

PARLIAMENT
OF KENYA
LIBRARY



OF KENYA
LIBRARY

16TH ANNUAL REPORT

for

ANTI-CORRUPTION
AND ECONOMIC
CRIME CASES

2

0

FOR THE PERIOD
BETWEEN

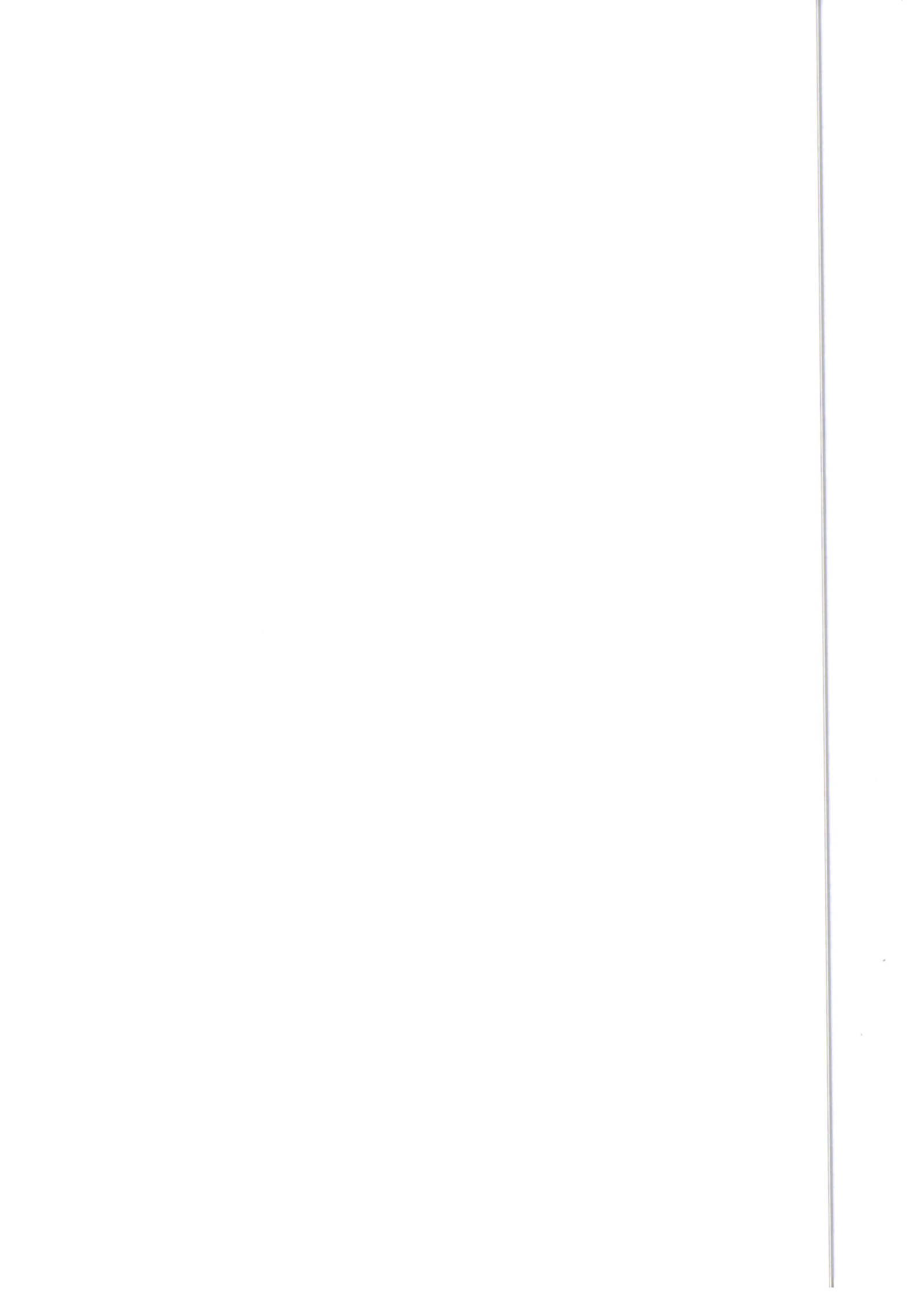
1


1ST JANUARY TO

9

31ST DECEMBER

■



 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	04 MAY 2021
	DAY: Tuesday
TABLED BY:	L.O.M. Hon. Dr. Kimani
CLERK AT THE TABLE:	M. WANJIKU

**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.**

TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS	vi
GLOSSARY	vii
FOREWORD	viii
EXECUTIVE SUMMARY	x
CHAPTER ONE	2
1.0 THE ORGANIZATION	2
1.1 Mandate	2
1.2 Vision	2
1.3 Mission	2
1.4 Core Values	2
1.5 Strategic Goals	2
1.6 Strategic Objectives	2
1.7 Proposed ODPP Organizational Structure for the Headquarters	3
1.8 Proposed ODPP Organizational Structure for Regional and County Offices	4
CHAPTER TWO	5
2.0 Overview of the Achievements in 2019	6
2.1 Expeditious Processing of Corruption Cases	6
2.2 Convictions Achieved in Corruption and Economic Crimes Cases	7
2.3 Contribution to the Development of Law Reform: Summary of Matters of Jurisprudential Value	10
2.4 Key Achievements	12
2.5 Capacity Building	12
2.6 Inter-Agency Collaboration	13
2.7 Fairness and Inclusivity In Prosecution Of Corruption And Economic Crimes Cases	13
CHAPTER THREE	16
INQUIRY FILES SUBMITTED BY ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO ODPP IN THE YEAR 2019.	17
FIRST (1ST) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST JANUARY 2019 TO 31ST MARCH 2019	17

SECOND (2ND) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST APRIL 2019 TO 30TH JUNE 2019	68
THIRD (3RD) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST JULY 2019 TO 30TH SEPTEMBER 2019	92
FOURTH (4TH) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST OCTOBER 2019 TO 31ST DECEMBER 2019	116
CHAPTER FOUR	139
HIGH LEVEL ANTI – CORRUPTION AND ECONOMIC CRIMES CASES INVESTIGATED BY THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI) AND SUBMITTED TO THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN THE YEAR 2019 (JANUARY 2019 TO DECEMBER 2019)	140
CHAPTER FIVE	155
CHALLENGES IN FIGHTING CORRUPTION 2019	156

ABBREVIATIONS AND ACRONYMS

ACC	-	Anti-Corruption Case
ACECA	-	Anti-Corruption and Economic Crimes Act
AG	-	Attorney General
ARA	-	Asset Recovery Agency
CMA	-	Capital Markets Authority
CPC	-	Criminal Procedure Code
DCI	-	Directorate of Criminal Investigations
DPP	-	Director of Public Prosecutions
EACC	-	Ethics and Anti-Corruption Commission
KRA	-	Kenya Revenue Authority
MAT	-	Multi-Agency Team
ODPP	-	Office of the Director of Public Prosecutions
PC	-	Penal Code
POCAMLA	-	Proceeds of Crime and Anti-Money Laundering Act
PPDA	-	Public Procurement and Disposal Act
PPADA	-	Public Procurement and Asset Disposal Act
UNODC	-	United Nations Office on Drugs and Crime
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

I am greatly honoured and pleased to present to you the 16th ODPP Annual Anti-Corruption and Economic Crime Cases Report covering the period 1st January 2019 to 31st December 2019.

This is the second year since my appointment as Director of Public Prosecutions on 28th March 2018 and I am encouraged by the great strides that the Office has made in seeking to attain its prosecutorial mandate as enshrined in the Constitution of Kenya and in line with ODPP's Strategic Plan 2016 – 2021.

In 2019, the ODPP's budget allocation was increased to Kshs. 3.1 billion. The increased funding enabled the Office to acquire a stand-alone office block, improved terms and conditions of service and the ability of the ODPP to acquire the services of special prosecutors with expertise in handling complex anti-corruption matters. The Office also purchased motor vehicles and equipment to enhance access to justice.

A major undertaking in the year was the review of the Office's organizational structure to improve its responsiveness to the emerging trends and enhance efficient and effective service delivery. The focus on the fight against corruption was identified as one of the priority areas.

In order to succeed in this fight, it is imperative that institutions mandated to fight the vice are strengthened to exercise their responsibilities and obligations without fear and favour. This calls for unwavering government commitment and political goodwill so that all corruption suspects are brought to book in record time.

In its commitment to bring to book all individuals and institutions involved in corruption offences, the ODPP adopted a holistic approach in prosecution of economic crimes cases through various strategies.

These include a team based prosecution approach, electronic disclosure of documentary evidence, application of plea-bargaining and diversion rules and guidelines. Also, the appointment of special prosecutors and prosecution guided investigations where prosecutors give technical guidance during investigations, and follow the money approach among others.

The effective and efficient prosecution of corruption and economic cases cannot be achieved in isolation thus the need for inter-agency collaboration and cooperation. A strengthened and enhanced multi-agency collaboration and co-operation ensures that each agency involved in

the fight against corruption executes its mandate.

For instance, the multi pronged approach in the fight against corruption resulting from enhanced cooperation with the multi-agency task forces, boosted convictions and asset recovery in 2019.

Further, the ODPP set up Proceeds of Crime Recovery Unit to identify and recover proceeds of crime. So far, the unit has recovered over Kshs. 2 billion being proceeds of crime.

As a result of its efforts, the ODPP continued to see increased arrests and prosecutions including high-profile individuals amongst them sitting Governors for Nairobi, Kiambu and Samburu, a Cabinet Secretary and former governors charged with various economic and anti – corruption offences. No one has been left behind.

Public participation is a crucial Constitutional requirement; as such the Office enhanced public participation through media engagements, community outreach and publicizing the mandate of ODPP in the fight against corruption. The ripple effect has seen the Office receive more complaints and social interaction from the public through social media demonstrating renewed public confidence in the Office.

Even as we intensify our efforts, the fight against corruption has not been without challenges.

First, corruption has been systemic in Kenya and it will take time to get rid of it. Politicization of the fight against corruption still remains a major challenge and as we all know corruption fights back. In recent times, we have seen blatant misguided attempts to intimidate, threaten and malign investigating officers, prosecutors and agencies. However, the Office remains committed to ensuring that such incidences are properly investigated and prosecuted where necessary.

Second, although state officials remaining in office after being charged continues to be a major challenge, two landmark cases were delivered requiring officeholders to step aside and not interfere with investigations and evidence.

In this respect, we acknowledge the appointment of special magistrates in the anti-corruption division

in Nairobi, which was a major boost in ensuring that corruption and economic crimes are heard and determined in the shortest time possible.

As I conclude, I observe that the fight against corruption by the ODPP could and cannot be made possible without the tireless dedication, commitment and hard work of the ODPP staff who consistently strive to achieve the high calling bestowed upon this Office irrespective of the position they hold in the institution.

The unwavering support of our partner institutions, stakeholders and donor agencies can also not go without acknowledgement. The Office has entered into various memoranda of understanding with international training agencies and law enforcement institutions between our staff and their counterparts in other jurisdictions with the aim of building capacity.

I commend all the 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 who was involved in the preparation of this report.

I reiterate the commitment of the ODPP to deliver quality prosecution services and ensure that justice is availed to all victims of crime through general and specialized prosecutions, ensure that profit is removed from crime and that witnesses and their relations 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. In exercising the powers conferred upon us by the Constitution, we ensure 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 16th 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.

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 five 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 2019 that include prosecution of corruption and economic crimes cases, highlights 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 in the year under review and their recommendations in respect to each case. The chapter states the DPP's directions in respect to each as well as the status of each case.

Chapter Four outlines the cases received from 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 as well as the status of each case.

Chapter Five 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.



OFFICE OF THE DIRECTOR

Telephone: Nairobi 2732090/2732240 | Mobile: 0



**OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONS
(ODPP)**

EXIT ONLY

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

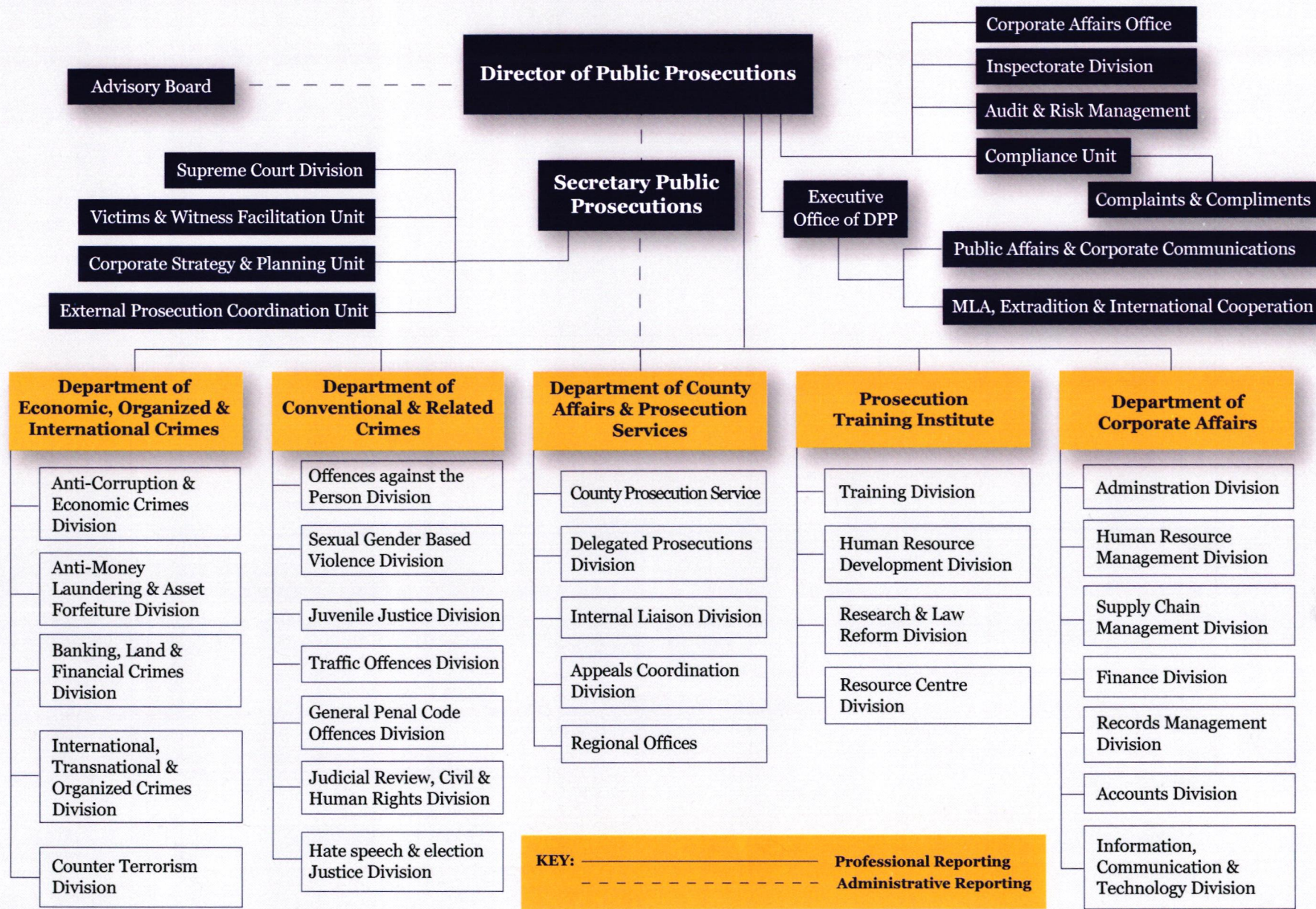
1.5 STRATEGIC GOALS

- a) Improve services and confidence in prosecution services.
- b) Actively participate in making Criminal Justice System more efficient and effective.
- c) Enhance Institutional Capacity.

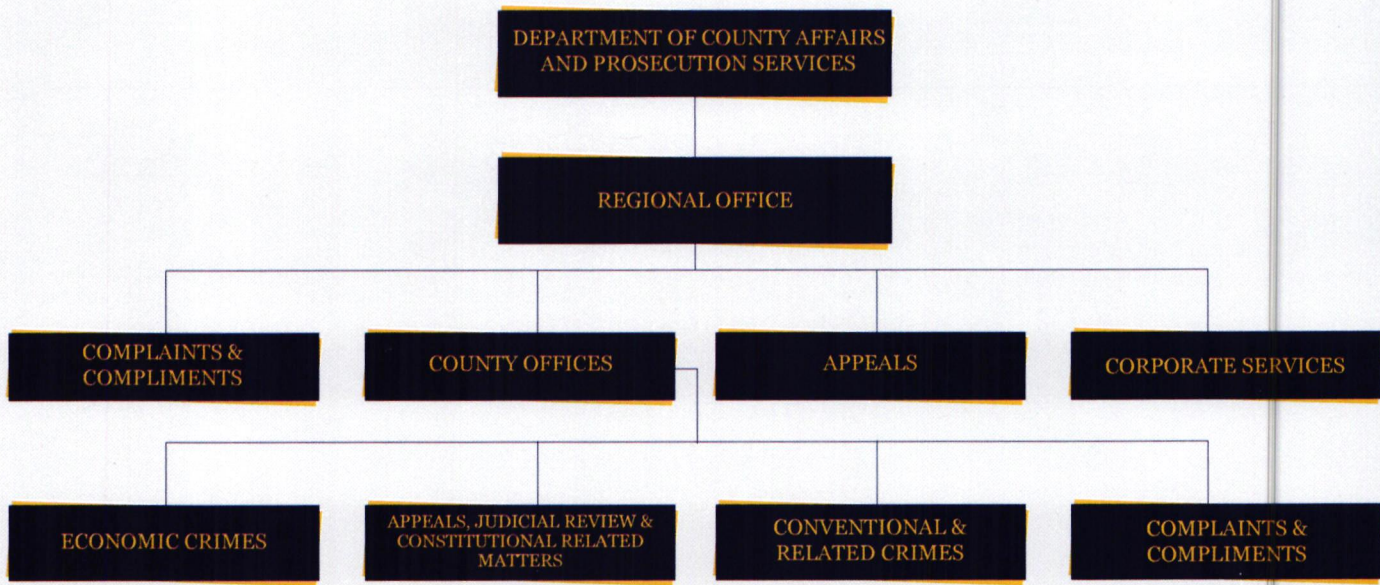
1.6 STRATEGIC OBJECTIVES

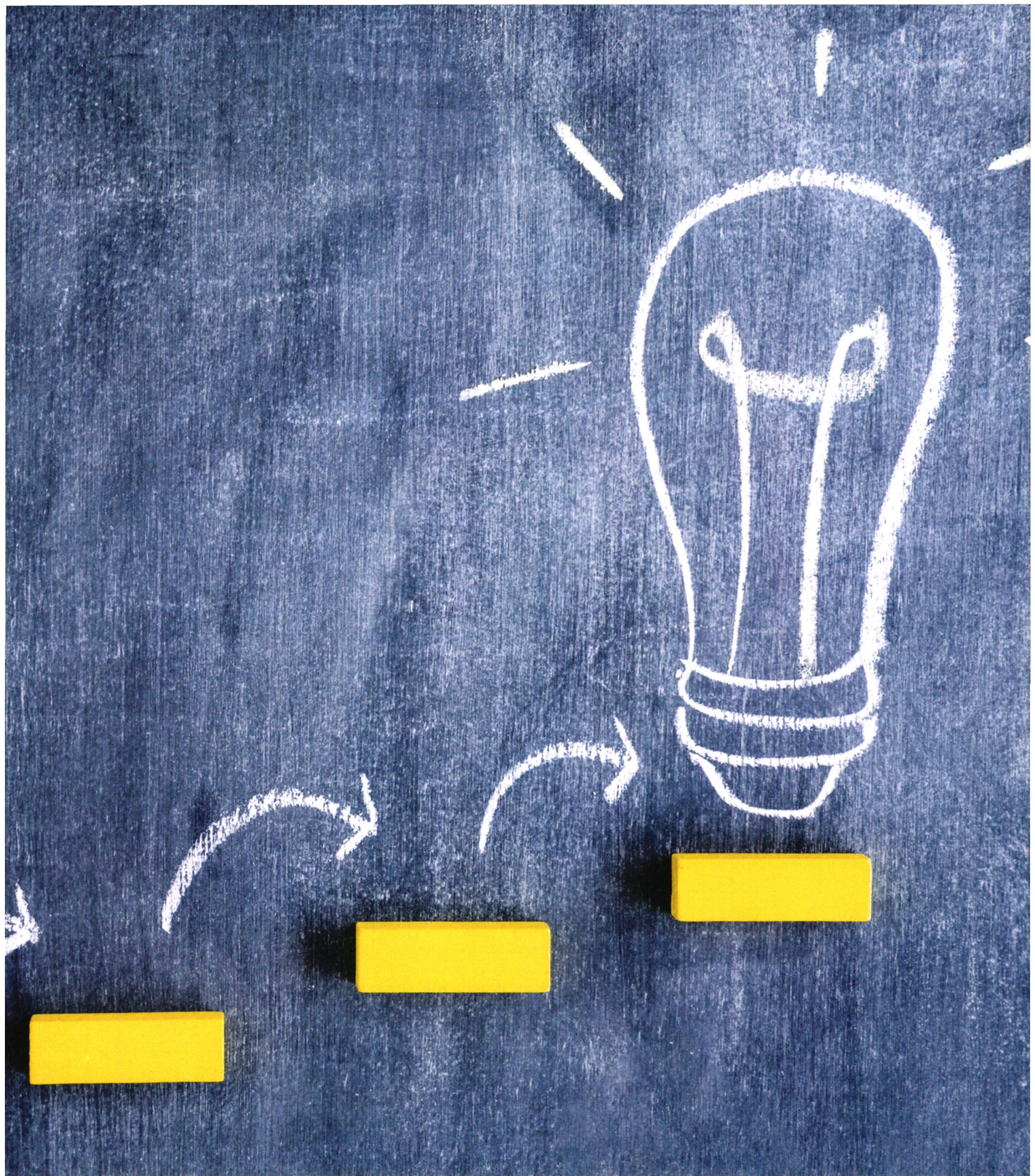
- ◆ To deliver quality prosecution services
- ◆ To strengthen partnerships and collaborations
- ◆ To review policies and legal framework for public prosecutions
- ◆ To enhance the capacity of ODPP to deliver on its mandate
- ◆ To modernize ODPP Processes and Procedures





1.8 Proposed ODPP Organizational Structure for Regional and County Offices





**OVERVIEW OF THE
ACHIEVEMENTS IN 2019**



CHAPTER TWO

2.0 OVERVIEW OF THE ACHIEVEMENTS IN 2019

2.1 EXPEDITIOUS PROCESSING OF CORRUPTION CASES

The ODPP received two hundred and forty-two (242) investigation files from EACC of which 65 cases were filed in court in the year 2019. Eleven (11) cases have been concluded and the rest pending at different stages of the trial process. The Office also received several cases from the Directorate of Criminal Investigations (DCI) out of which twenty-eight (28) major cases have been included in this report.

