recommended that the suspects be charged with various criminal offenses including:

- Conspiracy to commit an offence of economic crime contrary to section 47 (a) (3) as read with section 48 of ACECA

- Willful failure to comply with the law relating to management of public funds contrary to section 45 (2) (b) as read with section 48 of ACECA

- Conspiracy to defeat justice contrary to section 117 (a) of the Penal Code
- Fraudulent acquisition of public property contrary to section 45 (1) as read with section 48 of ACECA
- Conspiracy to defraud contrary to section 317 of the Penal Code

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

Prosecution ensues. The case ACC. No. 26 of 2018 is ongoing.

## 38. DCI/INQUIRY FILE NO.121/234/2018 ODPP/CAM/18/5/971 B

**Inquiry Into Allegations Of Fraudulent Acquisition Of Public Funds Amounting To Kshs. 14,454,637.89By Contractors Who Had Been Irregularly Prequalified By Kenya Power And Lighting Company To Provide Labour And Transport Services Vide Tender No. KP1/9AA-02/OT/58/PJT/16-17**

The DCI investigated reports of conspiracy to commit economic crime by fraudulently obtaining public funds through irregularly prequalified contracts for labour and transport services.

The investigations established that Kenya Power and Lighting Company Limited employees conspired to commit economic crime by fraudulently obtaining public funds worth Kshs. 1,413,492through irregularly prequalified for labour and transport services Tender No. KP1/9AA-02/OT/58/PJT/16-17.

The report forwarded to the DPP recommended that the suspects be charged with the criminal offense of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section (48) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to DCI on 19th July 2018 with directions that prosecution ensues. The case ACC. No. 29 of 2018 is ongoing.

## 39. DCI/INQUIRY FILE NO.121/441/2018 ODPP/CAM/5/018/1118

**Inquiry Into Allegations That The Suspect Made Fake Claims For Legal Fees And Was Indeed Paid By Mumias Sugar CompanyThus Prompting The Investigations**

The DCI investigated reports that the suspect had made fake claims for legal fees and paid by Mumias Sugar Company.

The investigations established that the suspect falsified documents which was a fee note of Kshs. 1,808,000. Some of the cases that the suspect had raised fee notes on had been paid, some were non-existent and in others the Company was not a party at all. In a certain matter, the suspect had been paid Kshs. 2 million, a fact confirmed by his partners but in an attempt to defraud the company. Further, the suspect filed an Advocate – Client Bill taxed at Kshs. 6 million without disclosing that the Company had paid him only for the award to set aside upon reference to the High Court.

The DCIreport forwarded to the DPP recommended that the suspect be charged with various criminal offenses including:

- Uttering false document contrary to section 353 of the Penal Code
- Obtaining money by false pretense contrary to section 313 of the Penal Code
- Attempting to obtain money by false pretense contrary to section 313 as read with section 389 of the Penal Code
- Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensues.

## STATUS

The file was returned to DCI on 19th July 2018 with directions that prosecution ensues .The case Cr. 2427 of 2018 was filed in court on 31st December 2018. The suspect however, obtained ex-parte orders staying his prosecution vide Petition no. 470/2018.