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 2019 and December 2019. A total of seventy-eight (78) cases were registered in court as tabulated below:

Table 1- Anti-Corruption Cases Filed In Court In The Year 2019

S/NO.	DESCRIPTION	TOTAL NUMBER
1	TOTAL NO. OF CASES REGISTERED IN COURT	78
2	TOTAL AMOUNT INVOLVED (KSHS)	143,523,692,891
3	TOTAL NO. OF ACCUSED PERSONS	415
4	TOTAL NO. OF CORPORATE ENTITIES	40
5	TOTAL NO. OF EACC FILES	65
6	TOTAL NO. OF DCI FILES	13
7	TOTAL NO. OF HIGH-PROFILE CASES	30
8	TOTAL NO. OF ON-GOING CASES IN COURT	64
9	TOTAL NO. OF CONCLUDED CASES EACC - 11 CASES DCI - 3 CASES	14
	<i>CONVICTIONS (EACC)</i>	3
	<i>ACQUITTALS (EACC)</i>	6
	<i>WITHDRAWALS (EACC)</i>	2
	<i>CONSOLIDATED CASES (DCI)</i>	3

Table 2 - Anti-Corruption Cases Concluded in Court in Year 2019 Regardless of the Year of Registration

S/NO.	DESCRIPTION	TOTAL NUMBER
1.	TOTAL NO. OF CASES CONCLUDED IN COURT	106
2.	TOTAL AMOUNT INVOLVED (KSHS)	2,996,484,714.53
3.	TOTAL NO. OF ACCUSED PERSONS	255
4.	TOTAL NO. OF CORPORATE ENTITIES	13
5.	TOTAL NO. OF EACC FILES	91
6.	TOTAL NO. OF DCI FILES	7
7.	TOTAL NO. OF HIGH-PROFILE CASES	24
8.	CONVICTIONS	45
9.	ACQUITTALS	50
10.	WITHDRAWN CASES	8
11.	CONSOLIDATED CASES	3

2.2 CONVICTIONS ACHIEVED IN CORRUPTION AND ECONOMIC CRIMES CASES

The ODPP in 2019 maintained a steady rise in conviction rates of corruption and economic crimes related cases as compared to the previous years. 2019 registered a 47.37% conviction rate as compared to a 47.25% in 2018.

Table 3- Trend in Convictions of Corruption and Economic Crimes from 2014 to 2019

DESCRIPTION	2014	2015	2016	2017	2018	2019
CASES FILED IN COURT	73	144	123	95	116	78
CONVICTIONS	3	7	27	35	43	45

Some of the Notable Cases where Convictions were Secured Include:

1. Nakuru ACC 3/2013, Republic vs. Antony Karisa Maitha

The accused was charged with corruptly soliciting and receiving a benefit contrary to section 39 as read with section 48 ACECA. He was convicted on 18th January 2019 and sentenced to a fine of Kshs.100, 000 in each count in default 1 year imprisonment.

2. Milimani ACC 26/2016 Republic vs. Peter Mangiti and 28 others

The accused persons, Principal Secretary, Senior Deputy Director General NYS and other officers at NYS, faced charges of conspiracy to commit an economic crime, willful failure to comply with the law relating to procurement and fraudulent acquisition of public property in relation to procurement irregularities

in award of tender for supply, and delivery of training materials to Blue Star Enterprises at a cost of Kshs.47, 600,000.

On 9th March 2018 the accused persons were acquitted but accused 24, Selesio Karanja was put to his defence. On 17th January 2019, he was convicted for fraudulent practice in procurement and fined 4 million in default 9 years in prison. The Director of Public Prosecutions has appealed the acquittal of the co-accused at the High Court.

3. Milimani ACC 29/2011 Republic vs. James Odhiambo

The accused person, an employee of ministry of science and technology had been charged with knowingly giving a false document to one's principal contrary to section 41(2) and false accounting by a public officer in relation to fraudulent claims for an imprest of Kshs.2, 263,440 for rehabilitation of Provincial Technical Training Officers at Eastern Province (Embu). On 28th February 2019, he was convicted and sentenced to a fine of Kshs.500, 000/- and a mandatory fine of Kshs. 4,526,880 in default to serve 12 months imprisonment.

4. Milimani ACC 7/2016 – Republic vs. Mathew Omondi Nyandiga

The accused was a legal assistant at the University of Nairobi and he was charged with the offences of corruptly soliciting for Kshs. 150,000 and receiving Kshs. 90,000 as a benefit from two university students as an inducement to facilitate their swearing in as representatives in the Student Organization of Nairobi University (SONU) elections.

On 29th February 2019, he was convicted and sentenced in count one to a fine of Kshs. 800,000 in default one year and in count two to a fine of Kshs 700,000 in default one-year imprisonment.

5. Kajiado CR. 1522/2016, Republic vs. Davis Edewa Chele.

The accused person, an employee of the Export Processing Zone Authority solicited for a benefit of Kshs.1.6 million as an inducement to assist

the complainant in being awarded a tender. He was charged with three counts of corruptly soliciting and receiving a benefit contrary to Section 39 and 48 ACECA. The accused person was convicted and sentenced on 29th March 2019 to pay a fine of Kshs.500, 000 on each count in default two years imprisonment.

6. Kilifi ACC 1/2016 Republic vs. Nahashon Joseph Charo Dzombo

The accused person was charged with offering a benefit contrary to section 39(3) and 48 ACECA. He, a private person had offered a bribe to a police officer so that he would forbear arresting him. The accused was convicted on 29th March 2019 and sentenced to a fine of Kshs.500, 000 in default eight years imprisonment.

7. Milimani ACC 20/2016 Republic vs. Jacinta Kiguru Mugure and another

The accused persons, students of Catholic University of Eastern Africa, were charged with corruptly offering a benefit of Kshs.500, 000 to the Deputy Registrar Academics Affairs as inducement to add their names in the graduation list for the degree certificate in law. On 12th April 2019, they were convicted on all five counts and fined Kshs. 60,000 in each count in default eight months in each count.

8. Milimani ACC 2041/2016 Republic vs. Peter Munyiri

The accused, Family Bank CEO and other senior officers of the bank, were charged with failure to report suspicious transactions regarding proceeds of crime contrary to section 5 as read with section 44(2) and 16(2) of the Proceeds of Crime and Anti-Moneylaundering Act (POCAMLA). A plea agreement was entered and accused pleaded guilty to six counts of failure to report suspicious transactions relating to NYS 1 case. On 2nd May 2019, they were fined Kshs 5 million.

9. Milimani ACC 2/2014 Republic vs. John Faustin Kinyua & another

The first accused, a Director of Finance and Corporate Services at Kenya Re-Insurance Corporation Ltd had been charged with abuse

of office and an alternative charge of fraudulent disposal of public property contrary to section 45 (1)(b) as read with section 48 of ACECA in relation to house No. 70 in Villa Franca Estate, the property of Kenya Re-Insurance. The second accused, Charles Kinuthia Gichane, faced a count of fraudulent disposal of house No. 70 in Villa Franca Estate, the property of Kenya Re-Insurance.

On 13th May 2019, the accused persons were convicted and each fined Kshs.1 million in default one year in prison and a mandatory fine of Kshs. 6,393,792 in default three years imprisonment. The house was forfeited and reverted to Kenya Re.

10. Milimani ACC 35/2008 Republic vs. Johnson Jackson Githaka and four others

The accused, Kenya Re-Insurance Corporation Ltd.'s Managing Director and other employees faced charges of fraudulent disposal of public property contrary to section 45(1)(b) of ACECA, fraudulent acquisition of public property contrary to section 45(1)(b) and conflict of interest contrary to section 42(3) as read with section 48 of ACECA.

This was in relation to the transfer of property in Karen, Nairobi belonging to Kenya Re to Ms. Rockwood Properties Ltd, where the Company's Finance Director, John Faustin Kinyua had an interest.

On 14th June 2019, 2nd to 4th accused persons were convicted and sentenced to three years each. Accused four was fined Kshs. 1 million in count two and Kshs. 500,000 in count four in default one year and six months imprisonment respectively. Company fined Kshs. 1 million and each director to contribute 1/3 of Kshs. 1 million each in default six months imprisonment.

11. Kisumu ACC 6/2014 and 4/2015 Republic vs. Remigius Ngaanyi Waiten.

The accused, a Land Registrar, had been charged with conspiracy to commit an offence of corruption contrary to section 47A of ACECA

and fraudulent disposal of public property.

He was convicted on 25th June 2019 on the count of fraudulent acquisition and fined Kshs.500,000 and a mandatory fine of Kshs.12 million in default four years. The court also ordered the land to revert to the County Government of Kisumu.

12. Nyeri ACC 6/2017 Rep Republic vs. Godfrey Nyingi and six others

The accused being officials of Nanyuki River Water Users Association, faced charges of willful failure to comply with the laws and procedures applicable to procurement in purchase of 67 water tanks. On 12th September 2019, they were convicted and each fined Kshs.200,000 in default one year in prison.

13. Milimani ACC 30/2018 Republic vs. Esther Nyambura Thongori and two others.

The accused persons, employees of Nairobi City County, had been charged with conspiracy to commit an economic crime contrary to section 47 as read with 48 of ACECA, conspiracy to defraud contrary to section 317 of the Penal Code and obtaining money by false pretense contrary to section 313 of the Penal Code. They had received and retained Kshs.8,891,973 building plan approval monies paid by Ms. Elephant Real Estate Ltd.

On 2nd October 2019, they were convicted and fined in count one Kshs.700,000 in default one year imprisonment and mandatory fine of Kshs.10,155,100; Kshs. 280,000 and Kshs. 17,783,886 for accused one, two and three respectively in default three years imprisonment. In relation to count two, all accused persons were fined Kshs.50,000 in default six months imprisonment and in counts three to seven, accused three was sentenced to a fine of Kshs. 50,000 per count in default six months imprisonment per count

14. Eldoret ACC 3/2017 Republic vs. James Nyamari Osoro

The accused, an officer serving at the National Land Commission in Kitale, faced three counts of requesting for Kshs. 300,000 and receiving Kshs. 100,000 as an inducement to register a lease contrary to section 6(1)(a) as read with section 18 of the Bribery Act.

On 11th October 2019, he was acquitted in count 1 but convicted in counts 2 and 3 and fined Kshs. 200,000 in each count in default one-year imprisonment.

15. Milimani Law courts ACC 43 of 2018 Republic vs. John Chacha Nyamohanga alias Moses Mogaya

The accused, an Administration Police Officer was charged with the offence of impersonation of a person named in a certificate and uttering a document. He was convicted and sentenced on 6th November 2019 to a fine of Ksh. 500,000 in default two years imprisonment.

16. Kisii Law Courts ACC 2 of 2018 - Republic vs. Evans Nyaoga Rambeka

The accused was a Ward Administrator for Masige East Ward and an employee of the Kisii County Government. He was charged with two counts of forgery and two counts of uttering false documents, giving false information to a person employed in public service and obtaining money by false pretense. He was convicted on 7th November 2019 on all counts and sentenced to a fine of Kshs. 100,000 in each of the five counts and Kshs. 50,000 in count six respectively.

17. Milimani Law Courts, ACC 40 of 2018 Republic vs. William Ashael Osoro

The accused was a Senior Administrative Officer, at the Office of the Director of Public Prosecutions (ODPP). He was charged with abuse of office and stealing Ksh.7, 902,250.28 in relation to the management of fuel and pit stop services for the office.

Court acquitted him on the count of stealing, convicted him on the count of abuse of office, and sentenced on 12th November 2019 to pay a fine of Kshs. 600,000 and in default to serve a three-year jail term.

2.3 CONTRIBUTION TO THE DEVELOPMENT OF LAW RE FORM: SUMMARY OF MATTERS OF JURISPRUDENTIAL VALUE

During the year 2019, the courts determined several cases of jurisprudential value, which will guide the prosecutors in subsequent cases. These are listed below.

i. Muhammad Abdalla Swazuri & 23 Others V Republic [2019] eKLR

In this case, the court was called to revise the bond terms issued to the applicants. The court observed that they were in uncharted territory as the recent past had probably seen the first serious and concerted effort to deal with corruption and ensure that perpetrators are brought to justice.

It was important that courts consider public interest during setting of bond terms so as not to diminish public confidence in the administration of justice. However, the court emphasized that in doing so, consideration ought to be balanced with the constitutional right of an accused person to bail, which is linked to his or her constitutional right to be presumed innocent.

ii. Director of Public Prosecutions v Simeon Lemminte Ole Kirgotty & another [2019] eKLR

In this case, the lower court had directed the DPP to supply the accused persons with hard copies, rather than scanned copies, of the evidence it intends to rely upon. Justice Mumbi Ngugi J. held that the requirement to grant the accused persons reasonable access to evidence that the prosecution intended to rely on would be satisfied if the bank statements, which were retrieved as soft copies, would be supplied to the defence in that format.

iii. Moses Kasaine Lenolkulal v Republic [2019] eKLR

In this case, the applicant was charged with various corruption-related offences committed within and in his capacity as Governor of Samburu County.

The trial court barred the Governor from accessing the Samburu County Government Offices without the prior written authorization from the CEO of EACC, who was required to ensure that the first respondent does not have any contact with prosecution witnesses and preserve the evidence.

The High Court concurred with the decision of the trial court and held that orders barring an individual from office do not amount to removal from office and that the orders limiting access to office were proper and made in the public interest. The applicant being displeased by the decision of the High Court appealed to the Court of Appeal which court concurred with the decision of the High Court.

iv. National Land Commission v Afrison Export Import Limited & 10 others [2019] eKLR

In this case, the issue for determination was whether L.R. No. 7879/4 on which Drive Inn Primary School and Ruaraka High School sit is public land. The applicant claimed that the Government in 1984 had compulsorily acquired the land and that no compensation had been made for it.

Obaga J., Eboso J., and Bor J. held that the title for LR 7879/4 is held subject to the interest of the Government in the public amenity plots as per the subdivision scheme and subsequent surrender. As a result, the court determined that the land in question was public land and that the compensation that had been made to the purported owner of the land was irregular.

v. High Court of Kenya at Nairobi, Constitutional and Human Rights Division Petition No. 295 of 2018 - Philomena Mbete Mwilu v Director of Public Prosecutions & three others; Stanley Muluvi Kiima (Interested Party); International Commission of Jurists Kenya Chapter (Amicus Curiae) [2019] eKLR

The court on 31st May 2019 held that both the EACC and DCI have the mandate to investigate economic crimes. The powers that are available to the DCI that are similar to the provisions under sections 26-28 are to be found in sections 118 -121 of the CPC and section 180 of the Evidence Act.

The court further held that the DPP was at liberty to rely on any source of information in order to institute criminal proceedings, whether the information emanates from the EACC or not, as long as the source is lawful.

vi. High Court of Kenya at Mombasa Constitutional Petition No. 204 of 2019 - Daniel Ogwoka Manduku v Director of Public Prosecutions & 2 others [2019] eKLR

The court on 17th December 2019 held that the police have the mandate to perform multifaceted functions as provided under Articles 244 and 245 of the Constitution, Section 24(e) and 35(b) & (d) of the National Police Service Act such as the prevention of crime, corruption, maintenance of law and order, and conduct of investigation of economic crimes.

vii. James Odhiambo v Republic [2019] eKLR

The appellant had on 11th July 2011 been charged in Nairobi Chief Magistrate ACC No. 29/11 with knowingly giving a false document to one's principal contrary to section 41 (2) as read with section 48 (1) of the ACECA and in the alternative false accounting by a public officer contrary to section 331 (1) as read with section 33 (2) of the Penal Code. Count two was in respect to uttering a false document contrary to section 353 of the Penal Code. He was acquitted in count two but convicted in respect of count one and sentenced to a fine of Kshs.500, 000 in default to 12 months imprisonment and a mandatory sentence under Section 48 (2) (a) of ACECA of Kshs.4, 526,880 in default serve 12 months imprisonment.

He appealed against the conviction and sentence at the High Court wherein the appellate court upheld the conviction and sentence. The High Court found that the mandatory fine was not negotiable and it was properly imposed, as there was no proof that part of the money lost had been recovered through salary deduction.

2.4 KEY ACHIEVEMENTS

- a) There has been enhanced adoption of alternatives to prosecution such as diversion, plea bargaining and deferred plea agreements. With the proposed nation-wide sensitization of prosecutors on the same, it is expected that these tools will reduce the case backlog over time.
- b) There has been enhanced interagency collaboration with other criminal justice players such as ARA, EACC, DCI, and KRA amongst other agencies, which has seen a multi-pronged approach in the fight against corruption. This has seen increased asset recovery of public property and funds that had been corruptly acquired and restitution to the affected institutions.
- c) The use of electronic disclosure of documentary evidence in complex cases has gained recognition with the backing of the court. This is more so especially on material obtained by the investigators in soft copy. This will reduce the reliance of manual service of documents and thus reduce the pre-trial disclosure time and eventual determination of cases.
- d) The operationalization of the Proceeds of Crime Recovery Unit to spearhead the recovery of proceeds of crime will see the ODPP enhance its use of the “follow the money approach” and ensure that no benefit is derived out of crime.

- e) The ODPP hosted several high-profile delegations including the Jersey Law Officers, the Nigerian Transparency International Chapter and the Ugandan Law enforcement during which meetings the teams exchanged best practices for the prosecution of economic crimes.
- f) Several banks which had flouted Central Bank of Kenya Prudential Guidelines on reporting suspicious transactions entered into Deferred Prosecution Agreements with the ODPP and paid a total of Kshs. 385 million in penalties for failing to report suspicious transactions in relation to National Youth Service prosecutions. The money was paid to the Prosecution Fund account.
- g) On 5th November 2019, H.E. President Uhuru Kenyatta awarded the ODPP with the Distinguished Taxpayer Award for being the most facilitative government agency in the fight against tax evasion and illicit trade.

2.5 CAPACITY BUILDING

To enhance capacity of the staff attached to the specialized prosecution teams handling the complex prosecutions, the ODPP entered into various Memoranda of Understanding (MOU) with international training agencies and law enforcement institutions for exchange programs between ODPP staff and their counterparts in other jurisdictions. This will give the prosecutors a holistic understanding of how the agencies work and to ease international cooperation on cross cutting issues.

Locally, several training initiatives were undertaken as shown in the schedule below:

Table 4 - Training Initiatives Undertaken

S/No.	SPONSOR/ DATE	TRAININGS /WORKSHOP
1	UNODC – October 2019	Training of trainers on plea-bargaining and diversion.
2	Strathmore - May 2019	Public Policy Executive Programme
3	Strathmore- March 2019	Digital Forensics training
4	Lawyers Without Borders- November 2019	Case management training
5	East Africa Law Society of Kenya	Training on forensic evidence, cybercrime, electronic evidence and data protection
6	Kenya School of Government	Strategic Leadership and Development Programme
7	National Crime Agency United Kingdom, British High Commission and Serious Fraud Office United Kingdom - October 2019	Investigating complex fraud, Bribery and corruption workshop
8	Strathmore University, ILab Africa & British High Commission – March 2019	Organized crime, money laundering, terrorist financing & corruption Evidence course for prosecutors

2.6 INTER-AGENCY COLLABORATION

In the execution of its mandate, the ODPP worked with the enhanced multi-agency team (ODPP, AG, DCI, EACC, KRA, FRC, Judiciary and ARA among other agencies) in order to strengthen inter-agency collaboration and co-operation and ensure that each agency executes its mandate.

In 2019, the ODPP was involved in various interagency collaboration forums through active participation at the following local, regional, and international forums.

- Court Users Committees
- Joint meetings with other players in the criminal justice system
- 2019 Annual International Prosecutors Association Conference
- 2019 Annual Regional Prosecutors' Conference
- National Commission on Administration of Justice meetings
- Legal and Justice Affairs Committee of the National Assembly meetings

- Kenya Leadership and Integrity Forum (KLIF) meetings
- Multi-Agency Team (MAT) meetings

2.7 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 at 31st December 2019.

Table 5 - High Ranking Senior Government Officials Charged in Court with Anti – Corruption Cases Registered in the year 2019.

S/No	DESIGNATION	TOTAL
1.	CABINET SECRETARY	1
2.	CHIEF EXECUTIVE OFFICER (CEO)	3
3.	CHIEF OF STAFF (COS)	1
4.	COMMISSIONER	1
5.	COUNTY SECRETARY	3
6.	DEPUTY AUDITOR GENERAL	1
7.	DEPUTY COUNTY COMMISSIONER	1
8.	DEPUTY DIRECTOR	1
9.	DEPUTY GOVERNOR	1
10.	DIRECTOR	6
11.	FORMER MAYOR	1
12.	GOVERNOR	4
13.	MANAGING DIRECTOR (MD)	4
14.	MEMBERS OF COUNTY ASSEMBLY (MCA)	5
15.	MEMBERS OF PARLIAMENT (MP)	2
16.	PRINCIPAL SECRETARY (PS)	2
TOTAL		37

Table 6 - High Ranking Senior Government Officials Charged in Court with Anti – Corruption Cases Concluded in the year 2019.

S/NO.	DESIGNATION	TOTAL
1.	CABINET SECRETARY (CS)	1
2.	CHIEF EXECUTIVE OFFICER (CEO)	1
3.	CLERK COUNTY ASSEMBLY (CCA)	1
4.	COUNTY SECRETARY (CS)	1
5.	DEPUTY CLERK COUNTY ASSEMBLY	1
6.	DIRECTOR GENERAL (DG)	1
7.	DIRECTORS	3

8.	EXECUTIVE COMMITTEE MEMBER (ECM)	1
9.	LAND REGISTRAR	4
10.	LANDS COMMISSIONER	1
11.	MANAGING DIRECTOR (MD)	8
12.	MEMBER OF PARLIAMENT (MP)	1
13.	PRINCIPAL ACCOUNTANT (PA)	1
14.	PRINCIPAL SECRETARY (PS)	2
15.	PROSECUTION COUNSEL (PC)	1
16.	SENIOR DEPUTY DIRECTOR-GENERAL (SDDG)	1
TOTAL		29



PHOTO: PEOPLE DAILY

**INQUIRY/INVESTIGATION FILES SUBMITTED BY
ETHICS AND ANTI-CORRUPTION COMMISSION
(EACC) TO ODPP IN THE YEAR 2019**

3

CHAPTER THREE

INQUIRY FILES SUBMITTED BY ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO ODPP IN THE YEAR 2019

Inquiry files submitted by EACC were divided into four (4) quarters as follows:

- (i) The first (1st) quarter - Investigation files submitted by EACC to ODPP for the period 1st January 2019 to 31st March 2019.
- (ii) The second (2nd) quarter - Investigation files submitted by EACC to ODPP for the period 1st April 2019 to 30th June 2019.
- (iii) The third (3rd) quarter - Investigation files submitted by EACC to ODPP for the period 1st July 2019 to 30th September 2019.
- (iv) The fourth (4th) quarter - Investigation files submitted by EACC to ODPP for the period 1st October 2019 to 31st December 2019.

FIRST (1ST) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST JANUARY 2019 TO 31ST MARCH 2019

1. ODPP/CAM/5/19/036 EACC/MLD/FI/INQ/02/2017

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF KILIFI HAD IRREGULARLY PROCURED AND AWARDED A TENDER FOR THE SUPPLY AND DELIVERY OF A SEA RESCUE BOAT TO CAPITAL SOLUTIONS LIMITED AT A TENDER SUM OF KSH 14,870,750

The EACC investigations established that the procuring entity applied the wrong procurement procedure. The

Committee did not undertake a technical evaluation before using the financial criteria to award the tender. As a result, an incompetent firm that had never dealt with marine equipment was awarded the tender.

The EACC report forwarded to the DPP on 16th January 2019 recommended that members of the Tender Evaluation Committee and directors of Capital Solutions Limited be charged with the following offences:

- Willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA,
- Uttering false documents contrary to section 353 of the Penal Code,

- Conspiracy to commit an economic crime contrary to section 47A(3) as read with section 48 of the 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 but directed that further investigations be carried out based on the identified gaps and deficiencies.

STATUS

The DPP returned the file to EACC on 8th April 2019 directing further investigations.

2. ODPP/CAM/5/019/119 EACC/INQ/FI/0/2019

INQUIRY INTO ALLEGATIONS THAT THE GOVERNOR OF SAMBURU COUNTY TRADED WITH HIS COUNTY IN THE NAME OF ORYX SERVICE STATION BY SUPPLYING FUEL

The EACC received a report indicating gross financial malfeasance, conflict of interest, and embezzlement of funds by Samburu County officials.

Investigations established that the officials registered companies that were awarded contracts to supply goods and services and once paid, the money would be shared out among various county employees as kickbacks.

Investigations also established the Governor as the sole proprietor of Oryx Service Station, a business entity that transacted with Samburu County Government for the supply of fuel. The Governor and a private person were signatories to the Oryx Service Station's bank account.

Investigations further revealed that the said Governor did not declare to the said County Government about his private interest in Oryx Service Station.

The EACC report forwarded to the DPP on 29th March 2019 recommended that the said Governor and his business partner, Deputy Governor, County Secretary, County Chief Officers Samburu County Government,

and Head of Supply Chain be charged with the following offences:

- Conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48 of ACECA,
- Also, abuse of office contrary to section 46 as read with section 48(1) of ACECA,
- Conflict of interest contrary to section 42(3) 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.

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

STATUS

The DPP returned the file to EACC on 1st April 2019 directing that prosecution ensue. Milimani ACC 3 of 2019 is pending before court.

3. ODPP/CAM/5/019/042 EACC/MLD/FI/INQ/12/2018

INQUIRY INTO ALLEGATION OF SUSPECTED FRAUDULENT AWARD OF TENDER NO. KCG/HOSP/055/2016-2017 TO SKYWARDS AGENCIES LIMITED FOR CONSTRUCTION OF DISPENSARY BLOCK AND 2 NO. CUBICLE PIT LATRINE AT VISHAKANI DISPENSARY KALOLENI WARD

The EACC commenced investigations following a complaint that the County Government of Kilifi fraudulently awarded tender no. KCG/HOSP/055/2016-2017 to Skywards Agencies Limited for construction of a dispensary block and two cubicle pit latrines at Vishakani Dispensary Kaloleni Ward.

Evidence obtained established that the winning bidder engaged in fraudulent practice by submitting false documents in support of its bid

The EACC report compiled and forwarded to the DPP on 16th January 2019 recommended that the Chief Officer and directors of Skywards Agencies Limited be charged with the following offences:

- Willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA,
- In addition, uttering false documents contrary to section 353 of the Penal Code,
- Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48 of ACECA.

Upon perusal of the file, the ODPP identified gaps that needed to be covered by further investigations. The file was returned to the EACC on 8th April 2019 directing further investigations.

On 17th July 2019 the file was resubmitted to the DPP and upon perusal of the further investigation covered, the DPP concurred with the Commission's recommendation for prosecution and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 13th December 2019 directing that prosecution ensue.

4. ODPP/CAM/5/019/022 EACC/NYR/FI/INQ/32/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR EXPENDITURE ON SHOOTING OF A DOCUMENTARY FOR MAGICAL KENYA TRAVEL EXPO BY KIRINYAGA COUNTY GOVERNMENT

The EACC commenced investigations upon receiving a report from the Auditor General about Kirinyaga County Government's financial operations for the period 1st July 2013 to 30th June 2014.

According to the report, the County Government had allocated Kshs. 9,719,406 for printing and publishing services in the County's approved budget for the

2013/2014 financial year. The same was also in the County's procurement plan. The report indicates that out of the budgeted amount, Kshs. 3,712,240 was spent on shooting a documentary for Magical Kenya travel expo.

EACC investigations established that Design IT Fashion Ltd was paid without existence of completion certificate as required by law and that the Director of Supply Chain failed to propose names of members of the Inspection and Acceptance Committee to the Accounting Officer for appointment.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the County Government officials be charged with abuse of office contrary to section 46 as read with section 48 of the ACECA, and willful failure to comply with applicable procedures and guidelines relating to the management of public funds contrary to section 45(2) (b) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified gaps and deficiencies in the investigation that required it to be covered to strengthen the prosecution case. The DPP directed that the areas be covered, and the file be re-submitted for further directions.

STATUS

The DPP returned the file to EACC on 6th June 2019 directing further investigations.

5. ODPP/CAM/5/019/039 EACC/FI/INQ/20/2017

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AGAINST THE ASSISTANT DIRECTOR, PROCUREMENT AT THE COMMUNICATIONS AUTHORITY DURING THE EVALUATION OF TENDER NO CCK/PPO/RFQ/33/2014-2015 FOR RENOVATION OF THE AUTHORITY'S AGRICULTURAL SOCIETY OF KENYA SHOW STAND

The EACC commenced investigations after a complaint received on 2nd October 2014 with allegations that the Assistant Director, Procurement at the Communications Authority of Kenya (the Authority) was involved in procurement irregularities during the evaluation of tender No. CCK/PRO/RFO/33/2014-2015 for the renovation of the Nairobi Agricultural Show stand. The report alleged that the said officer had invited contractors outside the prequalified list.

Investigations revealed, inter alia, that the Tender Committee did direct procurement of the contractor without due consideration of the provisions of the law. The assistant Director of Procurement failed to notify bidders as required by law. No report was given to Public Procurement Oversight Authority considering the value of the contract exceeded five hundred thousand shillings.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the assistant Director of Procurement and the Tender Committee be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA.

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

STATUS

The DPP returned the file to EACC on 6th May 2019 directing that prosecution ensue. Milimani ACC 11 of 2019 is pending before court.

6. ODPP/CAM/017/5/766 EACC/FI/INQ/110/2015

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AT THE PRISONS SERVICE DEPARTMENT THROUGH NON-DELIVERY OF TYRES WORTH KSHS 5,250,000

The EACC commenced investigations after allegations of misappropriation of Government funds at the Kenya Prisons Service through tender number SDC/17/2013-

2015 in which the Prisons department entered into an agreement with Lolmuran Enterprises to supply and deliver tyres valued at Kshs. 5,250,000 and that they were never delivered.

Pursuant to the said investigations, EACC recommended charges against the Kenya Prisons Service's officer in charge of stores and the Director of Multiprode Enterprises, through letter dated 13th July 2017. The recommendation was allowed with some additional amendments.

The Commission on 16th July 2018 informed the DPP that they had obtained critical evidence in the period between May 2015 and January 2016. However, the matter was affected by the Court of Appeal decision in Civil Appeal No. 102 of 2016 Eng. Michael Sistu Mwaura Kamau Vs. Ethics and Anti-Corruption Commission.

The Ministerial Tender Committee pre-qualified Lolmuran Enterprises to bid for tender No. SDC/17/2013-2015, for the supply and delivery of tyres, tubes, and batteries. However, the firm neither supplied 49 tyres and tubes of sizes 295/80 R22.5 for the sum of Kshs. 3,038,000 in respect of LPO Number 224904 nor did they supply 70 tyres and tubes of sizes 900 R20 for the sum of Kshs. 2,212,000 in respect of LPO Number 224905.

The EACC report forwarded to the DPP on 16th January 2019, recommended that the Kenya Prisons Service's officer in charge of stores and Director of Multiprode Enterprises be charged with the following offences:

- Attempted fraud, conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48 of the ACECA,
- In addition to attempt to commit an economic crime contrary to section 47A as read with section 48(1) and (2) of the ACECA,
- Making a false document contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies in the investigations and directed further investigations to be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing further investigations.

7. ODPP/CAM/5/019/007 EACC/MLD/INQ/05/2016

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF KILIFI IRREGULARLY PAID A SUM OF KSHS 17,448,275.90 TO GRANDTOP SOLUTIONS FOR PROPOSED UPGRADING OF THE DATA CENTRE AND SECURITY UPGRADE OF CYBERROOM CONFIGURATION DURING THE 2015/2016 FINANCIAL YEAR.

The EACC received an invitation letter guided by an audit report dated 1st February 2016 to conduct forensic investigation on a number of irregular payments by the County Government of Kilifi about various tenders. One of the tenders identified for investigations is tender No. KCG/392/2014/2015 for upgrade of the data center and security of the cyber room.

EACC investigations revealed that the purported tender works to upgrade the data center and security upgrade of the cyber room never took place. Grand Top Solutions, the suspect company, was however paid in two installments of Kshs. 8, 724,137.94 each through the IFMIS. The Director of IFMIS ruled out password hacking.

The EACC report forwarded to the DPP on 16th January 2019 recommended charges against these officers for the following offences:

- The Chief Officer, ICT department for willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of ACECA and abuse of office contrary to section 46 as read with section 48(1) of ACECA.

- The computer programmer for abuse of office contrary to section 46 as read with section 48(1) of ACECA,
- The Procurement Officer for abuse of office contrary to section 46 as read with section 48(1) of ACECA,
- The Chief Officer of Finance, the IFMIS liaison person and the Accountant for abuse of office contrary to section 46 as read with section 48(1) of the ACECA,
- The Proprietor of Grand Top Solution for fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified gaps and deficiencies in the investigation that required to be covered to strengthen the prosecution case. The DPP directed that the areas be covered, and the file be re-submitted for further directions.

STATUS

The DPP returned the file to EACC on 23rd July 2019 directing further investigations.

8. ODPP/CAM/5/019/040 EACC/FI/INQ/96/2015

ALLEGATIONS OF ABUSE OF OFFICE AND SOLICITING FOR A BENEFIT AGAINST THE WATER RESOURCES MANAGEMENT AUTHORITY'S (WRMA) FINANCE AND ADMINISTRATION MANAGER

The EACC commenced investigations after an anonymous person reported that WRMA's Finance and Administration manager solicited for benefits by instructing members of staff including regional managers throughout the country to send him between 10% and 20% of the amount disbursed as Government Water Development/Operations Funds. They were to send on his personal cell phone number through Mpesa.

Investigations revealed that between January 2012

and February 2014, the suspect received a total of Kshs. 14,833,945 through Mpesa as an inducement to facilitate continuous disbursement of operation and development funds to various WRMA regional offices.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspect be charged with six counts of soliciting and receiving a bribe from the public officer's contrary to section 39(3) as read with section 48 of ACECA.

Upon perusal of the file, the DPP concurred with the Commission's recommendations for prosecution.

STATUS

The DPP returned the file to EACC on 28th March 2019 directing that prosecution ensue. Milimani ACC 5 of 2019 is pending before court.

9. ODPP/CAM/5/019/012 EACC/MSA/FI/INQ/29/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR DISPOSAL OF PLOT NO. MOMBASA BLOCK XXV/169 BY TOURISM FINANCE CORPORATION

The EACC conducted investigations after a complaint to the Commission alleging that the Tourism Finance Corporation was in the process of irregularly disposing its land plot No. Mombasa Block XXV/169 situated at Mikindani Street within Mombasa County.

It was further alleged that Tourism Finance Corporation had irregularly hired the services of Baseline Auctioneers to sell the said subject property without having a functional Board that would have sanctioned the sale.

EACC established that the Managing Director of Tourism Finance Corporation failed to appoint a Tender Inspection and Acceptance Committee and approved payment to Trans Country Valuers Ltd, a company that had not been procedurally procured to carry out valuation on the property. Further that the Managing Director and Head of Legal department at Tourism

Finance Corporation failed to invite tenders from the list of pre-qualified suppliers for the disposal of the property.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the Managing Director and Head of Legal department be charged with willful failure to comply with applicable law relating to procurement of goods contrary to section 45(2)(b) and 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 in the investigations and directed further investigations to be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing further investigations.

10. ODPP/CAM/5/019/041 EACC/FI/INQ/69/2013

INQUIRY INTO ALLEGATION OF IRREGULAR AWARD OF TENDER FOR THE RENOVATION OF KENYATTA STADIUM AT A COST OF KSHS 87 MILLION BY THE COUNTY GOVERNMENT OF MACHAKOS USING THE COUNTY PUBLIC FUNDS WITH NO BUDGET ALLOCATION IN THE APPROVED BUDGET OF THE FINANCIAL YEAR 2013/2014

The EACC investigation established that there was no annual procurement plan and budget allocation in the 2013/2014 financial year for the renovation of Kenyatta Stadium. It was further established that the procurement for the renovation of Kenyatta Stadium was not undertaken as per the law relating to procurement on restrictive tendering.

The Accounting Officer further conferred a benefit to the contractors irregularly and that the accounting

procedures were not adhered to when making payments to the contractors.

Further, it was established that a number of evaluation committee members, Tender Committee members and directors of companies awarded various tenders were involved in corrupt practice.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the interim Head of the Supply Chain Management and members of the Tender Committee be charged with the following offences:

- Engaging in a project without prior planning,
- Willful failure to comply with the law applicable 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,
- 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,
- Willful failure to comply with the applicable law relating to incurring of expenditure contrary to section 45(2)(b) of the ACECA,
- Corrupt practice in a procurement proceeding contrary to section 40(1) as read with section 137 of the PPDA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges, but identified a number of gaps and deficiencies in the investigations. The DPP directed that the areas be covered and the file be resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing further investigations.

11. ODPP/CAM/5/019/008 EACC/AT/FI/INQ/17/2014

INQUIRY INTO ALLEGATIONS OF CORRUPT ACQUISITION OF ASSETS, BRIBERY AND MONEY LAUNDERING BY A MANAGER AT

KENYA REVENUE AUTHORITY (KRA) AND GICHE LTD.

The EACC commenced investigations after a complaint received on 6th July 2015 that a Principal Revenue Officer at the Kenya Revenue Authority (KRA) received bribes after undervaluing import goods consequently denying the government the precise revenue due to it.

Investigations established that the suspect, a KRA employee, also operates a company known as Giche Limited where he is co-director with his spouse. Investigations further established that since the year 2009, the company had not filed any returns or paid taxes due and payable to the Government in the sum of Kshs. 38,692,694.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the directors of the said company be charged with fraudulent failure to pay taxes payable to Kenya Revenue Authority 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 ensue. However, EACC was directed to cover identified gaps to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing further investigations. The areas were addressed and charges filed in court. The case Milimani ACC 13 of 2020 is ongoing.

12. ODPP/CAM/5/019/033 EACC/AT/INQ/17/2017

INQUIRY INTO ALLEGATIONS THAT CHALE ISLAND GAZETTED AS A MARINE NATIONAL RESERVE AND A SACRED GROOVE WAS IRREGULARLY ALIENATED AND TRANSFERRED TO INDIVIDUALS

The EACC investigations revealed that Chale Island was gazetted as a Sacred Groove under the Monuments and Antiquities Act on 17th January 1992 and as a Marine National Reserve vide Legal Notice No. 196 of 17th May 1995. The said island was therefore not available for allocation.

However, public officers namely the Director, Land Adjudication and Settlement, the District Surveyor, the District Commissioner, the District Land Registrar, the Cartographer and the Clerk Kwale County Council, illegally allocated it to individuals.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the Director, Land Adjudication and Settlement, District Surveyor, District Commissioner, District Land Registrar, Cartographer, and Kwale County Council Clerk be charged for the following offences:

- Conspiracy to defraud contrary to section 317 of the Penal Code,
- Abuse of office contrary to section 101(1) as read with section 102A of the Penal Code,
- Breach of trust contrary to section 127 (1) and (2) of the Penal Code.

In addition, the Land Registrar be charged with giving false certificate by a public officer contrary to section 102 as read with section 102A of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges. However, a number of gaps and deficiencies in the investigations that needed to be covered were identified. The DPP directed that the areas be covered, and the file be re-submitted for further directions.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing further investigations.

13. ODPP/CAM/5/019/052 EACC/KIS/FI/INQ/6/2016

INQUIRY INTO ALLEGATIONS THAT THE OFFICIALS OF THE KISII COUNTY GOVERNMENT WERE FRAUDULENTLY ISSUING PARALLEL LIQUOR LICENSES TO UNSUSPECTING LIQUOR TRADERS OF KISII COUNTY AND FAILING TO REMIT MONEY TO THE COUNTY GOVERNMENT OF KISII

The EACC investigations established that senior liquor licensing officers, an accountant, an inspector, and a receptionist of the department of Trade Tourism and Industry at Kisii County issued parallel liquor licenses to unsuspecting traders.

Investigations further revealed that the said County officials misappropriated all the money collected from either genuine or forged liquor licenses. The Weights and Measures Officer was also found to have falsely represented himself as the Chair-Liquor Court by signing license No. 1129.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the officials of the County Government of Kisii 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,
- Abuse of office contrary to section 101 as read with section 102A of the Penal Code,
- 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,
- Uttering a false document contrary to section 353 of the Penal Code,
- Forgery contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges against the suspects and directed that prosecution ensue. The DPP further directed that administrative action against D1.

STATUS

The DPP returned the file to EACC on 6th May 2019

directing that prosecution ensues and administrative action be taken against D1. The case Kisii ACC 3 of 2019 is ongoing.

14. ODPP/CAM/5/019/057 EACC/FI/INQ/37/2016

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF KSHS 75 MILLION PUBLIC FUNDS AT THE NATIONAL YOUTH SERVICE IN THE TENDER FOR THE SUPPLY OF FIRE FIGHTING EQUIPMENT BY M/S INTERNATIONAL PARTNERSHIP SERVICES EAST AFRICA LIMITED

The EACC commenced investigation after receiving a complaint from the Principal Secretary, State Department of Public Service, and Youth at the Ministry of Public Service, Youth, and Gender Affairs on 11th May 2016.

The letter explained that the National Youth Service (NYS) was about to lose Kshs. 75 million to International Partnership Services East Africa (IPSEA), which had a supply branch contract agreement with the NYS. The company had been awarded a tender for the supply of firefighting equipment (AFFF concentrate cold fire).

EACC Investigations established that the procurement process that led to issuance of an LPO by NYS to IPSEA was irregular. The Director General of the NYS, as the accounting officer approved the procurement of the subject items through the supplies branch without involvement of the Ministerial Tender Committee. The procurement was also beyond the available budget for the financial year 2014/2015.

The EACC report forwarded to the DPP on 23rd January 2019 recommended the officers be charged with the following offences:

- Director General and the Deputy Director General be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of ACECA and engaging in a project

without planning contrary to section 45 of the ACECA,

- The Supply Chain Manager be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA,
- NYS Senior Deputy Director and members of the Inspection and Acceptance Committee be jointly and severally charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA,
- All the said public officials together with a businessman be charged with conspiracy to defraud contrary to section 317 of the Penal Code.

Upon perusal of the file, the DPP recommended a joint meeting between EACC and ODPP be held to discuss the file, considering the other files already in court.

STATUS

The DPP returned the file to EACC on 19th June 2019 directing that a joint meeting be held between EACC and ODPP to discuss the file in light of the pending NYS prosecutions in court.

15. ODPP/CAM/5/019/056 EACC/FI/INQ/98/2015

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF KSHS 6,315,100 IN RESPECT OF PURCHASE OF LABORATORY CONSUMABLES BY THE KENYA PRISONS SERVICE

The EACC received a complaint on misappropriation of Kshs. 6,315,100 at the Kenya Prisons Service (KPS) during the procurement of Laboratory consumables vide quotation No. KPS/Q/34/2014-2015.

The investigations established that the requisite laws had been flouted rendering the procurement process irregular. This procurement was cancelled after the Ministerial Tender Committee had awarded the tender

to some firms therefore no items were supplied and no money lost.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the members of the Ministerial Tender Committee, Tender Opening Committee and Accounting Officer be charged with failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA, and the bidder be charged with forgery contrary to section 349 of the Penal Code.

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

STATUS

The DPP returned the file to EACC on 13th March 2019 directing further investigations.

16. ODPP/CAM/5/019/058 EACC/FI/INQ/19/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY KIAMBU LAND REGISTRY OFFICIALS

The EACC commenced investigations after receiving a complaint about the Kiambu Land Registrar on 30th September 2014. On diverse dates, the Registrar understated the stamp duty payable in respect of two properties: NACHU/MIKUYUINI/660 and NACHU/MIKUYUINI/57.

The owner realized the undervalued stamp duty when she received the title to NACHU/MIKUYUINI/57. She had paid Kshs. 36,000 but instead received a receipt of Kshs. 5000 from the Lands office. Following the discovery, she counter checked the stamp duty payable in respect of the title number NACHU/MIKUYUINI/660 which had been registered two years earlier. She discovered that the same had been understated for a sum of Kshs. 2000.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the Senior Lands Registrar be charged with three counts of abuse of office contrary to section 101 as read with section 102A of the Penal Code, and knowingly using a misleading document to principal contrary to section 41(2) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that administrative action be taken against the Senior Lands Registrar.

STATUS

The DPP returned the file to EACC on 3rd May 2019 directing that administrative action be taken against the Senior Lands Registrar.

17. ODPP/CAM/5/019/019 EACC/NKR/INQ/FI/2a/2017

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES BY SOME OFFICERS FROM THE DEPARTMENT OF WATER SERVICES, BOMET COUNTY GOVERNMENT IN THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE KIPNGOSOS WATER PROJECT

The EACC received a complaint that the Ag. Chief Officer of Water in the County Government of Bomet had engaged in a flawed procurement process, yet the construction of the Kipngosos water project had been done up to 80%.

Evidence established that the Chief Officer had initiated the Kipngosos water project through a memo to the Supply Chain Manager on 6th October 2016. However, the procurement process was flawed because the accounting officer failed to issue notifications to the unsuccessful bidders. In addition, Goldenwood Logistics Company Limited, which carried out the construction, did not have a valid practising license.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed as then accounting officer is deceased. Also that an advisory opinion be made to the National Construction Authority (NCA) to carry out investigations against Goldenwood Logistics Company Limited and its directors with regard to Bomet County Government construction activities.

Upon perusal of the file, the DPP directed that further investigations be carried out.

STATUS

The DPP returned the file to EACC on 1st April 2019 directing that further investigations and the matter be referred to the National Construction Authority for further action.

18. ODPP/CAM/5/019/032 EACC/GSA/FI/INQ/71/2017

INQUIRY INTO ALLEGATIONS OF THEFT OF RELIEF FOOD BELONGING TO TARBAJ SUB-COUNTY WITHIN WAJIR COUNTY GOVERNMENT

On 7th March 2017, the EACC received a report from an anonymous source that the Deputy County Commissioner, Tarbaj Sub County, had sold 350 bags of rice meant for members of the public. The Commissioner had previously been arrested for selling relief food but was released under unclear circumstances.

Evidence on record established that the Deputy County Commissioner had properly distributed the relief food as required. Further, that being an AIE holder, the Commissioner had applied for a Kshs. 600,000 imprest. He surrendered the imprest together with the schedules showing how the money was paid out.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

STATUS

The DPP did not accept EACC's recommendation for closure. To await the outcome of other related inquiries.

19. ODPP/CAM/5/19/038 EACC/FI/INQ/5/2016

INQUIRY INTO ALLEGATION OF GRABBING OF LAND TITLE NUMBER NAKURU MUNICIPALITY BLOCK 23/108 BELONGING TO A PRIMARY SCHOOL BY ENSE LIMITED VALUED AT KSHS 300 MILLION

The EACC received a report that land LR. No. Nakuru Municipality Block 23/108 valued at Kshs. 300 million belonging to a primary school had been grabbed by Ense Limited.

Investigations established that the land was irregularly acquired by three individuals in the pretext of building a primary school and subsequently transferred to other persons. However, a High court judgment in Civil Suit No. 384 of 1999 determined that the procedures for the transfer of the subject land were within the law thus sanitized the irregularities in the entire process of registration and subsequent transfers.

The National Land Commission had initially revoked the title but later overturned the decision stating that they were barred by the doctrine of res judicata from adjudicating on the matter already decided by the High Court.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found that the subject land was public property that had been unlawfully acquired by the suspects who subsequently sold it to private developers. The said suspects should be held criminally culpable subject to addressing issues raised concerning availability of witnesses and exhibits due to time lapse.