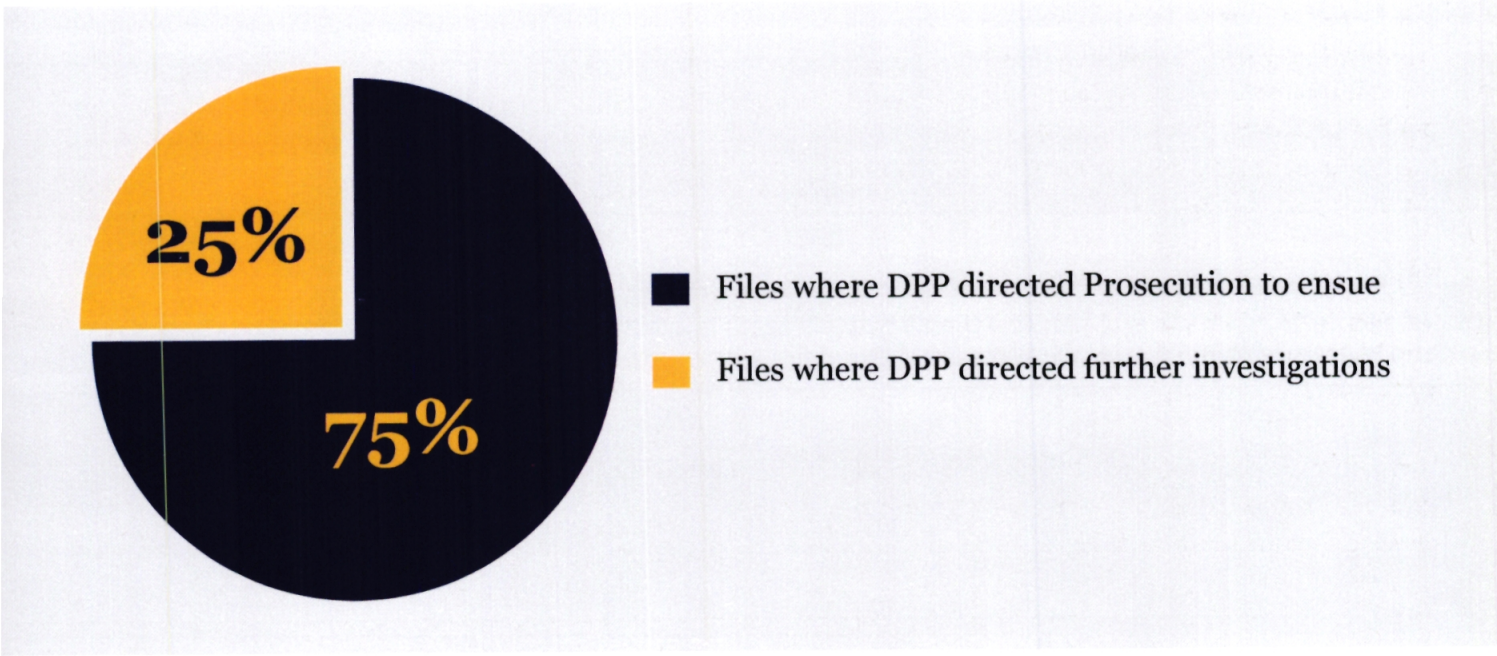
## Table 6: Major cases of Corruption and Economic Crimes submitted by DCI

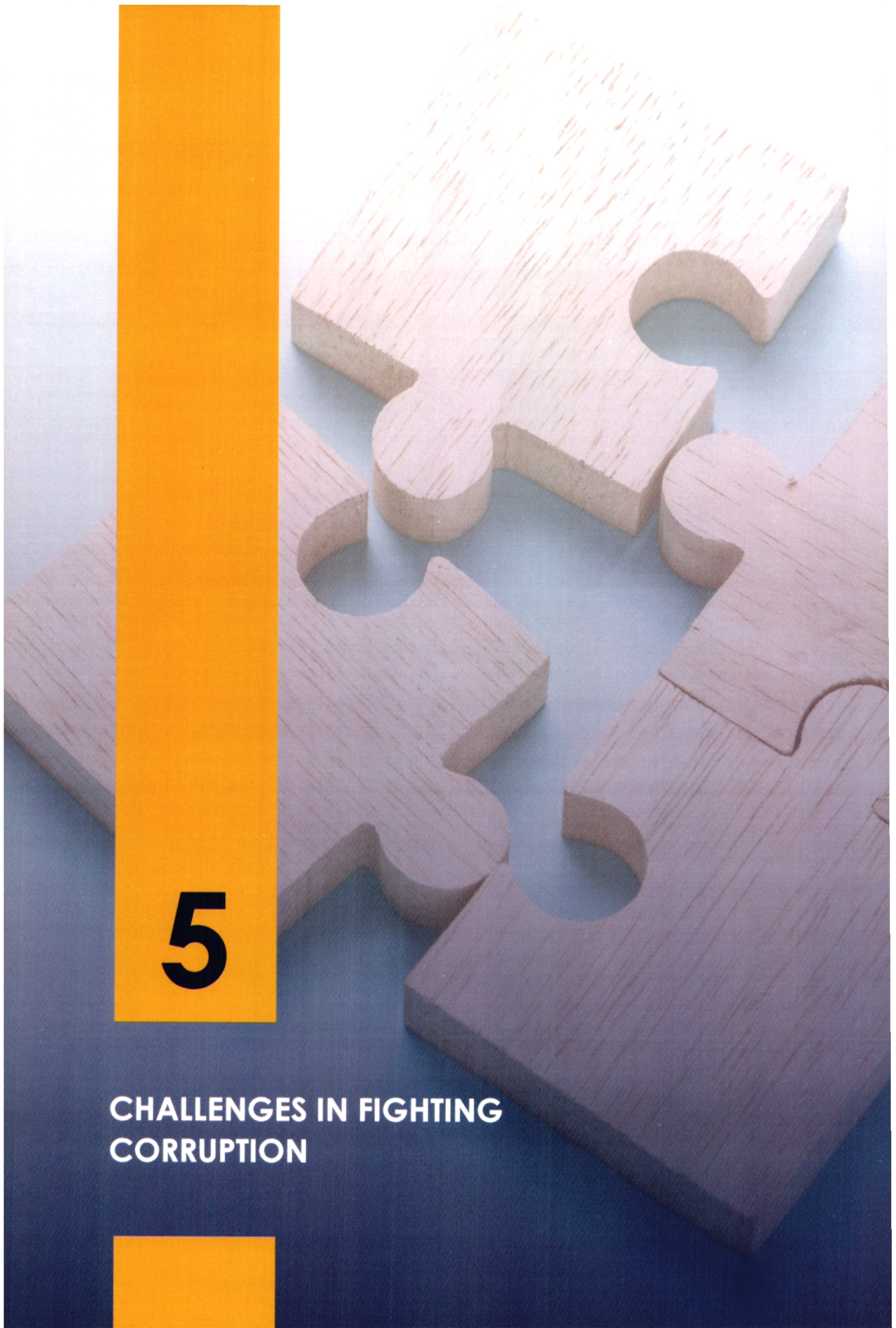
| Description | 2014 | 2015 | 2016 | 2017 | 2018 |
|---|---|---|---|---|---|
| Cases prosecuted (filed in court) | - | 7 | 7 | 7 | 30 |
| Conviction | - | - | - | - | 2 |
| Acquittal | - | - | - | - | 1 |
| Consolidated | - | | | | 3 |
| Proceedings ongoing | - | 7 | 7 | 7 | 36 |