STATUS

The DPP returned the file to EACC on 26th February 2020 directing further investigations.

**20. ODPP/CAM/5/019/020
EACC/MCKs/FI/INQ/69/2017**

**INQUIRY INTO ALLEGATIONS OF
CORRUPTION IN KAJIADO LANDS REGISTRY**

The EACC conducted investigations following an anonymous report that cartels involving land brokers have infiltrated the Lands Registrar Office in Kajiado blocking its access. The report further stated that members of the public were not allowed to seek services unless they go through one of the brokers known to the employees of the lands office.

On 6th, 7th and 8th December 2016 an undercover surveillance was conducted at Fast Digital Cyber Café to establish whether the allegation that the owner of the said cybercafé colluded with the land officials to sell blank titles was factual. A search was subsequently conducted at the said Cyber Café on 23rd February 2017 but no blank titles were found contrary to the allegation that the proprietor was selling blank titles at Kshs. 1,000 each.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecution, and directed that the file be closed with no further action.

STATUS

The DPP returned the file was returned to EACC on 15th March 2019 directing closure.

**21. ODPP/CAM/5/19/044
EACC/MSA/FI/INQ/11/2017**

**INQUIRY INTO ALLEGATIONS THAT THE
PRINCIPAL, MOI FORCES ACADEMY IN
MOMBASA WAS CHARGING ILLEGAL FEES
CONTRARY TO THE GUIDELINES ISSUED BY**

**THE MINISTRY OF EDUCATION, SCIENCE
AND TECHNOLOGY**

The EACC commenced investigations following a complaint from a parent at Moi Forces Academy Mombasa. He was issued with a Kshs. 11,724 fee structure for each student. However, after paying the fees and the students going to class, he was called by the school and compelled to pay provision fees of Kshs. 34,800 for each student.

He later received a letter informing him that the additional school levies were passed during the parents' AGM and were provisional awaiting the approval of the Ministry of Education. This was contrary to the Kenya Gazette dated 10th March 2015, which stipulated the school fees payable to both boarding and day public secondary schools.

Evidence revealed that the school issued alternative fees structures different from the one proposed by the Government, without the approval of the Cabinet Secretary. As much as this contradicts the Kenya Gazette date 10th March 2015, the acts and omissions do not raise any ethical issues. The extra levies were meant to help with the running of the school, which operates under a Commander's Standing Instruction Memorandum.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence to support any culpability against the accused.

STATUS

The DPP returned the file to EACC on 6th May 2019 directing closure.

**22. ODPP/CAM/5/19/025
EACC/NKR/INQ/FI/2b/2017**

**INQUIRY INTO ALLEGATIONS OF
PROCUREMENT IRREGULARITIES BY SOME**

OFFICERS FROM THE DEPARTMENT OF WATER SERVICES, BOMET COUNTY GOVERNMENT IN THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE KAPSET-MURIASI WATER PROJECT

The EACC commenced investigations following a report that the Ag Chief Officer of the Department of Water in Bomet County Government, had engaged in a flawed procurement process in the construction of the Kapset-Muriasi water project.

EACC investigations revealed, inter alia, that the Water Services Department had budgeted for various water projects in the financial year 2016/2017. The said department at the tendering process, invited bids from four companies which were received, evaluated and the contract awarded to Kolu Engineering Company Limited who were found to have had the lowest bid.

However, although Kolu Engineering Company Limited was prequalified as a supplier by the County Government of Bomet, it did not qualify to engage in construction work.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found that there were gaps that needed to be addressed and directed further investigations and file resubmission for further directions

STATUS

The DPP returned the file to EACC on 1st April 2019 directing further investigations.

23. ODPP/CAM/5/019/031 EACC/FI/INQ/4/2017

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES BY THE STATE DEPARTMENT OF DEVOLUTION DURING PROCUREMENT OF A CONSULTANCY FOR

KENYA DEVOLUTION SUPPORT PROGRAMME

The EACC commenced investigation pursuant to allegations of procurement irregularities at the Ministry of Devolution and Planning, State Department of Devolution specifically touching on the Kenya Devolution Support Program (KSDP) in respect to Tender No. MODP/KSDP/01/2015-2016 for Consultancy Services for Annual Capacity and Performance Assessment.

EACC alleged that a cartel within the Ministry engaged in procurement malpractices. However, the investigations established that the procurement process that led to signing of a contract between the Ministry and the Consortium of Matengo & Githae, Zurich University for Applied Science and Kenya College of Accountancy was properly conducted. There was no evidence suggesting irregularities committed by the ministry officials in the procurement process.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the 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 suspect and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 11th April, 2019 directing closure.

24. ODPP/CAM/5/019/066 EACC/FI/INQ/143/2014

INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE AND FRAUDULENT ACQUISITION OF PROPERTY BY SIX MEMBERS OF THE MAKUENI COUNTY ASSEMBLY AND COUNTY ASSEMBLY OFFICIALS

The EACC commenced investigations after a report to that six Makueni Members of County Assembly (MCAs), and the Clerk to the County Assembly's subsistence allowances were reimbursed in respect to a trip to

Dubai yet the trip had been fully sponsored by the area Member of Parliament.

Investigations revealed that the MP fully sponsored the six MCA's trip to Dubai from the 15th April 2014 to 21st April 2014. Upon return, the MCAs claimed for reimbursement of subsistence allowance.

From the evidence, it was established that the six MCAs are culpable of the offence of fraudulent acquisition of public funds having applied and subsequently received mileage allowance and per diem in respect to a Dubai trip that had been fully facilitated. The County Assembly Clerk being a person entrusted with prudent management of County Assembly resources was also culpable of the offence of abuse of office.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the six MCAs be charged with fraudulent acquisition of public funds contrary to section 45(1) (a) as read with section 48 of the ACECA, and the County Clerk being the County Assembly AIE holder be charged with abuse of office to section 46 as read with section 48 of the ACECA.

Upon perusal of the file, the DPP concurred with EACC's recommendations for prosecution.

STATUS

The DPP returned the file to EACC on 15th April 2019 directing that prosecution ensues.

25. ODPP/CAM/5/019/065 EACC/F1/INQ/97/2015

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION OF USD 534,650 BY PRINCIPAL UTALII COLLEGE ON THE PRETEXT OF FOREIGN TRAVEL ALLOWANCE TO ARUSHA & SWITZERLAND AND IRREGULAR EXTENSION OF HIS CONTRACT TWICE BY THE CABINET SECRETARY FOR THE MINISTRY OF TOURISM

The EACC commenced investigation after allegations that the Principal, Kenya Utalii College was involved in fraudulent application and accounting of imprest for trips that did not take off. The Cabinet Secretary, Ministry of Tourism irregularly/illegally extended the Principal's contract without regard to the law and that there was fraud in the disposal of five Land Rover vehicles belonging to Kenya Utalii College.

Investigations established that the Personal Assistant to the Principal fraudulently applied for imprest on behalf of the Principal for trips not taken leading to a total loss of Kshs. 1,343,074.33. Further, the suspect forged taxi receipts and other documents in order to defraud Kenya Utalii College by making fraudulent payment to non-existent entities for services not rendered.

It was further established that the Cabinet Secretary's decision to extend the contract of the Principal for six months was regular and within her powers and duties. In addition, evidence revealed that the Principal and the Disposal Committee (KUC) did not know that two employees of Kenya Utalii College bought the auctioned vehicles.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the Head of Quality Assurance and Personal Assistant to the Principal be charged with the following offences:

- Ten counts of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of ACECA,
- Abuse of office contrary to section 46 as read with section 48 of ACECA,
- Forgery contrary to section 345 as read with section 349 of the Penal Code,
- 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 against the suspect and directed that prosecution ensue subject to the identified areas being covered.

STATUS

The DPP returned the file to EACC on 6th June 2019 directing that prosecution ensue subject to the identified areas being covered.

**26. ODPP/CAM/5/019/067
EACC/NKR/INQ/FI/89/2016**

AN INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE, CONFLICT OF INTEREST AND PROCUREMENT IRREGULARITIES IN THE AWARD OF CONTRACT IN THE CONSTRUCTION OF BAE-KAPSIMOT-WET-KIBARAA ROAD BY THE COUNTY GOVERNMENT OF KERICHO

The EACC commenced investigations after a report alleging conflict of interest and procurement irregularities by public officials of the County Government of Kericho. The allegations were in respect of a contract awarded for the construction of a road in Belgut Sub County, Kericho County known as the Bae-Kapsimotwet- Kibaraa road.

The Investigations revealed that the contract was awarded to a company known as Jawlink Logistics Ltd, which was not in the prequalified list and had no genuine National Construction Authority certificate. The said company is registered and partly owned by a Roads Inspector employed by the County Government of Kericho. She was also the supervisor of the project and as a director of the company, received payment amounting to Kshs. 3,807,899.90 from the County government of Kericho.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the Chief Officer be charged with the following offences:

- Two counts of willful failure to comply with the law applicable 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,
- The road inspector be charged with 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 ACECA and conflict of interest contrary to section 42(3) as read with section 48 of the ACECA,

- Jawlinks Limited and its directors be charged with carrying out business without being registered as a contractor contrary to section 15(1) as read with section 15(3) of the National Construction Authority Act, 2011,
- Fraudulent practice in procurement proceedings contrary to section 66(1) as read with section 177 of the PPADA,
- Uttering false documents contrary to section 353 of the Penal Code,
- The Evaluation committee be charged with willful failure to comply with the law applicable to procurement contrary to section 45(2) (b) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found that there was need for further investigations. The file was returned to EACC on 9th May 2019 directing that further investigations be carried out and file resubmitted for further directions. The EACC resubmitted the file on 11th September 2019 and the DPP upon perusal directed that prosecution ensues.

STATUS

The DPP returned the file to the EACC on 19th May 2020 directing that prosecution ensue. Kericho ACC 1 of 2020 is ongoing

**27. ODPP/CAM/5/019/080
EACC/MKS/FI/08/2015**

INQUIRY INTO ALLEGATION OF CONFLICT OF INTEREST AND BID RIGGING IN THE PROCUREMENT OF ATHI KILAWA IRRIGATION PROJECT IN KITUI COUNTY

The EACC commenced investigations after a report that a former chief officer at Kitui County Government was involved in procurement malpractices. It was further alleged that companies namely Mukavi Waves Ltd and Kimasha Ltd, which were associated with her, were undertaking an irrigation project at Athi Kilawa in Kitui County.

Investigations established that the companies were not associated with the chief officer. Evidence further established that the Tender Committee irregularly awarded the tender to M/s Sami Construction Limited.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the Tender Committee members be charged with 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 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but directed that certain identified gaps be covered to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 6th June 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted on 11th September 2019 with the areas addressed. On 30th January 2020 the DPP directed that prosecution ensue. Kitui ACC 3 of 2020 is ongoing.

28. ODPP/CAM/5/015/5/319 EACC/FI/INQ/063/2015

ALLEGATIONS THAT THE CABINET SECRETARY FOR AGRICULTURE, LIVESTOCK AND FISHERIES THROUGH HIS PERSONAL ASSISTANT HAD IRREGULARLY LEASED LAND BELONGING TO KENYA INSTITUTE OF VETERINARY VACCINES PRODUCTION INSTITUTE SITUATED IN LIMURU (KEVEVAPI)

The EACC investigated the matter and a statutory report pursuant under section 35 of ACECA was prepared and forwarded to the DPP with recommendations to charge the Managing Director of KEVEVAPI and another who is now deceased. The said suspects were arraigned in court on 2nd June 2015 in Milimani ACC No. 10 of 2015.

Vide a letter from the DPP dated 5th January 2018, EACC was advised that the matter had been withdrawn under Section 87 (a) of the CPC due to the fact that the matter was affected by the Court of Appeal decision in Civil Appeal No. 102 of 2016 Eng. Michael Sistu Mwaura Kamau Vs. Ethics and Anti-Corruption Commission

The Commission complied with the said Court of Appeal decision by conducting fresh investigations.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the Managing Director of KEVEVAPI be charged with 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 of ACECA.

Upon perusal of the file, the DPP directed that further investigations be carried out and file resubmitted for further directions

STATUS

The DPP returned the file to EACC on 17th May 2019 directing further investigations.

29. ODPP/CAM/5/019/082 EACC/FI/INQ/09/2013

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF KSHS 18,547,965 BY MCCORMACK PARTNERSHIP AFRICA (MPA) OFFICIALS THROUGH THE COMMISSION OF HIGHER EDUCATION (CHE) IN THE IMPLEMENTATION OF UNIVERSITY CONSORTIUM TO COMBAT AIDS- KENYA (UCCA-K) PROJECT

The EACC commenced investigations after receiving a report stating that funds released by the Commission of Higher Education (CHE) to the McCormack Partnership Africa (MPA) were not utilized for the intended purpose.

Investigations established that MPA received Kshs. 22,000,000 from CHE for the implementation of the UCCA-K project. It was further established that the

suspects, board members of MPA, misappropriated the funds.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the director and board member of MPA be charged with fraudulent acquisition of public property contrary to section 45(1) of ACECA, the assistant Commission Secretary, and Chief Accountant of CHE be charged with Abuse of office contrary to section 46 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensue after covering certain identified gaps to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 1st April 2019 directing further investigations.

that they did not comply with the mandatory tendering requirement of pre-site visit.

Investigations further established that the County Executive Committee Member for Water and Irrigation instigated the irregularity in the tendering process. However, he has since passed on.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence to form the basis of any criminal culpability on the part of the suspect and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 7th May 2019 directing closure.

30. ODPP/CAM/5/019/083 EACC/MSA/FI/INQ/12/2014

INQUIRY INTO ALLEGATIONS THAT TAITA TAVETA COUNTY GOVERNMENT FAILED TO FOLLOW PROCUREMENT PROCEDURES IN THE TENDER FOR CHUMVINI WATER PROJECT BY DISQUALIFYING THE LOWEST BIDDERS

The EACC commenced investigations after an article in the Daily Nation newspaper of 9th May 2014 reported that there was irregular award of tenders for water projects in the Taita Taveta County Government.

The County Executive Committee Member for Water and Irrigation had ordered for re-evaluation of seven tenders amounting to Kshs. 20 million. He alleged that the tender award was irregular, as the Tender Award Committee had failed to adhere to the tendering procedures.

Investigations established that the tender for Chumvini water project was awarded to Arc Civil Construction Ltd in the sum of Kshs. 6,943,734.90 disqualifying Abori Stores which had bid for Kshs. 5,056,643 for reasons

31. ODPP/CAM/5/019/081 EACC/MSA/FI/INQ/35/2016

INQUIRY INTO ALLEGATIONS OF DIVERSION OF A TRANSIT VEHICLE MAKE, MARK X, CHASSIS NO. GRX120-0045295 ENGINE NO. BF487309 CC.2490 DESTINED FOR SOUTH SUDAN THROUGH MALABA BORDER

The EACC investigations revealed that the above transit vehicle was cleared by KRA and as a measure to ensure that it exits the country; it was fitted with an electronic seal by Borderless Tracking Company Ltd to help in tracking its movement from Mombasa to Malaba border.

The vehicle was then released to the clearing agent Lambval Logistics Ltd who parked it at Coast Car Park in Mombasa in readiness for the said transit. The tracking company detected a tamper alert on the seal and upon checking it was confirmed that the said vehicle was still parked at the Coast Car Park yet according to the tracking system the seal that had been fitted on the said vehicle was in Malaba.

KRA was informed of the anomaly and a check on their records systems indicated that their officer purported to have cleared the said vehicle at the Malaba Border yet the vehicle remained parked in Mombasa.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the clearing agent and KRA officer be charged with the following offences:

- Conspiracy to commit an offence of economic crime, to wit, tax evasion contrary to section 47A (3) of ACECA,
- Attempting to commit an economic crime, to wit, tax evasion contrary to section 47A (1) of ACECA,
- Deceiving principal contrary to section 41 (2) of ACECA.

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

STATUS

The DPP returned the file to EACC on 4th June 2019 directing that prosecution ensue.

committee engaged in a fraudulent practice by allowing Tenacious Agencies to bid after other bids had been opened.

The EACC report forwarded to the DPP on 20th February 2019 recommended that members of the Tender Opening Committee, Head of Supply Chain Management and the owners of Tenacious Agencies, be charged jointly and severally with knowingly giving a misleading document to one's principal contrary to section 41(2) as read with section 48(1) of the ACECA, and fraudulent practice contrary to section 41(1) as read with section 41(4) of the Public Procurement and Disposal Act, 2005.

Upon perusal of the file, the DPP found that since no public funds were lost, the evidence disclosed breaches of procurement procedures that could be addressed by administrative action.

STATUS

The DPP returned the file to EACC on 3rd February 2020 directing that the matter be dealt with administratively and parties seek civil redress for issues concerning the leasing of the slaughterhouse.

32. ODPP/CAM/5/019/093 EACC/MSA/FI/INQ/01/2014

INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF KILIFI IRREGULARLY AWARDED THE TENDER TO UPGRADE AND OPERATE UWANJA WA NDEGE SLAUGHTERHOUSE TO TENACIOUS AGENCIES, A COMPANY THAT DID NOT PARTICIPATE IN THE TENDER PROCESS.

The EACC commenced investigation after a report that the County Government of Kilifi had irregularly awarded the tender for the upgrading and operation of the slaughterhouse at Uwanja wa Ndege in Rabai sub county to a Company known as Tenacious Agencies which did not participate in the tender process.

Investigations established that the tender opening

33. ODPP/CAM/015/5/384 EACC/FI/INQ/01/2014

INQUIRY INTO ALLEGATIONS OF USE OF IRREGULAR PROCUREMENT IN THE TENDER FOR THE CONSTRUCTION OF THE LIBRARY AND ICT RESOURCE CENTRE AT THE KIAMBU INSTITUTE OF SCIENCE AND TECHNOLOGY (KIST) FOR KSHS. 65 MILLION

The EACC commenced investigations after an audit conducted by the Kenya National Audit at the Kiambu Institute of Science and Technology (KIST) for the financial year 2011/2012 revealed several irregularities regarding payments and incomplete works.

Notably, this inquiry was affected by the Court of Appeal decision in Civil Appeal no. 102 of 2016, Eng. Michael Sistu Mwaura Kamau Vs EACC. The Commission

complied with the aforementioned Court of Appeal decision and carried out fresh investigations.

The file was initially submitted to the DPP with recommendations that the Principal/Chief Executive Officer and County Works Officer be charged with various offences. The Commission later, vide a letter dated 1st February 2016 recommended insufficient evidence to sustain the charges and that the file be closed.

However, the DPP recommended that the prosecution of the two should ensue considering that the evidence was sufficient as per the initial recommendation. This prompted a re-evaluation of the evidence and established that it would be a challenge sustaining the prosecution case.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the file be closed for insufficient evidence against the suspects.

Upon perusal of the file, the DPP accepted EACC's recommendation for closure of the file and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 11th June 2019 directing closure.

34. ODPP/CAM/5/019/094 EACC/FI/INQ/119/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR LAND ALLOCATION AND COMPENSATION FOR THE STANDARD GAUGE RAILWAY IN EMBAKASI

The EACC commenced investigations after a complaint by Yuster Mwamburi on 6th October 2015, that her land, reference number 209/12060 had been fraudulently allocated to Modern Coast Builders and Contractors Ltd.

She alleged that the land had been presented to the National Land Commission for compensation in the Standard Gauge Railway project, even though she believed that it was outside the SGR line plan.

Evidence established that Modern Coast Builders and Contractors Limited purchased LR No. 209/12060 from an individual after carrying out due diligence. The President in accordance with section 12 of Government Land Act, had approved the allocation of the land to the individual in the year 1990.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP accepted the commission's recommendation for closure of the file and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 9th May 2019 directing closure.

35. ODPP/CAM/5/019/096 EACC/FI/INQ/2/2019

INQUIRY INTO ALLEGED PROCUREMENT IRREGULARITIES IN THE AWARD OF TENDERS AMOUNTING TO KSHS 4.8 BILLION AT THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES

The EACC commenced investigations after an anonymous complaint that the State Department for Correctional Services was in gross violation of the Public Procurement and Disposal Act, 2015 and the Public Finance Management Act, 2012 by irregularly awarding ten classified tenders worth Kshs. 4,809,445,000 to ten companies as listed below:

1. Tender no. SDC/CP/4/2017-2018 for supply of bullet proof vests and plastic helmets amounting to Kshs. 2.2 billion awarded to Fire Truss Systems

2. Tender No. SDC/CP/2/2017-2018 for supply of standard G3-A3 amounting to Kshs. 597 million awarded to Pakistan Ordinance
3. Tender to supply assorted security items amounting to Kshs. 570 million awarded to Delta Entreprises
4. Tender no. SDC/CP/5/2017-2018 for supply of submachine guns amounting to Kshs. 478.5 million awarded to Pakistaan Ordinance
5. Tender no. SDC/Cp/3/2017-2018-M4 for supply of rifles and full-bore target rifles amounting to Kshs. 342.72 million awarded to Mildat SP.ZO. O(LLC)
6. Tender for supply of G3 rifles slings amounting to Kshs. 200 million awarded to Milways enterprises
7. Tender no. SDC/CP/6.2017-2018 for supply of pistols amounting to Kshs. 158.75 million awarded to Sumsun Yurt Savunma San
8. Tender no. SDC/RT/4/2017-2018 for supply of special stores amounting to Kshs. 119 million awarded to Wold One Agencies
9. Tender for supply of assorted security items amounting to Kshs. 98.75 million awarded to Rapecc General Supplies
10. Tender for supply of assorted security items amounting to Kshs. 44.6 million awarded to Auto Links Systems

Evidence on record established that various procurement laws were breached. There was no budget and approval from the relevant Cabinet Secretary among other breaches.

The EACC report forwarded to the DPP on 28th February 2019 recommended that the officers be charged with the following offences:

- The Permanent Secretary and Head of Supply Chain Management be jointly charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA,
- Members of the Tender Committee be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA,

- The Head of Supply Chain Management be charged with knowingly using a misleading document to one's principal contrary to section 41(1) as read with section 48 of the ACECA and willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA,
- The Permanent Secretary/State Department, Correctional Services to be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2)(b) as read with section 48 of the ACECA and abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Principal Secretary to be charged with engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of the ACECA,
- Members of the tender committee be charged with willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to section 45(2) (b) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP directed that further investigations be carried out and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 16th May 2019 directing further investigations.

**36. ODPP/CAM/5/016/5/667
EACC/FI/INQ/62/2015**

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF AUDIT VAULT SOFTWARE BY OFFICE OF THE AUDITOR GENERAL

The EACC commenced investigations after a letter from the Principal Secretary, Treasury, over allegations of corruption in the office of the Auditor General claiming that the office of the Auditor General irregularly

purchased an audit vault software at a cost of Kshs. 100 million against the estimated cost of Kshs. 18 million. It was further alleged that the software was purchased through direct procurement and the supplier of the software was paid without adequate documentation.

The investigation of this matter was affected by the Court of Appeal decision Civil Appeal no. 102 of 2016, Eng. Michael Sistu Mwaura Kamau Vs EACC. The Commission complied with the said decision, re-investigated the matter, and established that there was breach of procurement laws.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the Deputy Auditor General, Corporate Services, Manager- Information Technology Audit, Director-Information Communication Technology, Directors of OSI Kenya Limited, a sales Executive ORACLE Systems Kenya Limited and director of Mars Technology; all jointly be charged with conspiracy to commit an economic crime contrary to section 47A(3) as read with section 48 of the ACECA.

It also recommended the following additional charges for the Deputy Auditor General-Corporate Services in the Office of the Auditor General:

- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Willful failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of the ACECA,
- Dealing with suspect property contrary to section 47(1) as read with section 48 of the ACECA,
- Acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-money Laundering Act,
- Knowingly deceiving one's Principal contrary to section 41(2) as read with section 48 of the ACECA.

The sales executive for ORACLE Systems be charged with two counts of acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-Money Laundering Act

The Manager-IT Audit and Director of IT be charged with knowingly deceiving one's principal contrary to section 41(2) as read with section 48 of the ACECA and fraudulent practice in a procurement contrary to section 41(1) – (4) as read with section 137 (1)(a) and 137(2) of the PPDA, 2005

The Director of Mars Technology and Associates Limited be charged with acquisition of proceeds of crime contrary to section 4 as read with section 16(1)(a) of the Proceeds of Crime and Anti-Money Laundering Act.

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

STATUS

The DPP returned the file to EACC in October 2019 directing that prosecution ensue. Milimani ACC 29 of 2019 is ongoing.

37. ODPP/CAM/5/019/106 EACC/MSA/FI/20/2014

INQUIRY INTO ALLEGATIONS AGAINST KENYA NATIONAL HIGHWAY AUTHORITY OFFICIALS FOR IRREGULARLY TERMINATING CONTRACT OF KSHS 341 MILLION AWARDED TO TALEWA ROADS CONTRACTORS LIMITED FOR THE PERIODIC MAINTENANCE OF MOMBASA-MIRITINI

The EACC commenced investigations after the Managing Director of Talewa Contractors Limited complained concerning illegal termination of the contract number KeNHA/RD/M/625/2012 Mombasa Miritini road by KeNHA due to failure to complete the work on time.

He alleged that KeNHA sent armed police officers to forcefully evict them from the yard. The complainant further alleged that Engineer Samuel Nyabuto solicited a bribe of Kshs. 25 million.

Investigations established that the termination of the contract with Talewa Contractors Limited was justified but that the Director General and Procurement Manager of KeNHA failed to adhere to the law in the subsequent award of the subject contract to S.S Mehta and Sons Limited.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the suspects be charged with engaging in procurement without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified a number of gaps and deficiencies in the investigations that needed to be covered to strengthen the prosecution case. The DPP directed that the areas be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 19th June 2019 directing further investigations.

38. ODPP/CAM/5/19/029 EACC/MSA/INQ/13/2016

THIS WAS AN INQUIRY INTO ALLEGATIONS THAT THE MANAGING DIRECTOR, COAST DEVELOPMENT AUTHORITY (CDA) CLAIMED DOUBLE IMPREST IN THE MONTHS OF OCTOBER AND DECEMBER 2016

The EACC commenced investigations after a report on 28th December 2016, that the Managing Director Coast Development Authority (CDA), claimed double imprest in the months of October and December 2016.

The investigations revealed that the suspect received imprest of Kshs. 91,000 as per diem for five-night outs in Lamu. However, he was in Lamu for four nights only from 20th to 23rd October 2016. He therefore ought to have surrendered Kshs 18, 200 as per diem for the one night out not expended.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed and that CDA recovers Kshs. 18, 200 plus interest from the date the surrender was due to when the said amount is paid in full from the Managing Director's salary.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the part of the suspects and directed that the amounts lost and interest be recovered. The Coast Development Authority to file an appropriate report with the EACC.

STATUS

The DPP returned the file to EACC on 19th March 2019 directing closure.

39. ODPP/CAM/5/019/105 EACC/NKR/INQ/FI/67/2016

INQUIRY INTO ALLEGATIONS THAT COUNTY GOVERNMENT OF BARINGO OFFICIALS INFLATED THE PRICE AND INCREASED ACREAGE IN THE PROCUREMENT OF LAND PLOT NO. BARINGO/KEWAMOI 'B'/209 AT KABARNET TOWN

The EACC commenced investigation after a complaint that the County Government of Baringo inflated the price and increased acreage of land plot number BARINGO/KEWAMOI 'B'/209, which it purchased for housing purposes.

It was alleged that according to a public valuer from Eldoret and County Surveyor from Kabarnet, the land initially measured 7.8 acres and not 10 acres as indicated in the title deed.

It was further alleged that the said land was initially valued at Kshs. 8 million and not Kshs. 24 million as valued by the Ministry of Lands officials in Baringo, and that the owner of the land was paid Kshs. 12,150,000.

Investigations revealed that the acreage of the land was not increased as alleged. However, the price of the land was inflated and that the procurement process was irregular.

The EACC report forwarded to the DPP on 13th March 2019 recommended the following actions:

- The Chief Officer, Department of Lands Housing and Urban Development, Baringo County be charged with two counts of willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA,
- The registered valuer prequalified by the County Government of Baringo be charged with deceiving one's principal contrary to section 41(2) as read with section 48 of the ACECA and making a misleading document contrary to section 24(c) of the Valuers Act, Cap 523,
- The Director, Supply Chain Management, Baringo County Government be charged with willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified gaps and deficiencies in the investigation that needed to be covered to strengthen the prosecution case. The DPP directed that the areas be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 31st May 2019 directing further investigations.

40. ODPP/CAM/5/019/122 EACC/FI/INQ/65/2017

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION AND SUB-DIVISION OF PARCELS OF LAND BEING MAVOKO TOWN BLOCK 3 WITHIN LUKENYA, MAVOKO MUNICIPALITY BY OFFICIALS FROM THE

NATIONAL LAND COMMISSION, MINISTRY OF LANDS AND PHYSICAL PLANNING, COUNTY GOVERNMENT OF MACHAKOS AND KIVAE RESIDENTS ORGANIZATION WHICH LED TO THE ISSUANCE OF TITLES

The EACC commenced investigations after a complaint that Government officials were issued fake land titles to individuals arising from irregular and illegal subdivisions of land lawfully owned by third parties within Lukenya Ranching and Farming Cooperative Society Ltd, located at Mavoko, Machakos County.

Investigations established that some government officers and/or their relatives benefited from the said land allocations. Further investigations established that some public officials received money from the secretary of Kivae Residents Organization or his close business associates. There were also suspicious financial transactions involving some officials at the Ministry of Lands and Physical Planning and the National Land Commission.

The EACC report forwarded to the DPP on 28th March 2019 recommended that that the officials of National Land Commission, the officials of Ministry of Lands, Housing and Urban Development, and the two officials of KIVAE Residents be charged with the following offences:

- Conspiracy to defraud contrary to section 317 of the Penal Code,
- Abuse of office contrary to section 101 as read with section 102A of the Penal Code,
- Receiving a benefit contrary to section 39 (3) (a) as read with section 48(1) of the ACECA,
- Giving a bribe contrary to section 5 (1) and (2) as read with section 18 (1) of the Bribery Act, 2016.

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

STATUS

The DPP returned the file to EACC on 16th May 2019 directing that prosecution ensues. The DPP further reviewed the matter on 10th June 2019 and deferred the

filing of charges as some of the key suspects were critical witnesses in other matters concerning the National Land Commission until progress was made in the other matters pending in court.

41. ODPP/CAM/5/019/150 EACC/PI/INQ/324/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AT THE MINISTRY OF HEALTH IN THE SUPPLY OF VECTOR CONTROL CHEMICALS BY ESAKI LIMITED

The EACC received a complaint alleging that Ministry of Health officials procured vector control chemicals without adhering to the applicable provisions of both the Public Procurement and Disposal Act, 2015 and the Public Finance Management Act, 2012.

Investigations revealed that Esaki Limited supplied the vector control chemicals without a contract as required by law and money was paid. Further, that in the quest of sanitizing the procurement process, a contract purporting to bind the ministry and the supplier was forged. The Supply Chain Management Officer 1 and the director of Esaki Limited forged the contract document.

The EACC report forwarded to the DPP on 13th February 2019 recommended that the Supply Chain Management Officer be charged with failing to comply with the law relating to the management of public funds contrary to section 45 (2) (b) as read with section 48 of the ACECA, and the director of Esaki Limited be charged with forgery contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP identified gaps and deficiencies in the investigation that required to be covered and the file resubmitted for further directions.

STATUS

The file was returned to EACC on 24th January 2020 directing further investigations.

42. ODPP/CAM/5/019/118 EACC/PI/INQ/29/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR LEASING OF OFFICE SPACE FOR THE COUNCIL OF LEGAL EDUCATION ALONG KAREN ROAD AT A COST OF KSHS 7.6 MILLION PER ANNUM

The EACC commenced investigations after an audit report from the Efficiency and Monitoring Unit in the office of the Deputy President alleged that the leasing and partitioning of Council of Legal Education offices at Karen Office Park along Karen road was irregular as there was no approval from the Council and no procurement plan.

Investigations established that the CLE and Kenya School of Law (KSL) which had hitherto operated as one institution under the Council of Legal Education Act Cap 16A, had been statutorily separated into two entities pursuant to the promulgation of the Legal Education Act no. 27 of 2012 and the Kenya School of Law Act No. 26 of 2012.

As a result, it became necessary for the CLE to obtain premises from where it would operate. However, while procuring office space for CLE the Procurement Manager failed to follow the due process as required in procurement laws and procedures.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the Procurement Manager be charged with failure to comply with the applicable procedures and guidelines relating to procurement contrary to section 45(2)(b) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the suspect and directed that the file be closed. He further directed that administrative action be taken against the Procurement Manager.

STATUS

The DPP returned the file to EACC on 31st May 2019 directing that the file be closed and administrative action be taken against the Procurement Manager.

43. ODP/CAM/5/019/070 EACC/FI/INQ/84/2017

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN PROCUREMENT OF UNIFORM DRESS NO. 1 MATERIALS WORTH KSHS 11,500,000 BY THE SENIOR OFFICERS AT KENYA WILDLIFE SERVICES (KWS) IN THE FINANCIAL YEAR 2013/2014

The EACC commenced investigations after a complaint that senior officers at the Kenya Wildlife Services based at the Headquarters were involved in procurement irregularities and other malpractices concerning the procurement of uniform materials.

Investigations established that the KWS officials approved the purchase of extra uniform materials whereas there was no justification and based on misleading information in the said purchase.

The EACC report forwarded to the DPP on 7th February 2019 recommended the following actions:

- Members of the Tender Committee be charged with conspiracy to commit an offence of corruption contrary to section 47A as read with section 48 of the ACECA,
- The Deputy Director, Finance and Administration at KWS be charged with abuse of office contrary to section 46 as read with section 48 (1) of ACECA,
- Acting Head of Supply Chain Management be charged with willful failure to comply with the applicable procedure and guidelines relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA,
- KWS officers be charged with deceiving one's principal contrary to section 41(2) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 31st May 2019 directing that prosecution ensue.

44. ODP/CAM/5/019/068 EACC/FI/INQ/03/2018

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES BY WEST POKOT COUNTY IN THE ACQUISITION OF 5000 BAGS OF DRY WHOLE WHITE MAIZE WORTH KSHS 18 MILLION

The EACC commenced investigations after a report that the Governor of West Pokot County mysteriously stocked Kacheliba NCPB depot with thousands of 90 kilogramme bags of maize without following provisions of the Public Procurement and Disposal Act, 2015.

Investigations established that the West Pokot County Government did not follow the procurement procedures and laws and further that the West Pokot County branded gunny bags were not budgeted for. Further, that a county official created the tender/bid documents without the knowledge and/or authority of the company directors. The officer further presented the forged bid documents for the award of tender.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the County Secretary, West Pokot County is charged with five counts of willful failure to comply with the applicable law relating to procurement contrary to section 45(2)(b) of ACECA.

The Tender Evaluation Committee is charged with two counts of willful failure to comply with the applicable procedure and guidelines relating to procurement contrary to section 45(2)(b) of ACECA, deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA.

The Supply Chain Management Officer is charged with the following offences:

- Willful failure to comply with the applicable procedure and guidelines relating to

procurement contrary to section 45(2)(b) of ACECA,

- Deceiving principal contrary to section 41(2) as read with section 48(1) of ACECA,
- Eight counts of deceiving one's principal contrary to section 41(2) as read with section 48 of the ACECA,
- Uttering a false document contrary to section 353 of the Penal Code,
- Eight counts of making a false document contrary to section 346 as read with section 349 of the Penal Code.

Upon perusal of the file, the DPP concurred with the Commission's recommendation to prosecute and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 21st June 2019 directing that prosecution ensue. Eldoret ACC 2 of 2019 is ongoing.

45. ODPP/CAM/5/019/018 EACC/EL/INQ/64/2017

INQUIRY INTO BRIBERY ALLEGATIONS THAT MEMBER OF KIAMBU COUNTY ASSEMBLY REPRESENTING KIAMWANGI WARD USED A FORGED KCSE CERTIFICATE TO ENROLL FOR A DIPLOMA CERTIFICATE AT JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

The EACC commenced investigations after an anonymous report that the suspect, a Member of Kiambu County Assembly representing Kiamwangi Ward used a forged KCSE certificate to enroll for a diploma certificate at Jomo Kenyatta University of Agriculture and Technology.

Investigations revealed that the suspect applied for and was admitted to study for a diploma in governance and leadership using a 1997 KCSE certificate from Murera Secondary School and subsequently graduated on 25/11/2016. Kenya National Examination Council

confirmed that the KCSE certificate was fake and the University Senate on 24/5/2017 withdrew the diploma certificate issued to him.

Further, that the suspect had submitted self-declaration forms (A1) to EACC pursuant to Section 13 of Leadership and Integrity Act in which he declared that he was a diploma holder.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the MCA be charged with the following offences:

- Deceiving the EACC contrary to section 12 A as read with section 46(1) (b) and section 46 (2) of the Leadership and Integrity Act,
- Making a false document contrary to section 347 (a) as read together with section 349 of the Penal Code,
- 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, but identified gaps and deficiencies in the investigation that required to be covered to strengthen the prosecution case. The DPP directed that the areas be covered and the file re-submitted for further directions.

The file was resubmitted on 6th September 2019 and the DPP upon review directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 20th September 2019 directing prosecution to ensue. Milimani ACC 27 of 2019 is ongoing.

46. ODPP/CAM/5/019/030 EACC/GSA/EL/INQ/3/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF PUBLIC HEALTH STAFF AND OTHER PERSONNEL BY COUNTY GOVERNMENT OF GARISSA

The EACC commenced investigations after an anonymous complaint received on 3rd August 2016 alleging that the Chief Officer Health, the County Public Health Officer and the County Public Service Board (the Board) had employed fourteen

Public Health Officers who did not have relevant professional registration documents and licenses contrary to circular REF: No. MOH/ADM/1/1/VOL.1 issued by the Permanent Secretary, Ministry of Health.

Investigations established that though qualified as health officers, the Public Health Officers had no licenses at the time of hire. They just did not have licenses but were given time to get the licenses which they did.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the Commission renders an advisory to the County Public Service Board of Garissa to ensure that the recruitment process is streamlined to comply with the law on professional requirements, and that the file be closed.

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

STATUS

The DPP returned the file to EACC on 17th June 2019 directing that the file be closed and the matter be dealt with administratively.

47. ODPP/CAM/5/019/026 EACC/KSM/EL/INQ/12/2018

INQUIRY INTO ALLEGATIONS THAT A PROSECUTION COUNSEL BASED IN KAKAMEGA, DEMANDED A BRIBE OF KSHS 500,000 FROM A COMPLAINANT IN ORDER TO GIVE A FAVOURABLE OPINION IN A MATTER THAT WAS REFERRED TO HIM BY THE DCI KAKAMEGA UNDER THE KAKAMEGA INQUIRY FILE NUMBER 1 OF 2017

The EACC received a complaint from the DPP on 21st May 2018 that a prosecution counsel based in Kakamega demanded a Kshs. 500,000 financial benefit from a complainant in a bid to give official direction in his favour.

The complainant declined to talk to the Commission's investigators to substantiate his claim. The DCI officers who compiled the inquiry file No. 1 of 2017 also declined to record statements.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed and that the DCI in Kakamega completes investigations on the reported threat to the prosecution counsel by a police constable.

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

STATUS

The DPP returned the file to EACC on 13th March 2019 directing closure.

48. ODPP/CAM/5/019/013 EACC/ISL/EL/INQ 6/2016

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST MERU CENTRAL LANDS REGISTRAR

The EACC commenced investigations after complainants alleged that they registered a caution over plot number Kiirua/Nkando 4374 to restrict dealing with the property and lamented that the Land Registrar Meru Central Lands office collaborated with the registered proprietor of the property to illegally remove the caution and transfer the property to a third party without involving them.

The investigations revealed that the complainants had presented a caution at the lands office for registration. However, due to omission/inaction by the officers at the Meru Central Lands Registry, the caution was

not registered. Further, that because of the non-registration, an application for transfer of the property to a third party was effected without involvement of the complainants.

There was no evidence of wrong doing on the part of the suspect but a case of negligence on the part of the officers who failed to take the appropriate steps to ensure that the complainants' interest in the parcel of land in question was protected.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed and that the Commission issues an advisory to officers and staff of Meru Central Lands office on the need to carry out their duties professionally and in accordance with the law.

Upon perusal of the file, the DPP directed that the file be closed and an advisory issued to the Meru Lands office.

STATUS

The DPP returned the file to EACC on 12th April 2019 directing closure and an advisory be issued.

49. ODPP/CAM/5/019/055 EACC/GSA/EL/INQ/9/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE OCS GARISSA POLICE STATION

The EACC commenced investigations after a report that the Officer Commanding Garissa Police Station had released a foreigner charged for being unlawfully in Kenya to go back to Somali without following the repatriation process through the Immigration department as ordered by the court.

Investigations revealed that on 11th September 2015, the driver was allegedly escorted to the Somali border together with the impounded lorry by a police officer under the instructions of the Garissa OCS.

Being a public officer, the OCS was found to have breached the provisions of the Leadership and Integrity Act as well as the Public Officers Ethics Act for failure to comply with the court order.

It was also established that on 29th September 2015, the court gave another order which conflicted with the one it issued on 10th September 2015.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the Judicial Service Commission take administrative action against the Magistrate, and that the National Police Service Commission also take administrative action against the OCS.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the suspects and directed that the file be closed with no further action. The DPP further directed that administrative action be taken against the suspect.

STATUS

The DPP returned the file to EACC on 25th April 2019 directing closure and administrative action be taken.

50. ODPP/CAM/5/019/079 EACC/GSA/EL/INQ/13/2015

INQUIRY INTO ALLEGATIONS THAT NORTH EASTERN REGIONAL CO-ORDINATOR FOR REGISTRATION OF PERSONS SOLICITED AND RECEIVED KSHS 1.2 MILLION TO ASSIST IN ISSUANCE OF IDENTITY CARDS

The EACC commenced investigations after a report made to the Commission on 6th August 2015, alleging that the North Eastern Regional Coordinator for registration of persons received Kshs. 1.2 million as an inducement to assist in issuance of national identification cards.

Investigations established that there was no sufficient evidence to show that the Regional Coordinator received Kshs. 1.2 million from the complainant. Further, that the Regional Coordinator knew the complainant as a broker and being in charge of registration of persons, used the complainant in the course of his official duties. The Coordinator's conduct was therefore unprofessional and in breach of the provisions of the Leadership and Integrity Act, 2012 and the Public Officers Ethics Act, 2003.

The EACC report forwarded to the DPP on 7th February 2019 recommended that appropriate administrative action be taken against the suspect as his conduct was in breach of the provisions of Sections 9 (a) and (c) of the Public Officers Ethics Act, 2003.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges subject to covering of identified gaps to strengthen prosecution case.

STATUS

The DPP returned the file to EACC on 30th July 2019 directing that prosecution ensues. Garissa ACC 5 of 2019 is ongoing.

51. ODP/CAM/5/019/047 EACC/EL/INQ/40/2017

ALLEGATION OF ISSUANCE OF BAD CHEQUES AGAINST THE FORMER CHAIRMAN OF NATIONAL POLICE SERVICE (NPS) COMMISSION

The EACC commenced investigations after a report alleging unethical conduct against the former chairperson of National Police Service Commission for issuing 16 bad cheques amounting to Kshs. 931,735 between August 2013 and February 2016 to be debited from his account held at Standard Chartered Bank, Harambee Avenue Branch.

It was further alleged that during the same period he received credits amounting to Kshs. 31,206,681 in the said account, which he promptly transferred through M-pesa, cash, and ATM withdrawals.

Investigations established that the NPS chairperson issued cheques to some of his creditors knowing too well that he had insufficient funds in his account.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the former chairman of NPS be charged with six counts of issuing a bad cheque contrary to Section 316A (1) (a) as read with section 314A (4) of the Penal Code.

Upon perusal of the file, the DPP found that further investigations needed to be carried out. The file was returned to EACC on 29th May 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted on 11th July 2019 with the areas addressed and the DPP noted that the suspect had made good the dishonored cheques

STATUS

The DPP returned the file to EACC on 23rd October 2019 directing that alternatives to prosecution be explored.

52. ODP/CAM/5/019/095 EACC/EL/INQ/58/2016

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST STAFF OF KENYA UNIVERSITIES AND COLLEGES CENTRAL PLACEMENT SERVICES (KUCCPS) ON ONLINE DATA MANIPULATION FOR ONLINE PLACEMENT OF APPLICANTS

The EACC commenced investigations after a complaint received on 21st March 2016 from the chairman of the KUCCPS board alleging that the KUCCPS data system was being manipulated leading to wrongful placement of the students contrary to the institution's placement policy and procedure.

Investigations established that indeed there was a manipulation of the system. As a result, the ICT consultant was relieved of his duties.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the ICT consultant and ICT manager be issued with caution on their conduct.

Upon perusal of the file, the DPP concurred with the Commission's recommendation to issue a caution.

STATUS

The DPP returned the file to EACC on 6th May 2019 directing that the ICT consultant and ICT manager be cautioned.

**53. ODPP/CAM/5/019/091
EACC/MSA/EL/INQ/2/2016**

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST THE ACTING DIRECTOR GENERAL AND MEMBERS OF THE BOARD OF DIRECTORS OF KENYA MARITIME AUTHORITY (KMA) IN RESPECT TO AN ADVERTISEMENT OF VACANCIES AT KMA MADE ON 9TH FEBRUARY 2016 AND SELECTION OF KMA PARTICIPANTS TO THE KECOSO GAMES

The EACC commenced investigations after allegations that the acting Director General and Board of Directors of KMA were not conducting the affairs of KMA in a fair, ethical and transparent manner.

It was alleged that the vacancies advertised on 9th February 2016 were tailor made for certain preferred persons who were related to board members and that the participants selected to represent KMA in KECOSO games came from the same region as the chairperson of KMA's Board of Directors.

Investigations failed to establish an element of unfairness, unethical conduct or lack of transparency against the Ag. Director General, and Board of Directors of KMA.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the file be closed for insufficient evidence to support the allegations against the Ag. Director General.

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

STATUS

The DPP returned the file to EACC on 29th April 2019 directing closure.

**54. ODPP/CAM/5/019/104
EACC/NKR/INQ/EL/08/2017**

INQUIRY INTO ALLEGATIONS THAT EGERTON UNIVERSITY RETIREMENT BENEFIT SCHEME OFFICIALS DEFRAUDED SCHEME MEMBERS IN THE PURCHASE OF LAND PARCEL NAKURU MUNICIPALITY BLOCK 7/7 AT INFLATED COST

The EACC commenced investigations after allegations that members of the Egerton University Retirement Benefits Scheme's investment committee conducted themselves in an unethical manner about the purchase of a property title No. Nakuru Municipality Block 7/7 at a cost of Kshs. 210 million. It was alleged that the cost of the property was exaggerated by Kshs. 30 million.