## Table 7: Inquiry Files forwarded to ODPP by DCI involving economic crimes between 1st January to 31st December 2018.

| S/No | Particulars of the Inquiry Files | Number |
|---|---|---|
| 1 | Files where DPP directed prosecution to ensue | 30 |
| 2 | Files where DPP directed further investigations | 10 |
| 3 | Files where DPP directed administrative action and other actions | 0 |
| 4 | Files where DPP directed closure | 0 |
| **Total number of inquiry files submited** | | 40 |

## Figure: DPP's Directions on File forwarded by DCI





# 5

# CHALLENGES IN FIGHTING CORRUPTION

# 5.0 CHALLENGES IN FIGHTING CORRUPTION

The following present some of the key challenges that were faced.

## 5.1 Politicization of Fight Against Corruption

The ODPP discharges its mandate independently and impartially. All the prosecutions are undertaken based on the sufficiency or otherwise of the evidence and the law.

However, some individuals politicize prosecution of corruption cases alleging that the same is geared towards a particular community or political divide. Such politicisation affects the quality of cases. Witnesses get intimidated and it gets harder to retrieve documentary evidence especially where this evidence is found in the former offices of the now accused persons.

## 5.2 Failure Of State Officers To Step Aside Following Investigations

Section 62 of the Anti – Corruption and Economic Crimes Act, requires that a public officer facing corruption or economic crime cases step aside to pave way for the hearing and determination of their case. This however, does not apply to state officers.

This is an affront to the fight against corruption as the same has led to witness interference, disappearance of crucial exhibits and creating a sense of impunity. Personalities that fall under this category include Governors, heads of independent offices, Members of Parliament and Members of County Assemblies.

## 5.3 Slow Judicial Process

Manual processes hinder quick disposal of cases. Judicial officers are required to record proceedings manually and are unable to cope with the voluminous documentation in corruption and economic crimes (thousands of hand written pages). This also slows down the retrieval of records for purposes of preferring an Appeal.

Archaic procedures further do not allow them to view the documentary evidence before admission, thus do not appreciate them as the case progresses. The delay also leads to witness fatigue.

## 5.4 Filing Of Numerous Applications

Accused persons in corruption and economic crime make several applications in various courts leading to a multifaceted approach to a case. The High Court may grant or not grant stay in prosecution or further investigations against the said accused person (s) leading to further appeal of the said decision. This ultimately has led to delay and prolonged trial of cases.

Such applications consequently result in hindering the DPP and investigative bodies from discharging their constitutional mandate and for those cases already in court, jeopardizing the status of witnesses and evidence in criminal cases.

The large number of withdrawals especially in 2017 and 2018 were mainly as a result of Court decision in Eng. Michael S. Kamau case in Civil Appeal No. 102 of 2016 declaring unlawful matters investigated or submitted by EACC when it was not properly constituted. Out of the total number of cases withdrawn in 2017 and 2018, 92. 87 cases were withdrawn to that effect which equates to 94.5% of these cases.

Such a deleterious trend erodes the public confidence in the criminal justice system, due process and a major setback in the fight against corruption.This is worrisome.

Individuals should not use judicial independence to stop their prosecution. Whereas the Judiciary enjoys institutional and operational independence, the prosecution is concerned about these orders, all in favour of a particular litigant, raising serious questions on the principle of equality before the law.

## 5.5 Poor Terms and Conditions of Service

The terms and conditions of service for ODPP remains unfavourable compared to other criminal justice agencies. This has resulted in demoralised and demotivated staff and consequently the Office continues to suffer massive staff turnover. This has a huge bearing on the Office performance when the most talented staff leaves. The Office is currently in discussion with SRC Judicial Intervention through stays, conservatory orders and prohibitions

## 5.6 Institutional Capacity Constraints

The Office has limited personnel and equipment capacity. There is also a shortage of prosecutors to handle the new and upcoming high profile cases, which have heavy documentation requiring critical analysis and review. The shortages strain the available personnel resources to be allocated to anti-corruption cases handling.

At the same time, these staff requires specialised training to enhance their capacity to handle the ever dynamic and sophisticated corruption and economic crimes. There is also need for research to identify the areas of the investigations that are incomplete and are necessary to strengthen the prosecution case.

Parliament and the Executive have previously supported the ODPP in budgetary allocation to hire more staff. The Office is grateful for that provision. However, it is critical that the momentum continues until such time that the ODPP will be at efficient capacity to carry out its mandate effectively.

The Office is seeking enhancement of budget allocation to be able to recruit more staff and properly train them as well as purchasing key equipment that will promote efficiency in operation of the Office.

## 5.7 Inadequate Sensitization on Corruption laws, Guidelines and Policies

Key criminal justice stakeholders are not all sensitized to par. This has led to losing cases as a result of errors that could have been avoided with proper sensitization of all criminal justice stakeholders from the investigative, prosecution as well as judicial officers. The ODPP continues to engage criminal justice stakeholders in training workshops aimed at creating awareness in the laws, guidelines and policies.

## 5.8 Inadequate Utilization of Modern Technology

The Office heavily relies on manual input of data on ongoing files and cases which is tedious and time consuming. There is need to have a digital platform that enables easy and immediate access to information, automatic update and improve file organization.

The Lack of an integrated case management system requires that the manual processes continue to be employed in data collection, which leads to non-uniform data, and varied data interpretation.

With regard to prosecution, there is a need to amend the Evidence Act and Criminal Procedure Code to incorporate and take cognisance of the use of technology in evidence collection and evidence testimony without undue restrictions that make the use of technology a burden.



## 5.9 Trial Disclosure Of Documents

The prosecution is required by law to avail all documents that they will rely on for its prosecution but no similar duty is placed on the defence to share their documents. This has led to delay in the trial process and an imbalance of justice. Some courts have also been reluctant to admit documents in soft copies.
It has emerged that there are several documentation are not ready by the time matters are scheduled for pre-trial conference. There is also occasional delay in receiving duplicate investigation file for the prosecutor prior to the hearing. This has led to numerous mentions and adjournments delaying the beginning of trial and hearing of the case.

Prosecutors do not access all their witnesses in good time, as some are not based in Nairobi while others have busy schedules and appear on the day of hearing. The absence of pre-trial with the witnesses prior to hearing affects their testimony as some do not remember particulars which are crucial to the case while others give conflicting testimony from their written statement. Further, the prosecutor is not able to strategize the case with the witnesses before trial.