Investigations established that member funds were prudently applied in the purchase of the property and was done in accordance with the law.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the file be closed with no further action.

The DPP upon perusal of the file concurred with the Commission's recommendation for closure.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing closure.

**55. ODPP/CAM/5/019/107
EACC/MCKS/EL/INQ/15/2017**

INQUIRY INTO ALLEGATION THAT A MEDICAL LAB TECHNOLOGIST IN MAKUENI COUNTY GOVERNMENT EARNED A DOUBLE SALARY FROM BOTH THE COUNTY GOVERNMENTS OF MAKUENI AND MACHAKOS

The EACC commenced investigations after a report alleging that a medical lab technologist in Makueni County Government earned a double salary from the Governments of Makueni and Machakos.

The EACC investigations established that indeed the suspect received double employment as alleged, which payment began in January 2016 to August 2017 during which period the suspect drew a salary from both Governments.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the suspect be charged with deceiving a principal contrary to section 41 as read with section 48 of ACECA, and that administrative action be taken against the suspect by the Makueni County Public Service Board.

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

STATUS

The DPP returned the file to EACC on 6th June 2019 directing further investigations.

56. ODPP/CAM/5/019/113 EACC/NKR/EL/INQ/12/2018

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY THE MANAGING DIRECTOR OF PYRETHRUM PROCESSING COMPANY OF KENYA

The EACC commenced investigations after allegations that the Managing Director abused his office by recruiting his relatives in the company, failing to pay the rent for a house owned by Pyrethrum Processing Company of Kenya (PPCK) and failing to pay back salary advanced to him by PPCK.

Investigations established that the MD indeed abused his office by taking salary advances unlawfully and was aided in doing so by another. It was also established that he owed PPCK Kshs. 275,000 in rent arrears.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the MD and the acting Finance Manager be charged jointly and severally with the following offences:

- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Unlawfully failing to pay rent to a public body contrary to section 45(1)(a) as read with section 48 of ACECA,
- Willful failure to comply with the applicable procedures and guidelines 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 gaps and deficiencies in evidence that required address and directed that further investigations be carried out.

STATUS

The DPP returned the file to EACC on 26th February 2020 directing further investigations.

57. ODPP/CAM/5/019/121 EACC/KIS/EL/INQ/9/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE COUNTY SECRETARY, MIGORI COUNTY

The EACC commenced investigation after a report that the County Secretary, Migori appointed another to the position of acting director, Supply Chain Manager (DSCM) while denying the substantively recruited candidate from taking over the office.

Investigations established that the County Secretary solely extended the period for the interim County Supply Chain Manager and irregularly issued a letter appointing him in the acting capacity of DSCM while the legally appointed person for the position was ordered to work at the County Public Service Board.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the suspect be charged with

abuse of office contrary to section 46 as read with section 48 of the ACECA.

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

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensues. Kisii ACC 1 of 2019 is ongoing.

58. ODP/CAM/5/019/035 EACC/OPS/INQ/106/2018

INQUIRY INTO ALLEGATION THAT A MEMBER OF COUNTY ASSEMBLY FOR PARKLANDS WARD REQUESTED FOR A FINANCIAL BENEFIT OF KSHS 5.7 MILLION AS AN INDUCEMENT TO FACILITATE PROTECTION OF DEMOLITION OF CONCORD HOTEL

The EACC commenced investigations after a report by a member of the public that the Member of the County Assembly (MCA) representing Parklands Ward requested for a of Kshs. 5.7 million financial benefit from Concord Hotel and Suites management.

Further, that the money was to be shared amongst 19 members of the Legal and Justice committee in order to influence the Nairobi County Governor's decision to demolish part of the Concord Hotel, which is allegedly built on grabbed land.

On 24th August 2018, a trap operation was conducted that led to the arrest of the MCA.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the MCA be charged with attempting to commit a corruption offence contrary to section 47A (2) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP noted that the evidence was insufficient to sustain the proposed charges and directed closure of the file.

STATUS

The DPP returned the file to EACC on 31st October 2019 directing closure.

59. ODP/CAM/5/019/014 EACC/INQ/OPS/90/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A PHYSICAL PLANNER WITH THE MINISTRY OF LANDS AND SETTLEMENT AT THE KAJIADO OFFICE

The EACC commenced investigations after a report on 10th August 2018 by a complainant that the suspect, an employee of the Ministry of Lands and Settlement, Kajiado had solicited Kshs. 50,000 as an inducement to issue him with a change of user report for LR. No. NGONG/NGONG/9321.

On 22/8/2018, EACC organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspects and recovered Kshs. 20,000 treated trap money.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the Ministry of Lands and Settlement, Kajiado County, be charged with requesting and receiving a bribe contrary to section 5(1) as read with section 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 ensue, subject to EACC covering identified gaps to strengthen prosecution case.

STATUS

The DPP returned the file to EACC on 14th March 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted and the DPP on 2nd July 2019 directed that prosecution ensues. The case Kajiado CR 1/2019 is ongoing.

**60. ODPP/CAM/5/19/010
EACC/OPS/INQ/73/2018**

INQUIRY INTO ALLEGATION THAT DCI OFFICERS ATTACHED TO DCI OFFICES IN KITENGELA REQUESTED AND RECEIVED A BRIBE OF KSHS 20,000 IN ORDER TO FORBEAR CHARGING A PERSON WITH THE OFFENCE OF STEALING

The EACC received a complaint on 9th July 2018 alleging that a policewoman attached to Kitengela Directorate of Criminal Investigation (DCI) office had requested for Kshs. 20,000 as a bribe to completely close a criminal case which the complainant had already settled out of court.

Investigations established that the suspect requested for and received Kshs. 20,000 from the complainant to close his criminal case.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspect be charged with conspiracy to commit an offence of corruption contrary to section 47 (A) (3) as read with section 48 of the ACECA, and with two counts of receiving a bribe contrary to section 6 (1) (a) as read with section 18 of the Bribery Act, 2016.

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

STATUS

The DPP returned the file to EACC on 19th March 2019 directing that further investigations be carried out and file resubmitted for further directions.

The file was resubmitted on 8th July 2019 and on 16th September 2019, the DPP directed that prosecution ensues against E1 and administrative action be taken against E2. Kajiado ACC 2 of 2019 is ongoing.

**61. ODPP/CAM/5/019/027
EACC/OPS/INQ/33/2018**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KISERIAN TRAFFIC POLICE STATION

The EACC commenced investigations after a complainant reported that a police officer based at the Kiserian Traffic Base Commander requested a Kshs. 5,000 bribe from the conductor of his PSV matatu in order to facilitate the release of his motor vehicle that had been detained after failing to stop as ordered by a uniformed police officer.

The EACC report forwarded to DPP on 16th January 2019 recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) (b) as read with section 18(1) of the Bribery Act, 2016, and abuse of office contrary to section 46 as read with section 48 (1) of the ACECA.

Upon perusal of the file, the DPP concurred with the Commission's recommendation for prosecution.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensue. The case Milimani ACC 9 of 2019 was prosecuted and the accused acquitted under section 215 Criminal Procedure Code.

**62. ODPP/CAM/5/019/034
EACC/OPS/INQ/119/2018**

INQUIRY INTO ALLEGATIONS OF BRIBERY AND IMPERSONATION AGAINST A PRIVATE PERSON MASQUERADING AS EMPLOYEE OF KENYA POWER AND LIGHTING COMPANY

The EACC commenced investigations after a complaint that an employee of Kenya Power and Lighting Company requested for a Kshs. 200,000 bribe in order not to

charge the complainant for tampering with a KPLC meter. The Commission organized a trap operation that resulted in the arrest of the suspect.

Investigations revealed that the suspect requested a Kshs. 500,000 bribe, which was received on their behalf by another person. It was also established that the two suspects masqueraded as employees of KPLC.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspects be charged with bribery contrary to section 6 of the Bribery Act, 2016, and impersonation and forgery contrary to sections 105 (b) and 345 of the Penal Code, Cap 63.

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

STATUS

The DPP returned the file to EACC on 7th May 2019 directing that prosecution ensues.

63. ODP/CAM/5/19/016 EACC/OPS/INQ/95/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A CLINICAL OFFICER AT KERICHO DISTRICT HOSPITAL

The EACC commenced investigations after a complaint that a Clinical Officer at Kericho District Hospital requested for a Kshs. 9,000 financial benefit to improperly change a medical examination report (P3 form) to give a negative result in the complainant's favour.

Investigations established that the suspect requested for a Kshs. 9,000 financial benefit and received Kshs. 2,040 and Kshs. 6,000 respectively in order to improperly change a medical examination report (P3 form) from a positive result to a negative result in complainant's favour in a defilement case in Kericho Chief Magistrate's Court Criminal Case No. 50/2018.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspect be charged with three counts 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 the evidence sufficient to support the recommended charges and directed that prosecution ensue.

STATUS

The DPP file was returned the file to EACC on 19th March 2019 directing that prosecution ensue. The case Nakuru ACC 2 OF 2019 is ongoing.

64. ODP/CAM/5/019/021 EACC/ISL/OPS/2/2016

INQUIRY INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE AGAINST TRAFFIC POLICE OFFICERS AT ISIOLO POLICE STATION

The EACC commenced investigations after two traffic officers stationed at Isiolo Police Station were alleged to have requested and received a bribe of Kshs. 10,000 from the complainant as an inducement to release him from police custody after being arrested and detained for allegedly committing traffic offences.

The investigations revealed that when the officers learnt that the complainant had reported them to the Commission, they converted the amount received into a cash bail and arraigned the complainant in court whereby the cash bail was forfeited to the state and a warrant of arrest issued against the complainant.

The complainant was later arrested and arraigned in court in connection with the offences he had allegedly committed.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the two officers be charged with the following offences:

- Soliciting for a bribe contrary to section 39(1) as read with section 48(1) of the ACECA and section 27 of the Bribery Act, 2016,

- Receiving a bribe contrary to section 39(1) as read with section 48 of the ACECA,
- Conspiracy to commit an offence of corruption contrary to section 47 (a) (3) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the suspects and directed that administrative action be taken against the suspects.

STATUS

The DPP returned the file to EACC on 14th May 2019 directing that administrative action be taken.

65. ODPP/CAM/5/019/017 EACC/OPS/INQ/02/2018

THIS WAS AN INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS MANNING MALAKISI-KIMAHUTI-MALABA ROAD

The EACC received a report from the Kenya Police Service that traffic police officers were engaged in corrupt practices along the roads. The Kenya Police Service, through the Inspector General, requested the Commission to arrest the officers involved.

The Commission organized a surveillance operation that led to the arrest of various officers operating in Malakisi area in Bungoma County. However, the Commission did not obtain sufficient evidence to support charges against the suspects.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the National Police Service prefers disciplinary action against the officers.

Upon perusal of the file, the DPP found no evidence of criminal culpability on the suspects and directed that the file be closed with no further action. He further directed that the said officers be subjected to appropriate disciplinary action for breach of the Leadership and Integrity Act and the National Police Service Act.

STATUS

The DPP returned the file to EACC on 19th March 2019 directing closure.

66. ODPP/CAM/5/019/037 EACC/OPS/1NQ/19/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICER AT KIAMBU TRAFFIC BASE

The EACC commenced investigations after an anonymous report that the Traffic Base Commander-Kiambu, solicited and received bribes from traffic offenders as inducement against charging them with traffic offences.

The Commission contacted the informants who explained that their vehicles were usually booked in a Detained Vehicle Register (DVR) and thereafter, the officer asked for bribes. From the evidence obtained, the suspect had a reputation of booking traffic offenders in a register known as a DVR and later asking for bribes from them. However, there was no concrete evidence to prefer criminal charges against the officer.

The EACC report forwarded to the DPP on 16th January 2019 recommended that disciplinary action be taken against the suspect.

Upon perusal of the file, the DPP directed that further investigations be carried out. The file was returned to EACC on 25th March 2019 directing that further investigations be carried out and file resubmitted for further directions.

The file was resubmitted on 3rd July 2019 and the DPP upon further review directed that the suspects be dealt with administratively.

STATUS

The DPP returned the file to the EACC on 28th October 2019 directing administrative action.

**67. ODPP/CAM/5/019/015
EACC/MSA/OPS/INQ/32/2018**

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST AN EMPLOYEE OF KENYA REVENUE AUTHORITY (KRA) MOMBASA WHO IS UNDER SECONDMENT

The EACC received a complaint that the suspect, seconded to Kenya Revenue Authority (KRA) Mombasa, requested for a Kshs 25,000 financial benefit in order to tamper with the evidence in criminal case number 495/2018 in which the complainant had been charged.

Investigations established that indeed the suspect asked for a bribe.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspect be charged with receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified gaps that required to be covered by way of further investigation.

STATUS

The DPP returned the file to EACC on 11th April 2019 directing further investigations. The file was resubmitted on 6th June 2019 and the DPP upon perusal of the file directed that ACC 5 of 2018 proceeds to logical conclusion.

**68. ODPP/CAM/5/019/028
EACC/MSA/OPS/INQ/48/2018**

INQUIRY INTO ALLEGATIONS OF OFFERING A FINANCIAL ADVANTAGE OF KSHS 500,000 AGAINST THREE CHINESE NATIONALS, EMPLOYEES OF THE STANDARD GAUGE RAILWAY MOMBASA TERMINUS

The EACC commenced investigations on 23rd November 2018, when a police inspector working with the Directorate of Criminal Investigation Railways, Mombasa, reported that three Chinese nationals working with China Roads and Bridge Corporation (CRBC) at the Standard Gauge Railways (SGR) Miritini had offered him and his fellow investigating officers a Kshs. 500,000 financial benefit.

The bribe was intended to influence the outcome of an ongoing investigation on theft by servant at the SGR Miritini Terminus in their favour.

Subsequently the Commission organized a trap operation and the suspects were apprehended upon offering a bribe of Kshs. 200,000. On 26th November 2018, pursuant to the directions of the ODPP, they were charged before the Mombasa Anti-Corruption Court.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the evidence obtained was sufficient to sustain the charges of bribery contrary to Section 5(1) of the Bribery Act was already pending in court.

Upon perusal of the file, the DPP found sufficient evidence to sustain the charges pending in court and directed that the case be prosecuted to logical conclusion.

STATUS

The DPP returned the file to EACC on 4th April 2019 directing that the case, Mombasa ACC 12/2018 proceeds to logical conclusion.

**69. ODPP/CAM/5/019/024
EACC/OPS/INQ/91/2018**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT THIKA POLICE STATION

The EACC commenced investigations after numerous complaints from members of the public against a traffic police officer from Thika Police Station manning the

Southern Bypass at Kiangombe along Thika- Garissa road, for allegedly requesting for bribes from road users.

The Commission conducted undercover surveillance between 22nd May 2018 and 14th August 2018 along Thika- Garissa road at Kiangombe junction.

Informed by the recorded video clips of surveillance, the Commission planned a sting operation on 14th August 2018 along Thika – Garissa road at Kiangombe junction and arrested the officer. A search was conducted on him and Kshs. 5,500, in various denominations was recovered.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspect be charged with abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

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

STATUS

The DPP returned the file to EACC on 19th March 2019 directing closure and administrative action taken against the suspect.

70. ODPP/CAM/018/5/874 EACC/OPS/INQ/ 89/2016

INQUIRY INTO ALLEGATIONS OF CONSPIRACY TO DEFRAUD AND AN ATTEMPT TO OBTAIN MONEY BY FALSE PRETENCE THROUGH A TENDER TO SUPPLY COMPUTERS AT STATE HOUSE

The EACC commenced investigations after a complaint that the suspects had on diverse dates in the month of July 2016, solicited for a benefit of Kshs. 100,000 from the complainants as an inducement to link them with State House officials to help them obtain tender documents for supply of laptops and installation of software worth Kshs. 89. 5 million at State House.

The complainants stated that they would give Kshs. 3,000,000 as kick back if they won the tender.

A sting operation carried out by the Commission established evidence that confirmed the allegations.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the suspects be charged with conspiracy to defraud contrary to section 317 of the Penal Code, and obtaining 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 ensue.

STATUS

The DPP returned the file to EACC on 29th April 2019 directing that prosecution ensue.

71. ODPP/CAM/5/19/011 EACC/MSA/OPS/INQ/8/2018

INQUIRY INTO ALLEGATIONS THAT EMPLOYEES OF KWALE WATER AND SEWERAGE COMPANY LIMITED DEMANDED A BRIBE OF KSHS 50,000 FROM THE COMPLAINANT IN ORDER TO FACILITATE RECONNECTION OF WATER AT HER PREMISES AT UKUNDA IN KWALE COUNTY

The EACC commenced investigations after a resident of Ukunda in Kwale County complained that employees of Kwale Water and Sewerage Company Limited demanded a Kshs. 50,000 bribe from her in order to facilitate reconnection of water at her premises where water had been disconnected allegedly for illegal connection.

Investigations did not disclose any criminal culpability against the officers.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed.

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

STATUS

The DPP returned the file to EACC on 29th April 2019 directing closure.

72. ODPP/CAM/5/19/046 CR. 531/344/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE COUNTY GOVERNMENT OF GARISSA BASED AT GARISSA TOWN AS A REVENUE CLERK

The EACC commenced investigations after a complaint that a Revenue Clerk at the Garissa County Government solicited for a Kshs. 4,000 benefit from the complainant as an inducement to allow him to continue constructing his house without the requisite statutory documents from the County.

The Commission organized a sting operation that resulted in the arrest of the suspect and recovered the trap money. However, he was released on Kshs 20,000 police bond.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspect be charged with receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) (2) of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspect. However, he directed that further investigations be carried out along the identified areas in order to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 28th May 2019 directing prosecution to ensue. Garissa ACC 3 of 2019 is ongoing.

73. ODPP/CAM/5/019/049 EACC/MKS/OPS/INQ/72/2017

INQUIRY INTO ALLEGATIONS OF REQUESTING FOR A BRIBE BY POLICE OFFICERS FROM SULTAN HAMUD TRAFFIC BASE

The EACC commenced investigations after numerous complaints from motorists against traffic police officers at Sultan Hamud Traffic Base, along Nairobi – Mombasa Highway. The motorists alleged that the officers normally stopped vehicles within Sultan Hamud town and demand bribes from them that range from Kshs. 50 to Kshs. 2000.

The motorists further alleged that failure to part with bribes would result in the officers harassing and detaining their vehicles at the station. The Commission organized a sting operation that resulted in the arrest of the three officers.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspect be charged with abuse of office contrary to Section 46 as read with Section 48(1) of the ACECA.

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

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensues.

74. ODPP/CAM/5/19/053 EACC/OPS/INQ/86/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO KAYOLE AND RUIRU POLICE STATION

The EACC commenced investigations after a complaint received on 4th March 2016 from motorists that traffic police officers from Ruai Traffic Sub-Base manning the eastern bypass were notorious in collecting bribes and harassing motorists.

On 18th July 2017 the Commission carried out a sting operation along the eastern bypass based on the surveillance report carried out on diverse dates. At Ruai flyover, two traffic police officers were seen taking benefits from the motorists. The Commission officers managed to arrest one police officer and Kshs. 6000 recovered while the other police officer escaped in a motor vehicle.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the National Police Service Commission takes appropriate administrative action against the officers for behaving unethically, negligently and dishonestly.

Upon perusal of the file, the DPP found no evidence of criminal culpability and directed that the file be closed and administrative action be taken against the suspects.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing closure and administrative action be taken.

75. ODPP/CAM/5/19/050 EACC/OPS/INQ/101/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PRIVATE PERSON WHO WAS IN POSSESSION OF A STOLEN VEHICLE WHICH HAD NO LEGAL DOCUMENTS

The EACC commenced investigations after a report from a DCI officer that a person found in possession of a stolen motor vehicle offered a Kshs. 100,000 financial benefit as an inducement for him not to be charged with the offence of being in possession of a stolen vehicle, which had no legal documents.

The Commission organized a sting operation that led to the arrest of the suspect. However, no sufficient evidence was obtained to prove bribery allegations.

The EACC report forwarded to the DPP on 23rd January 2019 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 suspects and directed that the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 13th March 2019 directing closure.

76. ODPP/CAM/5/019/048 EACC/NYR/OPS/INQ/272/222/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST KIGUMO LAND CONTROL BOARD MEMBERS INVOLVING KSHS 107,000

The EACC commenced investigations after a report from a complainant that Kigumo Sub-County Land Control Board members had requested for a Kshs. 2,000 financial benefit as an inducement to approve his application for Land Control Board consent to enable him transfer their father's land to his siblings.

Investigations were carried out and the Commission's officers recovered Kshs. 107,000 that the board members had received from members of the public seeking approval of consent application for various land transactions.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspects be charged with receiving a bribe contrary to Section 6 (1) (b) 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 ensue subject to further investigations. The file was returned to EACC on 29th

April 2019 directing that further investigations be carried out. The file was resubmitted on 2nd July 2019 and the DPP upon review directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 7th August 2019 directing prosecution to ensue.

77. ODPP/CAM/5/19/060 EACC/OPS/INQ/63/2016

INQUIRY INTO ALLEGATIONS BY THE GOVERNOR OF KILIFI COUNTY THAT SOME PRIVATE PERSONS HAD ATTEMPTED TO EXTORT A BRIBE FROM HIM PRETENDING TO BE EACC OFFICERS

The EACC commenced investigations after the Kilifi Governor alleged that some people pretending to be EACC officers, had attempted to extort a bribe from him.

The EACC officers organized a trap operation on 20th June 2018 which revealed that the Governor and his Personal Assistant met the four suspects at Gracia Hotel who presented themselves as EACC officers and demanded a Kshs. 30 million bribe so that they could assist the Governor.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspect be charged with impersonating an investigator contrary to section 34 (1) as read with section 34 (2) of the ACECA and conspiracy to commit an offence involving corruption contrary to section 47(a) (1) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges subject to further investigations to strengthen the prosecution case. The file was returned to EACC on 14th March 2019 directing further investigations and the file to be resubmitted for further directions. The file was resubmitted on 27th May 2019 with the areas identified for further investigations having been covered.

STATUS

The DPP returned the file to EACC on 24th July 2019 directing that prosecution ensue. Milimani ACC 24 of 2019 is ongoing.

78. ODPP/CAM/5/019/054 EACC/OPS/INQ/56/2017

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TWO EACC EMPLOYEES

The EACC commenced investigations after allegations that EACC officers and two other officers demanded a Kshs. 15,000, 000 bribe to compromise a Kshs. 280 million tax evasion investigation against Mwananchi Credit Ltd, a company belonging to the complainant.

Investigations revealed that on 27th April 2017, the two officers summoned an advocate of the High Court of Kenya acting for Mwananchi Credit Ltd to EACC offices. They informed him that tax evasion investigations against Mwananchi Credit Ltd were at an advanced stage.

On the same day, the suspects met the said advocate outside Uganda house and requested Kshs. 15,000,000 to compromise the purported tax evasion investigation against Mwananchi Credit Ltd.

It was established that although there was no direct evidence showing that the suspects requested for a bribe, there was circumstantial evidence in support of the same.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspects be charged with receiving a bribe contrary to section 6(1) (a) of the Bribery Act, as read with section 18 (1) and (2) and conspiracy to commit a corruption offence contrary to section 47(a)(3) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP concurred with the recommendations of the Commission that there was sufficient evidence to sustain charges against the two former EACC officers.

STATUS

The DPP returned the file to EACC on 19th March 2019 directing that prosecution ensues. Milimani ACC 10 of 2019 was concluded and the accused convicted.