## 5.10 Inadequate Witness Facilitation

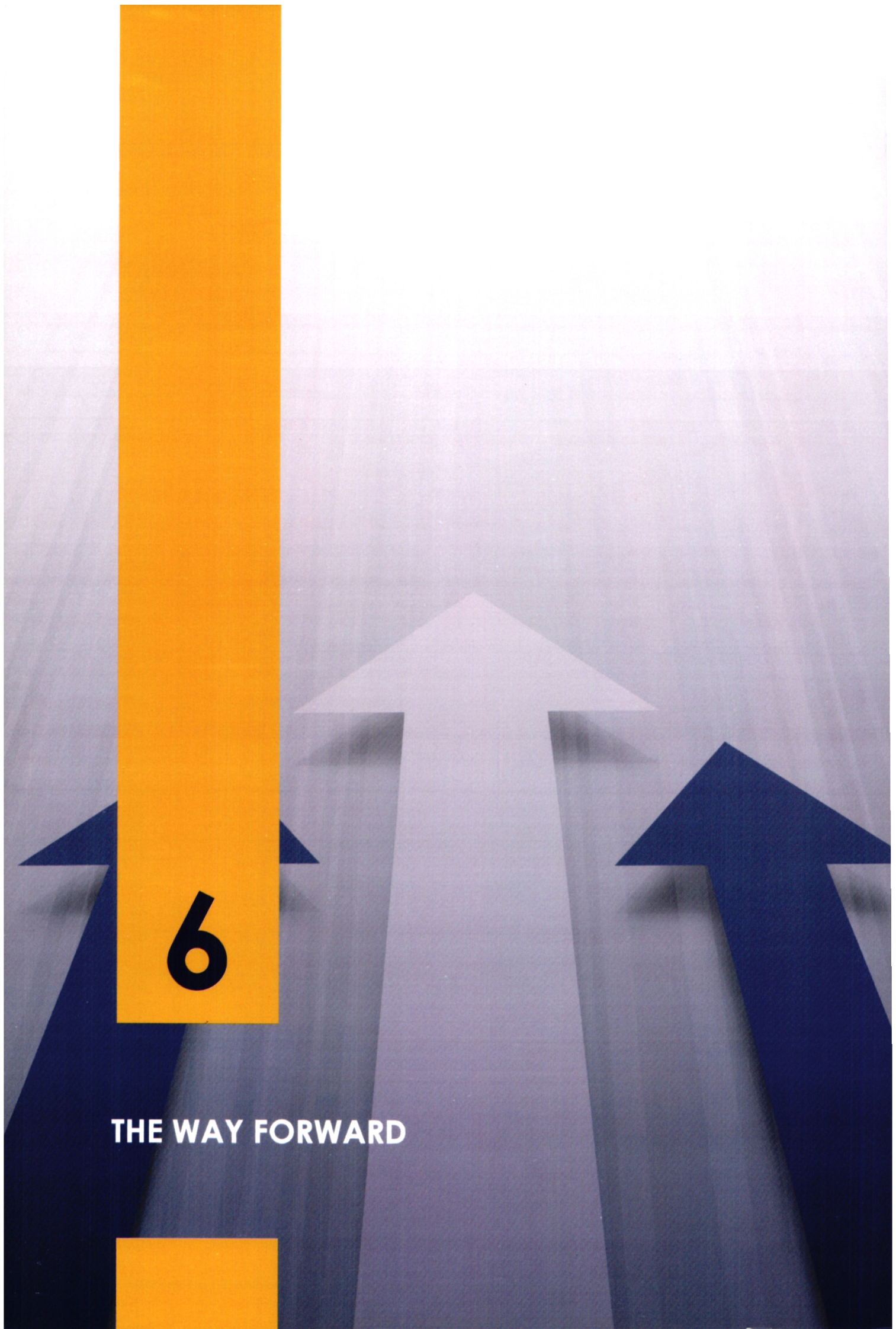
The resources at the disposal of the Office are limited and it is not tenable to fully implement witness facilitation for court attendance. We seek the support of Parliament for budgetary allocation for witness support and facilitation to foster witness attendance and mitigate against witness apathy.

## 5.11 Legislative Gaps

The procedural (criminal procedure code) and the Evidence Act, provisions slows rather than expedites the hearing of cases. The Office has been agitating for review, especially in the areas regarding:

- Over-reliance on oral evidence and production of documentary evidence
- Statutory limitation on geographical jurisdiction of courts to hear and determine cases- pursuant to Section 4 of ACECA
- Delays in processing of Extradition and MLA requests,
- Computer generated evidence
- Adoption/legalizing new investigative techniques
- Conflicting legal regimes (Tokyo Embassy, KUTIP, & Anglo-leasing cases).





# 6

# THE WAY FORWARD

# 6.0 THE WAY FORWARD

The collaboration between investigative agencies and the ODPP has greatly improved prosecution of corruption and economic crime cases. Indeed, files received from EACC and DCI in any given quarter now get ODPP decisions in the same quarter. The concurrence rate with EACC and DCI has also improved.

There are undoubtedly real challenges in confronting and tackling the threats presented by economic crimes. There is, however, a great deal of positive action being undertaken and a spirit of cooperation that is most encouraging for the future.

In this regard, going forward, the ODPP is and shall adopt the following strategies to enhance the efficient and effective prosecution of corruption and economic crimes cases.

## 6.1 Enhancing Working Relationship Between ODPP, DCI & EACC And Other Investigative Agencies.

In the strategy the DPP envisages a 3 C approach of collaboration, cooperation and coordination, the purpose of which will be to Re-Shape the ODPP operations..

The synergies are intended to bring about an efficient, effective and accountable institution that is critical within the criminal justice system from local and international institutions and partners involved in the governance, justice, law and order sector.

The cooperation, collaboration and complementary relations between ODPP, DCI and EACC have been enhanced through the following fronts:

## 6.2 Multi-Agency Team

In a bid to enhance the efforts in the fight against corruption the government established a multi-agency framework involving all law enforcement agencies (EACC, ODPP, DCI, KRA, ARA, FRC, Central Bank of Kenya among others) and players in the criminal justice system. This was to facilitate coordination and cooperation among them in the fight against corruption and economic crime

## 6.3 National Commission on the Administration of Justice (NCAJ) Subcommittee on Corruption.

The ODPP is the convener of the NCAJ sub-committee on corruption whose objective is to enhance cooperation among NCAJ actors on issues of corruption. This strategy is important as it loops in the Judiciary, which is not a member of the Multiagency Task Force Team. The NCAJ- sub-committee also benefits from the information and deliberations of the Court Users Committee in every court station thus able to identify and respond to the emerging challenges.

## 6.4 Task teams and prosecution guided investigations

Joint task teams have been formed to review and analyse files submitted by EACC to ODPP. For instance the case in Anglo-Leasing matters. This has ensured that the cases filed in court are watertight and that there is a seamless process between the two institutions to ensure that no time is lost before cases are presented before court. Having a prosecutor embedded in the investigation team reduces the red tape associated with decision making and also ensures compliance with law along each step of the investigating process.

**The collaboration between investigative agencies and the ODPP has greatly improved prosecution of corruption and economic crime cases...files received from EACC and DCI in any given quarter now get ODPP decisions in the same quarter.**

### 6.5 Joint Trainings and Capacity Building

In order to improve the quality of investigations and prosecution of corruption and economic crimes cases, ODPP and EACC entered into collaboration with GIZ for technical assistance, which includes enhancing collaboration mechanisms between the two agencies. Since then, the two agencies have convened a number of meetings that address issues affecting investigations and prosecution of economic crimes.

### 6.6 Capacity Building

The ODPP and EACC with the support of GIZ have participated and continue to participate in sensitization programmes. For instance, the two agencies have been sensitized on the guidelines for prosecution of corruption among others. EACC also conducted a workshop that involved all players in the criminal system in 2018. During the workshop there were deliberations on the gains and challenges faced in the fight against corruption. The players committed to work together towards fighting corruption.

### 6.7 Legal Developments

EACC and ODPP have contributed to policy and legislative reforms in the fight against graft especially through participation in the National Taskforce on Anti-corruption, which developed the new Bribery Act. The participation by both agencies in drafting such legislation helps improve the working relationship between the two agencies as direct consumers of the law.

### 6.8 Regular Consultative Meetings

The consultative meetings are held frequently at both county and top management level of the two institutions.

### 6.9 Provisions Of Adequate Staff To Cater For The Demanding Needs Of The Division.

### 6.10 Automation Of The Case Management System In Order To Ensure Accurate Data Capture.

### 6.11 Financial Provision To Cater For Facilitations Of Pre – Trial Conferences And Court Attendance.