**79. ODPP/CAM/5/19/059
EACC/OPS/INQ/129/2018**

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN EMPLOYEE OF THE NATIONAL TREASURY, PENSION DEPARTMENT

The EACC commenced investigations on 24th September 2018, after a complaint from a resident of Nairobi City County, alleging that, a person working at the National Treasury-Pensions department demanded for a Kshs. 10,000 financial benefit from his cousin, a resident of Kisii County, in order to facilitate the processing and release of her late husband's pension and gratuity. The pension payment had been pending for about three years.

Consequently, the Commission organized a sting operation that led to arrest of the suspect.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspects be charged with the following offences:

- Receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) and (3) of the Bribery Act, 2016,
- Demanding property by written threats contrary to section 299 the Penal Code, Cap 63,
- Impersonating persons employed in the public service contrary to Section 105 (b) the Penal Code Cap 63.

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

STATUS

The DPP returned the file to EACC on 19th March 2019 directing that prosecution ensue.

**80. ODPP/CAM/5/019/061
EACC/OPS/INQ/85/2018**

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST OFFICIALS OF THE NAIROBI CITY COUNTY GOVERNMENT

The EACC commenced investigations after a complainant reported that three officials of the Nairobi City County Government had demanded a Kshs. 30,000 bribe so that they would not issue a demolition notice.

The Commission carried out a successful trap operation where the suspects received Kshs.17, 000. Evidence further established that the suspects had on various occasions before the operation demanded bribes from the complainant.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the suspects be charged with receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

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

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensues. Milimani ACC 13 of 2019 was instituted and withdrawn on 4th November 2019 as the main suspect had not been apprehended.

**81. ODPP/CAM/5/19/051
EACC/OPS/163/2017**

INQUIRY INTO ALLEGATIONS OF OFFERING A BRIBE TO A PUBLIC OFFICER BY A DRIVER OF A PSV OWNED BY KUKENA SACCO

The EACC commenced investigations after a driver of public service vehicle (PSV) allegedly offered a bribe to an officer attached to National Transport Road

Authority who was part of a team carrying out a joint operation with EACC officers along Kenol – Sagana road. The said driver did not have a valid public service badge, which is a requirement for PSV drivers.

The evidence obtained could not establish the element of offering a bribe.

The EACC report forwarded to the DPP on 23rd January 2019 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 suspect and directed that the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 15th March 2019 directing closure.

82. ODPP/CAM/5/019/089 EACC/MSA/OPS/INQ/40/2018

INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BRIBE BY A POLICE OFFICER AT BAMBA POLICE STATION KILIFI COUNTY

The EACC commenced investigations after a complaint that the suspect had requested a Kshs. 5,000 financial benefit to release the complainant's daughter from custody.

Evidence established the suspect's intention to receive a bribe and the actual receiving of the bribe.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6 (1) (a) of the Bribery Act, 2016

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspect with the proposed charges and directed that prosecution ensue.

STATUS:

The DPP returned the file to EACC on 29th April 2019 directing that prosecution ensue.

83. ODPP/CAM/5/019/087 EACC/OPS/INQ/09/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A CHIEF IN MLOLONGO LOCATION

The EACC commenced investigation after a report on 23rd January 2018 that a Chief at Mlolongo location requested a Kshs. 30,000 bribe as inducement to forbear charging the complainant with the offence of handling stolen goods.

Evidence established that when the complainant was caught with the stolen goods, he pleaded not to be arrested and offered to pay the owner of the stolen property. The owner of the property requested the Chief to receive the money on her behalf and a committal agreement was made in that regard.

The Chief was therefore acting as a mediator between the complainant herein and the owner of the stolen goods. The evidence on record did not therefore establish beyond any reasonable doubt that the chief had requested and or received a bribe.

The EACC report forwarded to the DPP on 20th February 2019 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 suspect and directed that the file be closed.

STATUS

The file was returned to EACC on 29th April 2019 directing closure.

**84. ODPP/CAM/05/019/088
EACC/OPS/INQ/157/2018**

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A COMPLIANCE OFFICER AT KRA

The EACC commenced investigations after a complaint that a compliance officer at the Kenya Revenue Authority (KRA) requested a Kshs. 10,000 benefit to assist the complainant obtain a tax compliance certificate.

Investigation established that the suspect had requested a bribe and received the same through his mobile phone.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the charges already filed in court and directed that the case proceed to its logical conclusion subject to further investigations being carried out on the identified areas.

STATUS

The DPP returned the file to EACC on 29th April 2019 directing that the case, Milimani ACC 23 of 2019 proceeds to its logical conclusion.

**85. ODPP/CAM/5/019/090
EACC/MSA/OPS/INQ/17/2018**

INQUIRY INTO ALLEGATIONS THAT A PROSECUTION COUNSEL BASED AT TAVETA LAW COURTS IN TAITA TAVETA COUNTY REQUESTED FOR A BRIBE OF KSHS 40,000 AS TO IMPROPERLY INFLUENCE CRIMINAL PROCEEDINGS IN CRIMINAL CASE NO. 272 OF 2018 AT TAVETA LAW COURTS

The EACC commenced investigations after a complaint on 28th May 2018 that a Prosecution Counsel at Taita Taveta Law Courts had requested for a Kshs. 40,000 bribe from the complainant to facilitate a favorable court fine of Kshs. 20,000 in respect of Cr. Case No. 272 of 2018.

A successful trap operation carried out established that the suspect requested for and received a bribe.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) (a) as read with section 18 (10 and (2) of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges but identified areas for further investigation. The file was returned to EACC on 29th March 2019 and resubmitted on 10th June 2019. The DPP upon review of the file directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 28th August 2020 directing that prosecution ensue. Mombasa ACC 8 of 2019 is ongoing.

**86. ODPP/CAM/5/019/092
EACC/OPS/45/2015**

INQUIRY INTO ALLEGATIONS OF OBTAINING MONEY BY FALSE PRETENSE, FORGERY AND MAKING FALSE DOCUMENTS AGAINST THE DIRECTOR AND EMPLOYEE OF TROPICAL WINGS TOURS AND TRAVEL CO. LTD

The EACC commenced investigations after information that the suspects operated a criminal syndicate that facilitated processing of registration, travel documents, and visas. The suspect illegally processed and acquired birth certificates, national identity cards, marriage certificates, bank statements, and visa applications.

Investigations established that indeed the syndicate existed. However, the evidence obtained insufficient to sustain a case in court on beyond reasonable doubt basis.

The EACC report forwarded to the DPP on 20th February 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP directed that the EACC deals with the first complaint by the US embassy.

STATUS

The DPP returned the file to EACC on 27th January 2020 directing that the first complaint by the US embassy be addressed.

87. ODPP/CAM/5/019/108 EACC/OPS/INQ/57/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AND POSING AS CUSTOMER CARE OFFICER WITH THE KENYA POWER AND LIGHTING COMPANY (KPLC)

The EACC commenced investigations after a report that private person allegedly solicited for Kshs.20, 000 in order to forbear reporting to the purported employer, KPLC, the issue of a faulty meter on the complainant's rental property.

A successful operation carried out by the Commission established that the suspect indeed requested and received the bribe.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the suspect be charged with receiving a bribe contrary to section 6(1)(a) of the Bribery Act, 2016 and impersonating a person employed in the public service contrary to section 105(b) of the Penal Code.

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

STATUS

The DPP returned the file to EACC on 29th April, 2019 directing that prosecution ensue.

88. ODPP/CAM/5/019/111 EACC/NRB/OPS/INQ/28/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO THE SAVANNAH POLICE STATION

The EACC commenced investigations after a complaint that a police officer demanded Kshs. 70,000 to facilitate the withdrawal of his case from court.

From the evidence obtained, it was not possible to verify the allegations.

The EACC report forwarded to the DPP on 13th March 2019 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 suspects and directed that the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing closure.

89. ODPP/CAM/5/019/112 EACC/OPS/INQ/56/2016

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AGENTS OF TALENT WORKS AND RIGHTS ENFORCEMENT LIMITED

The EACC commenced investigations after a complaint that persons purporting to be Anti-Counterfeit Agency officers had gone to his shop and confiscated his equipment alleging that his computers contained pirated music.

The officers then asked the shop attendant for a Kshs. 60,000 bribe to secure release of his office equipment.

The evidence established that the suspects indeed requested for and received a bribe.

The EACC report forwarded to the DPP on 13th March 2019 recommended that since the suspects are not public officers, the file be referred to the Director of Criminal Investigations to consider pursuing charges of obtaining money through false pretence contrary to section 313 of the Penal Code.

Upon perusal of the file, the DPP directed that the file be referred to the Director of Criminal Investigations to finalize investigations and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 3rd May 2019 directing that the file be referred to the Director of Criminal Investigations to finalize investigations and resubmit for further directions.

90. ODPP/CAM/5/019/114 EACC/OPS/INQ/32/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PERSONS PURPORTING TO BE ARMY OFFICERS

The EACC commenced investigations after a complaint that a purported army officer solicited for Kshs. 900,000 from the complainant so that he would employ the complainant's relatives.

Evidence established that indeed the suspect requested for a bribe and actually received a bribe amounting to Kshs. 600,000.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the suspect and his counterpart be charged jointly and severally with receiving a bribe contrary to section 6(1)(a) of the Bribery Act, 2016 and impersonating a public officer contrary to section 105(b) of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges, subject to further investigations to strengthen the prosecution case.

The file was resubmitted on 9th July 2019 wherein the DPP directed further investigations on identified areas. EACC resubmitted the file on 31st October 2019 and the DPP upon review of the resubmitted file was satisfied that the evidence was sufficient to sustain the proposed charges and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 6th March 2020 directing that prosecution ensue.

91. ODPP/CAM/5/019/115 EACC/MCKS/OPS/INQ/29/2018

INQUIRY INTO ALLEGATIONS OF DEALING WITH SUSPECT PROPERTY AGAINST MACHAKOS TRAFFIC POLICE OFFICERS

The EACC commenced investigations after numerous complaints that the Machakos traffic police officers stopped motor vehicles and demand bribes from motorists. The bribes ranged from Kshs. 50 to Kshs. 200.

Investigation established that instead of the officers inspecting the motor vehicles as they are mandated to do, they would stop the said vehicles and collect money from motorists. A search conducted on the suspects turned up a total of Kshs. 3,900, which was suspected to be bribe money.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the suspect be charged with abuse of office and dealing with suspect property contrary to section 47(2) (a) of ACECA.

Upon perusal of the file, the DPP was satisfied that the evidence was sufficient to sustain the charges recommended and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 13th May 2019 directing that prosecution ensue.

**92. ODPP/CAM/5/019/117
EACC/OPS/INQ/148/2018**

**INQUIRY INTO ALLEGATIONS OF
CORRUPTION AGAINST A SENIOR
SECRETARY AT RUAKA LOCATION KASARANI
SUB COUNTY**

The EACC commenced investigations after a complaint that a senior secretary at the office of Ruaraka location, Kasarani Sub County solicited a Kshs. 1000 benefit from the complainant in order to facilitate registration of a self-help group known as Mathare Widows Self-help.

The investigations established that the suspect had requested the bribe as alleged.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the suspect be charged with requesting for a bribe contrary to section 6(1)(a) of the Bribery Act, 2016.

Upon perusal of the file, the DPP found the evidence insufficient to sustain the proposed charges and recommended administrative action against the suspect.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that administrative action.

**93. ODPP/CAM/5/019/116
EACC/GSA/OPS/INQ/69/2017**

**INQUIRY INTO ALLEGATIONS OF ABUSE
OF OFFICE AND BRIBERY AGAINST CHIEF
INSPECTOR AT DADAAB POLICE STATION**

The EACC commenced investigations after allegations that the suspect released a refugee meant for Dadaab camp as ordered by court.

Evidence established that the suspect disobeyed the court order by failing to surrender the refugee at the camp. Bribery allegations were not proved.

The EACC report forwarded to the DPP on 28th March 2019 recommended that the suspect be charged with the following offences:

- Abuse of office contrary to section 46 as read with section 48 (1) of ACECA,
- Disobedience of lawful orders contrary to section 131 of the Penal Code Cap 63,
- Undermining the authority of a public officer contrary to section 131 of the Penal Code, Cap 63.

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

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensue. Garissa ACC 2 of 2019 was heard and the accused acquitted on 28th November 2019.

**94. ODPP/CAM/5/019/109
EACC/KIS/OPS/INQ/7/2018**

**INQUIRY INTO ALLEGATIONS OF RECEIVING
A BRIBE AGAINST OFFICERS OF KENYA
FOREST SERVICE BASED AT NYAMIRA**

The EACC commenced investigations after a complaint that Kenya Forest Service officials requested for a Kshs.5, 000 bribe to facilitate the purchase of fuel for their vehicle to visit the site where there was a dispute.

Evidence on record established that indeed the suspects requested a bribe.

The EACC report forwarded to the DPP on 13th March 2019 recommended that the suspects be charged with receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensue subject to further investigations to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 7th May 2019 directing prosecution ensue subject to further investigations on identified areas being carried out. Nyamira ACC 738 of 2019 is ongoing.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the suspect be charged with the offences of requesting for financial benefit of Kshs. 30,000 and receiving Kshs. 10,000.

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

STATUS

The DPP returned the file to EACC on 29th April 2019 directing that prosecution ensue. Kisumu ACC 2 of 2019 is ongoing.

95. ODPP/CAM/5/019/084 EACC/KSM/OPS/INQ/3/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KOMBWEA POLICE STATION

The EACC commenced investigations on 27th August 2018, after the EACC western regional office in Kisumu received a complaint about a police officer attached to Kombewa Police Station. The officer had allegedly improperly requested a Kshs. 30,000 financial benefit in order to withdraw defilement charges against his brother.

On the same day, the investigating team proceeded to Rata Police Post but was unable to meet the investigating officer handling the case who alleged that the matter had been forwarded to Kombewa Police Station.

The team proceeded to Kombewa Police Station and fitted the complainant with audiovisual equipment for recording the conversation. The recording captured the suspect requesting for a bribe of Kshs. 30,000, which he reduced to Kshs. 20,000.

A trap operation was mounted and the suspect arrested and escorted to Kisumu Railways Police Station. He was released on a Kshs. 5,000 cash bail.

96. ODPP/CAM/5/019/074 EACC/MKS/OPS/INQ/45/2017

INQUIRY INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE AGAINST A PROBATION OFFICER IN MACHAKOS PROBATION OFFICE, MACHAKOS COUNTY

The EACC commenced investigations on 15th March 2017, after a complaint alleging that a Probation Officer based in Machakos town requested for a Kshs. 5,000 bribe in order to facilitate her to file a civil case.

The Commission organized a sting operation that resulted in the arrest of the officer after receiving Kshs. 5000 treated money. The suspect was arraigned in court for bribery contrary to section 6 (1) (b) as read with section 18 of The Bribery Act 2016.

The EACC report forwarded to the DPP on 7th February 2019 recommended that there was sufficient evidence to support the charges and the case against the suspect be pursued to its logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to sustain the pending charges filed in court in ACC 200 of 2017.

STATUS

The DPP returned the file to EACC on 7th May 2019 directing that the case filed in court proceeds to its logical conclusion.

**97. ODPP/CAM/5/019/071
EACC/MSA/OPS/INQ. 20/2017**

**INQUIRY INTO ALLEGATIONS OF
CORRUPTION AGAINST A POLICE OFFICER
ATTACHED TO BAMBURI POLICE STATION,
MOMBASA COUNTY**

The EACC commenced investigations after a complaint from a businessman residing in Bamburi – Kiembeni within Mombasa City County, that a police officer attached to Bamburi Police Station had demanded a Kshs. 6,000 financial benefit so as to facilitate the release of a motor vehicle which had been impounded for violating traffic rules.

A successful trap operation was carried out and the suspect arrested.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the suspect be charged with receiving a bribe contrary to section 6(1) of the Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to sustain the proposed charges and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing that prosecution ensue.

**98. ODPP/CAM/5/19/076
EACC/NKR/OPS/INQ/13/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST A PUBLIC OFFICER AT KENYA
PRISON SERVICE IN NAKURU COUNTY**

The EACC commenced investigations after a complaint alleging that the Kenya prison wardens guarding prisoners within Nakuru Law Courts basement cells demanded bribes in order to allow friends and relatives

to visit prisoners. Investigations revealed that indeed the suspect requested for bribes.

The EACC report forwarded to the DPP on 7th February 2019 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.

Upon perusal of the inquiry file, the DPP found insufficient evidence of any criminal culpability on the suspect but directed that the suspect be subjected to administrative action.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing administrative action against the suspect.

**99. ODPP/CAM/5/19/075
EACC/OPS/INQ/144/2018**

**INQUIRY INTO ALLEGATIONS THAT
TRAFFIC POLICE OFFICERS MANNING
THE THIKA-GARISSA HIGHWAY WERE
DEMANDING BRIBES FROM MOTORISTS FOR
UNSPECIFIED OFFENCES**

The EACC commenced investigations after numerous complaints about traffic police officers demanding bribes from motorists on the Thika- Garissa highway.

On 12th October 2018, the EACC carried out a sting operation along the Thika- Garissa highway based on the surveillance reports carried out on diverse dates. A traffic police officer was arrested. However, there was insufficient evidence to charge the officer with a criminal offence.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the National Police Service Commission takes appropriate administrative action against the suspects.

Upon perusal of the file, the DPP found insufficient evidence of any criminal culpability on the suspects and directed that the suspects be subjected to administrative action.

STATUS

The DPP returned the file to EACC on 18th April 2019 directing administrative action against the suspects.

**100. ODPP/CAM/5/019/072
EACC/OPS/INQ/40/2015**

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST SOCIETY GENERAL SURVEILLANCE (SGS) EMPLOYEES

The EACC commenced investigations after intelligence reports that employees of Society General Surveillance (SGS) manning the Webuye and Malava weighbridges collected bribes from road transport companies so that their trucks do not undergo the due weighing procedures.

Investigations revealed that SGS employees conspired with truck owners by receiving bribes as inducement to allow trucks bypass the weighbridge without being weighed. The suspects received the bribes through an M-pesa dealer whose shop was adjacent to the Webuye weighbridge.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the SGS employees be charged with dealing with suspect property contrary to section 47(1) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP found gaps and deficiencies that needed to be covered by further investigations.

STATUS

The DPP returned the file to EACC on 3rd June 2019 directing further investigations.

**101. ODPP/CAM/5/019/078
EACC/OPS/INQ/23/2017**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE PUBLIC TRUSTEE, SHERIA HOUSE

The EACC commenced investigations after a complainant, a widow, alleged that a clerical officer at the Public Trustee, Sheria House requested a Kshs 5000 bribe in order to facilitate signing of consent forms and processing of payment of her late husband's savings at Equity Bank.

A successful trap operation led to the arrest of the suspect.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the suspect be charged with receiving a benefit 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 recommended charges and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 22nd March 2019 directing that prosecution ensues. The case Milimani ACC 16 of 2019 was filed and the accused convicted on 9th January 2020.

**102. ODPP/CAM/5/019/073
EACC/OPS/INQ/145/2017**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A BUSINESS LADY AT KARIOKOR MARKET

The EACC commenced investigations on 25th September 2017, after a complaint that Nairobi City Council officials solicited a Kshs. 30,000 financial benefit for renewal of a liquor license.

Investigations established that indeed the suspect had asked for a bribe but the evidence obtained was not enough to sustain bribery charges.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the file be closed.

Upon perusal of the file, the DPP found insufficient evidence to support any criminal charge and directed the file be closed.

STATUS

The DPP returned the file to EACC on 23rd April 2019 directing closure.

103. ODPP/CAM/5/19/069 EACC/MCKS/OPS/INQ/04/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A FOREST RANGER AT KENYA FOREST SERVICES ATTACHED TO MACHAKOS COUNTY

The EACC commenced investigations after a complaint on 2nd August 2016, that a forest ranger attached to Machakos requested a Kshs. 100,000 financial benefit as inducement to release a lorry registration number KBJ 318J and issue a permit to ferry farm produce. The amount was later negotiated downwards to Kshs. 50,000.

Investigations established that indeed the officer requested for the bribe and insisted on being given Kshs. 100,000 and later Kshs. 50,000 in order to release the lorry and issue a permit to ferry farm produce. Evidence further established that after financial analysis the officer had filed false wealth declaration forms in December 2015 and November 2017.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the file be closed since the suspect had passed on.

Upon perusal of the file, the DPP noted that although there was sufficient evidence to sustain charges, the suspect was deceased, and therefore directed that the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 19th March 2019 directing closure.

104. ODPP/CAM/5/019/077 EACC/OPS/INQ/184/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OWNER OF A PRIVATE MOTOR VEHICLE REG. NO. KCH 019K

The EACC and traffic police officers conducted a joint operation on 18th December 2018, to arrest motorists flouting traffic laws and offering bribes to officers on duty to avoid being charged.

The owner of a private motor vehicle registration number KCH 019K was arrested for allegedly giving a benefit to a traffic police officer in order to forbear being charged with a traffic offence of exceeding speed limit contrary to Section 42(3) of the Traffic Act.

Upon analysis, it was established that the evidence was insufficient to prefer charges against the suspect.

The EACC report forwarded to the DPP on 7th February 2019 recommended that the file be closed.

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

STATUS

The DPP returned the file to EACC on 16th April 2019 directing closure.

105. ODPP/CAM/5/019/086 EACC/MSA/PI/INQ/1/2017

INQUIRY INTO ALLEGATIONS THAT OFFICIALS OF BANDARI FOOTBALL CLUB

FRAUDULENTLY RECEIVED KSHS 2,528,800 IMPREST FOR AWAY AND HOME MATCHES PLAYED ON 14TH FEBRUARY 2016 AND 28TH FEBRUARY 2016

The EACC commenced investigations after a complaint that Bandari Football Club officials fraudulently obtained temporary imprest from the Kenya Ports Authority (KPA) towards meeting the cost of away and home matches against St. Eloi Lupopo of the Democratic Republic of Congo during the CAF Confederation Cup matches played on 14th February 2016 and 28th February 2016.

It was further alleged that the Kshs. 808,800 and Kshs. 1,720,000 imprest for the away match and home match were obtained using a forged letter from Football Kenya Federation (FKF), and that the cost would be met by FKF and not KPA.

Evidence established that the suspects were issued with temporary imprests in respect of official duties of Bandari Football Club, and therefore were not fraudulently obtained as alleged.

The EACC report forwarded to the DPP on 20th February 2019 recommended that appropriate disciplinary action be meted on the two suspects in respect of accrued interest on the temporary imprests issued to them pursuant to the provisions of Regulation 93 of the Public Finance Management (National Government) Regulations, 2015.

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. However, he directed that administrative action be taken against the officials of Bandari Football Club.

STATUS

The DPP returned the file to EACC on 11th April 2019 directing closure and administrative action against the suspects.

**106. ODPP/CAM/5/019/120
EACC/PI/INQ/344/2016**

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES REGARDING RECRUITMENT OF THE PRINCIPAL ACCOUNTANT-RECEIVABLES AND BRIBERY AT THE NATIONAL AIDS CONTROL COUNCIL (NACC)

The EACC commenced investigations after a complaint regarding irregularities in recruitment and bribery allegations against the National Aids Control Council. It is alleged that NACC selected an unqualified candidate to fill the principal account-receivables position on a three-year contract.

The individual was not a fully qualified CPA (K) and did not possess a master's degree at the time of the interview. It was further alleged that the person bribed the officials with Kshs. 1 million in order to secure the contract.

Evidence established that the recruiting process was proper and therefore the suspect was duly appointed. There was also no evidence to substantiate the allegation that the said person bribed the officials with Kshs. 1 million.

The EACC report forwarded to the DPP on 28th March 2019 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 suspects and directed that the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 8th May 2019 directing closure.

**107. ODPP/CAM/5/019/023
EACC/PI/INQ/408/2017**

INQUIRY INTO ALLEGATION THAT IN FY 2014/2015, THE GOVERNOR OF SIAYA COUNTY GOVERNMENT SPENT MORE THAN KSH 70 MILLION ABOVE THE ALLOCATED

AMOUNT FOR PURCHASE OF VEHICLES AND AMBULANCES WITHOUT APPROVAL OF THE COUNTY ASSEMBLY

The EACC commenced investigations after allegations that the Governor of Siaya County Government spent Kshs. 70 million more than was allocated for purchase of cars and ambulances in the 2014/2015 financial year.

It is alleged that the Governor spent Kshs. 159 million instead of the planned expenditure of Kshs. 89 million without approval of the County Assembly. It was further alleged that the vehicles were procured from a company that was not in the list of those recommended by the public works department.

Following an analysis of the evidence, it was established that purchase of the six vehicles for the County Government of Siaya was planned and budgeted for in the 2014/2015 financial year. There was no irregularity in the procurement process.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed.

Upon perusal of the file, the DPP concurred with the Commission's recommendation for closure of the file.

STATUS

The DPP returned the file to EACC on 12th March 2019 directing closure.

SECOND (2ND) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST APRIL 2019 TO 30TH JUNE 2019

1. ODPP/CAM/019/126 EACC/AT/INQ/5/2019

INQUIRY INTO ALLEGATIONS OF IRREGULAR COMPENSATIONS (KSHS. 109,769,363.00) BY THE NATIONAL LAND COMMISSION (NLC) TO TORNADO CARRIERS LTD FOR LAND REFERENCE MN/VI/3801 AND SUBSEQUENT BRIBES TO NLC OFFICIALS

The EACC commenced investigations after a complaint that the National Lands Commission (NLC) on behalf of Kenya National Highways Authority (KENHA) irregularly compensated M/s Tornado Carriers Ltd. Kshs. 109,769,363 for land reference MN/VI/380, also that NLC officials had been bribed.

Investigations established that KenHA gazetted the parcel of the land for acquisition and upon

valuation; the NLC returned a value of Kshs. 34,501,110. However, the director of Tornado Carriers Ltd rejected the award and requested that the same be reviewed to Kshs. 180,000,000. NLC officials carried out a valuation and returned a value of Kshs. 109,769,363.

A Land Acquisition and Compensation Committee approved the payment schedule where it was established that the payment was split into Kshs. 55,269,363 payables to Tornado Carriers Ltd and Kshs. 54,500,000 to the bank account of the law firm was disbursed to several beneficiaries who included public officers employed at NLC and their relatives.

The EACC report forwarded to the DPP on 8th April, 2019 recommended that the former chairman of NLC, the members of Land Acquisition and Compensation Committee, NLC officials, the law firm in question, and the beneficiaries of the money that was paid through the law firm be charged with the following offences:

- Conspiracy to commit an economic crime contrary to section 47A as read with section 48(1) of ACECA,
- Abuse of office contrary to section 46 as read with section 48(1) of the ACECA,
- Financial misconduct contrary to section 197(1)(h) as read with section 199 of the Public Finance Management Act,
- Financial misconduct 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 48 of the ACECA,
- Dealing with suspect property contrary to section 47(2)(a) as read with sections 47(1) and 48(1) of the ACECA,
- Money laundering contrary to sections 3(b)(iii) as read with section 16(1)(a) of the Proceeds of Crime and Anti-Money Laundering Act.

Upon perusal of the file, the DPP found sufficient evidence establishing criminal liability against the suspects and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 16th April 2019 directing that prosecution ensue. Milimani ACC 6 of 2019 is ongoing.

2. ODPP/CAM/015/5/320 EACC/FI/INQ/141/2014

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR RENOVATION OF KENYATTA STADIUM, KITALE BY THE COUNTY GOVERNMENT OF TRANS-NZOIA TO WEST END COMPANY FOR KSHS 68 MILLION

The EACC commenced investigations after a 2013 report that Trans-Nzoia County Government (TNCG) irregularly awarded a Kshs. 68 million tender to West End Company Ltd. for renovation of Kitale Stadium through single sourcing.

Investigations established that the County Tender Committee (CTC) members approved and awarded the tender in respect of the renovation contract without the requisite evaluation or opening committee proceedings.

Further, the interim Head of Supplies Chain Management and the interim Chief Finance Officer of TNCG failed to certify that the subject contract sum was within the budget before signing the contract document.

The Procurement Officer signed the payment certificate for Kshs. 3,957,468 as the project manager. The County Architect issued a certificate of practical completion authorizing payment of total retention funds to the contractor while the said works were incomplete.

Based on the misleading certificates, the TNCG paid the contractor the full contractual sum of Kshs. 8,700,000. In addition, the contractor unlawfully received an extra amount of Kshs. 12,004,322 for no work done.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the above mentioned officers be charged with the following offences:

- Conspiracy contrary to section 47 A (3) of ACECA,
- Abuse of office contrary to section 46 of ACECA,
- Willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 of the ACECA,
- Deceiving principal contrary to section 41 of ACECA,
- Uttering a false document contrary to section 353 of the Penal Code,
- Forgery contrary to section 347 of the Penal Code.

Upon perusal of the file, the DPP was satisfied that there was criminal culpability against the suspects, but directed that gaps identified in the evidence be covered to strengthen the prosecution case and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 27th November 2019 directing further investigations.

3. ODPP/CAM/5/019/003 EACC/MCKS/FI/INQ/08/2018

INVESTIGATIONS INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES FOR THE SUPPLY AND DELIVERY OF FIVE TRUCKS FOR LIVESTOCK TRANSPORTATION BY KITUI COUNTY GOVERNMENT

The EACC commenced investigations after a complaint alleging breach of procurement laws in the award of a tender for the supply and delivery of five trucks suitable for livestock transportation to Thika Motor Dealers Ltd by the Kitui County Government. It was alleged that the cost of the trucks were inflated from Kshs 7,000,000 to Kshs. 11,950,000 per truck.

Investigations established that there was no procurement plan and approved budget for the subject procurement for the 2017/2018 financial year. The acting Chief Officer Trade, Co-operative and Investment, Kitui County entered into a contract with Thika Motor Dealer before the lapse of 14 days contrary to the Public Procurement and Assets and Disposal Act, 2015.

It was further established that the Head of Supply Chain Management failed to invite at least 10 firms from the selected list of dealers in the pre-qualified list maintained in the supply branch contract for the supply and prepared an inaccurate professional opinion, which was relied on for the delivery of the said trucks.

The EACC report forwarded to the DPP on 25th June 2019 recommended that the Acting Chief Officer Trade, Co-operative and Investment and the Head of Supply Chain Management be charged with the following offences:

- Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of the ACECA,
- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Three counts of willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to sustain charges against the suspects and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 11th December, 2019 directing that prosecution ensue.

4. ODPP/CAM/5/019/133 EACC/OPS/INQ/31/2018

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST A CHIEF INSPECTOR ATTACHED TO MATUU POLICE STATION

The EACC commenced investigations after an article published in the Daily Nation newspaper on 18th March 2018 alleged that on 7th March 2018, police officers from Matuu Police Station arrested five suspects. They arraigned them before Senior Resident Magistrate presiding at Kithimani Law Courts, on charges of breaking into a building and committing a felony and an alternative charge of handling stolen goods.

On 12th March 2018, the five accused pleaded not guilty to the charges. One of the accused persons alleged in open court that the Chief Inspector attached to Matuu Police Station had received Kshs. 200,000 from him to terminate the charges.

Investigations revealed the amount of Kshs. 200,000 was paid as cash bail and returned to the accused person during the trial. The evidence on record disclosed that the Chief Inspector instructed a fellow officer to temporarily remove the accused person from the prison cell to proceed to KCB Matuu branch for withdrawal of Kshs. 200,000.

The movement of the accused was not recorded in the cell register but only in the Occurrence Book with the narrative that he had been removed temporarily for an inquiry.

The EACC report forwarded to the DPP on 10th April 2019 recommended that there was sufficient evidence to prefer administration action against the Chief Inspector

in accordance with the Service Standing Orders of the National Police Service.

Upon perusal of the file, the DPP concurred with the commission's recommendations of taking administrative action against the suspects in accordance with police standing orders.

STATUS

The DPP returned the file to EACC on 17th September 2019 directing administrative action.

5. ODPP/CAM/5/019/134 EACC/OPS/INQ/172/2018

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST THE NATIONAL COORDINATOR AND SECRETARY OF BUNGE LA MWANANCHI

The EACC commenced investigations after a complainant reported that he received a letter from a group known as Bunge la Mwananchi alleging that patients visiting his clinic at St. Mary's Clinic- Umoja One, Nairobi were being sexually harassed. The national coordinator had signed the letter.

The coordinator and his colleague approached the complainant and requested a Kshs. 250,000 financial benefit so as not to incite members of the public to stage a demonstration in protest of the alleged sexual harassment or have the allegations aired in the media.

On 3rd December, 2018 EACC organized a sting operation that resulted in the arrest of the suspects. EACC officers conducted a search on one of the suspects and recovered Kshs. 100,000 treated trap money.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the said national coordinator, and secretary of Bunge la Mwananchi be charged with requesting and receiving a bribe contrary to Section 6(1) as read with Section 18 of the Bribery Act.

Upon perusal of the file, the DPP concurred with the EACC that there was sufficient evidence to warrant prosecution of the 1st suspect. However, in relation to

the second accused there was insufficient evidence to sustain any charges against him.

STATUS

The DPP returned the file to EACC on 4th September 2019 directing that prosecution ensue.

6. ODPP/CAM/5/019/135 CR 641/19/2018, ACC.NO. KISII 1/2018

INQUIRY INTO ALLEGATION OF RECEIVING A BRIBE BY AN ADMINISTRATIVE SECRETARY AT ATTORNEY GENERAL'S OFFICE DEPARTMENT OF PUBLIC TRUSTEES/MARRIAGES, KISII

The EACC commenced investigations after a complainant reported that upon visiting the Public Trustee's office at the Attorney General Chambers in Kisii to follow up on her late husband's pension, the Administrative Secretary demanded a Kshs. 50,000 bribe to facilitate the issuance.

On 18th January 2018, EACC organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 50,000 treated trap money.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the Administrative Secretary be charged with requesting, agreeing to receiving and 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 file, the DPP found sufficient evidence to warrant prosecution of the suspect and directed that the case in court proceed to its logical conclusion.

STATUS

The DPP returned the file to EACC on 1st August 2019 directing that the case in Kisii Law Courts (ACC No. 1 of 2018) proceeds to its logical conclusion. The case is ongoing.

7. ODPP/CAM/05/019/136 EACC/ISL/OPS/25/2018

INVESTIGATION INTO THE ALLEGATION THAT A CLINICAL OFFICER BASED AT MERU TEACHING AND REFERRAL HOSPITAL LEVEL 5, REQUESTED FOR A BRIBE SO AS TO CONDUCT EYE SURGICAL OPERATION.

The EACC commenced investigations after a complainant reported that the suspect, a Clinical Officer based at Meru Teaching and Referral Hospital, Level 5 had solicited a Kshs. 4,000 bribe to conduct an eye surgical operation despite it being fully covered by NHIF.

On 23rd October 2018, EACC organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 3,000 treated trap money.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the said suspect be charged with three counts 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 and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 7th August 2019 directing closure.

8. ODPP/CAM/5/019/137 EACC/ISL/AT/INQ/11/2017

INQUIRY INTO THE ALLEGATION THAT THE NATIONAL CEREALS & PRODUCE BOARD IRREGULARLY SUB-LEASED PART OF THEIR LAND HOUSING - ISILOLO DEPOT (GRANT NO I.R 5808) TO A PRIVATE DEVELOPER WHO INTENDS TO PUT UP A PETROL STATION ON THE SAID LAND

The EACC commenced investigations after a complaint alleging irregular leasing out of National Cereals & Produce Board (NCPB) land at Isiolo Depot to a private developer for the purpose of construction of a petrol station.

Investigations established that on 8th November 2016, the Director of Dihiya Recruitment and Supplies Agency Co. Ltd wrote a letter to the Managing Director, NCPB to lease land for purposes of constructing a petrol station, restaurant, car wash and parking in Isiolo.

Subsequently, NCPB (Lessor) and Dihiya Recruitment and Supplies Agency Co. Ltd (Lessee) signed a ten year lease on 28th December 2016, where the Lessee was to utilize the property only for the purposes of parking trucks, ablution block and car wash. NCPB's Board secretary and the Marketing Services Manager signed the lease.

Evidence established that the lease was unprocedurally entered into for a monthly rent of Kshs. 3,548 without properly informing all the concerned parties (Isiolo County Government, Depot Manager and some NCPB Board members).

The EACC report forwarded to the DPP on 10th April 2019 recommended that the lease agreement be cancelled and the Board be advised to establish a clear leasing policy in line with the relevant laws.

However, the Managing Director, Board Secretary, and Manager Marketing Services be charged with wilful failure to comply with the law relating to disposal of property contrary to Section 45 (2) (b) as read with Section 48 (1) (a) of ACECA.

Upon perusal of the file, the DPP found no criminal offence, as the issues raised were civil rather than criminal in nature. However, with regard to breach of procedure, the DPP directed that administrative action be taken against the suspects.

STATUS

The DPP returned the file to EACC on 21st November 2019 directing administrative action.

**9. ODPP/CAM/5/019/138
EACC/OPS/INQ/190/2018**

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A DRIVER OF A PRIVATE MOTOR VEHICLE

The EACC and traffic police conducted a joint operation on 19th December 2018, to arrest motorists flouting traffic laws and offering bribes to officers on duty so as to avoid being charged.

The operation carried out along the Embu – Kiritiri Highway led to the arrest of the owner of a private motor vehicle registration number KCP 464V. He had corruptly offered a benefit to a traffic police officer in order to forbear being charged with a traffic offence of carrying farm produce in a private vehicle covered by private insurance and not commercial insurance.

Evidence established that indeed the suspect gave a bribe to the traffic officer amounting to Kshs. 450.

The EACC report forwarded to the DPP recommended that the suspect be charged with two counts of giving a bribe contrary to Section 5(1) as read with Section 18 (1) and (2) of the Bribery Act.

Upon perusal of the file, the DPP concurred with EACC that there was sufficient evidence to prefer charges against the suspect. However, considering the amount of money involved and the resources to be expended in prosecuting, it would not be economical and in the public interest to pursue prosecution of the matter. He therefore directed that diversion or other alternatives to prosecution be explored, including issuing of a warning to the suspect, and the file be closed with no further action.

STATUS

The DPP file was returned the file to EACC on 17th September 2019 directing closure and alternatives to prosecution.

**10. ODPP/CAM/5/019/139
EACC/OPS/INQ/2/2019**

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A DRIVER OF A PRIVATE MOTOR VEHICLE

On 29th December 2018, the EACC and Makindu traffic police conducted a joint operation to arrest motorists flouting traffic laws and offering bribes to officers on duty so as to avoid being charged.

The officers carried out the operation along the Nairobi-Mombasa road at Makindu area that led to the arrest of the owner of a private motor vehicle registration number KCA 961T.

He corruptly offered a benefit to a traffic police officer in order to forbear being charged with a traffic offence of driving at a speed of 115 KPH at a road of a maximum speed limit of 100 KPH. Evidence established that indeed the suspect gave a bribe to the traffic officer amounting to Kshs. 5,000.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the suspect be charged with giving a bribe contrary to Section 5(1)(a) as read with Section 18 (1) and (3) of the Bribery Act.

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

STATUS

The DPP returned the file to EACC on 16th July 2019 directing that prosecution ensue.

**11. ODPP/CAM/019/140
EACC/OPS/INQ/173/2018**

INVESTIGATION INTO ALLEGATIONS THAT DIRECTORATE OF CRIMINAL INVESTIGATION OFFICERS REQUESTED AND RECEIVED A BRIBE FROM FEMALE CHINESE NATIONAL

WITH INTENT THAT HE WOULD FORBEAR TO CHARGE ANOTHER CHINESE FEMALE WITH THE OFFENCE OF BEING IN KENYA WITHOUT PROPER DOCUMENTATION

The EACC commenced investigations on 28th November 2018, after a female Chinese national working with China Jiangsu International Limited, reported that Directorate of Criminal Investigations (DCI) officers based at the Kabete Police Station had arrested and detained in their office another Chinese female.

The Officers had detained the said Chinese female on the allegation that she was in Kenya illegally and without proper documentation. The report further indicated that the DCI Officers requested a Kshs. 1,000,000 bribe to release her from custody and forbear charging her and to allow her to continue staying in the country.

The Commission organized a trap operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 100,000 treated trap money. However, the suspect was rescued by his colleagues from lawful custody and thereafter taken into hiding. The said police officers also disappeared with the treated money.

The EACC report forwarded to the DPP on 23rd January 2019 recommended that the police officers be charged with the following offences:

- Three counts of receiving a bribe contrary to section 6(1) (b) as read with section 18 of the Bribery Act,
- Concealing evidence under section 66 (1) (c) as read with section 66 (2) of ACECA,
- Escape contrary to section 124 as read with section 36 of the Penal Code,
- Obstruction contrary to section 66 (1) (a) as read with section 66 (2) of ACECA,
- Aiding escape contrary to section 124 (a) of the Penal Code,
- Conspiracy to commit an offence of corruption contrary to section 47A(3) as read with section 48 of the ACECA,
- Robbery contrary to section 295 as read with section 296 (2) of the Penal Code.

Upon perusal of the file, the DPP noted that aspects of investigations had not been sufficiently exhausted and recommended that the same be addressed and file resubmitted for further directions.

The file was returned to EACC on 19th November 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted by the EACC on 15th January 2020 and upon review of the file it was noted that a few of the issues raised had not been addressed.

STATUS

On 20th May 2020 the DPP directed that the EACC and DPP teams meet to resolve the pending issues.

12. ODPP/CAM/5/019/141 EACC/MBSA/FI/INQ/6/2017

INQUIRY INTO ALLEGATIONS THAT BETWEEN OCTOBER 2014 AND MARCH 2017, KENYA PORTS AUTHORITY (KPA) MADE IRREGULAR PAYMENTS TO NYALI CAPITAL LIMITED ASSOCIATED TO THE GENERAL FINANCE MANAGER AT KPA

The EACC commenced investigation after a complaint that Kenya Ports Authority (KPA) irregularly paid Kshs. 214,548,340.80 to Nyali Capital Limited (NCL). It was further alleged that the General Finance Manager had interests in NCL where his wife and brother work as managers.

The investigations established that between the stated periods, KPA irregularly paid Kshs. 214,548,340.80 to Nyali Capital Limited, a company associated with KPA's General Manager Finance where his wife and brother work as managers.

KPA gave several tenders to several firms for supply of various goods and works. The said firms would then seek financing from NCL to service the tenders at an interest of 10% and upon supply of the goods or services, KPA would deduct the principal amount plus the interest accrued and directly pay to NCL and the rest was paid to the firm.

The transactions between NCL and KPA were irregular and therefore all the payments made to NCL were illegal.

The EACC report forwarded to the DPP on 10th April 2019 recommended that KPA's General Manager Finance, and the Accountant at KPA together with the Directors of NCL, be charged with the following offences:

- Conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48 of the ACECA,
- Abuse of office contrary to section 46 of ACECA,
- 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 ACECA,
- Dealing with suspect property contrary to section 47(1) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP noted aspects of investigations had not been sufficiently exhausted and recommended that the same be addressed and file resubmitted for further directions.

The file was returned to EACC on 12th March, 2020 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted by the EACC on 4th May 2020 and the DPP upon review directed that prosecution ensue.

STATUS

The DPP returned the file to the EACC on 20th May 2020 directing that prosecution ensue. The case Mombasa ACC 2 of 2020 is ongoing.

13. ODPP/CAM/5/019/142 EACC/NKR/FI/INQ/13/2016

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION AND PROCUREMENT IRREGULARITIES AGAINST KERICHO COUNTY GOVERNMENT OFFICIALS IN THE PROCUREMENT AND AWARD OF TENDER TO REHABILITATE CHEPCHOLEIT WATER PAN

IN CHEPSEON WARD, KIPKELION EAST SUB COUNTY.

The EACC commenced investigations after complaints alleging irregularities and corrupt conduct in the procurement process undertaken by Kericho County Government in tendering for works to rehabilitate the Chepcholeit Water Pan in Chepseon Ward, Kipkelion East Sub- County.

Investigations established that the Chief Officer in charge of Water, Environment, Forestry, and Natural Resources, who was also the Accounting Officer in the department, formally initiated the process of rehabilitating the Chepcholeit water pan.

There was no annual procurement plan and a budget allocation in the 2014/2015 financial year to rehabilitate the Chepcholeit water pan. It was further established that the chairperson of the Tender Committee awarded the contract using the unsigned evaluation report for the said rehabilitation.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the Chief Officer, Water, Environment, Forestry and Natural Resources Department, and the Chairman of the Tender Committee be charged with the following offences:

- Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48 of the ACECA,
- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Fraudulent practice in procurement proceedings contrary to section 41(4) as read with section 137 of the Public Procurement and Disposal Act, 2005 (PPDA),
- Spending public money contrary to section 196 (1) as read with section 196 (6) of the Public Finance Management Act,
- Willful failure to comply with applicable procedure and guidelines relating to procurement contrary to section 45(2) (b) as read with section 48(1) of the ACECA.

Upon perusal of the file, the DPP identified gaps to be covered and directed further investigations to be carried out and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 24th January 2020 directing further investigations.

**14. ODPP/CAM/5/019/143
EACC/GSA/EL/INQ/12/2016**

INQUIRY INTO ALLEGATIONS THAT THE HUMAN RESOURCES AND ADMINISTRATION MANAGER, GARISSA WATER AND SEWERAGE COMPANY, FORGED HIS KENYA CERTIFICATE OF SECONDARY EDUCATION CERTIFICATE

The EACC commenced investigations after a complaint alleging that the Human Resources and Administration Manager (HR&AM) at Garissa Water and Sewerage Company (GAWASCO) forged his Kenya Certificate of Secondary Education (KCSE) Certificate.

Investigations revealed that the suspect presented a copy of the KCSE certificate with a mean grade C+ to GAWASCO and University of Nairobi (UON) purporting that it was a genuine document issued by Kenya National Examination Council (KNEC). It was established that all subject grades were altered except Islamic Religious Education and the mean grade was altered from D plain to C+.

Investigations also established that the subsequent certificates obtained from UON and Mount Kenya University (MKU) were based on the forged KCSE Certificate therefore being irregularly obtained. The suspect also presented the subsequent certificates to his employer and was promoted to various grades.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the public officer be charged with uttering a false document contrary to section 353 of the Penal Code, and fraudulent acquisition of public benefit contrary to section 45 (1) (a) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges, but

directed the commission to cover identified gaps to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 2nd August 2019 directing further investigations.

**15. ODPP/CAM/019/144
EACC/OPS/INQ/152/2016; CID/INQ.
NO. 24/2015**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST EMPLOYEES OF KENYA REVENUE AUTHORITY, ELDORET OFFICE

The EACC commenced investigations following directions from the DPP to reinvestigate a file that had earlier been investigated by the Directorate of Criminal Investigations alleging that three Kenya Revenue Authority (KRA) officers solicited and received Kshs. 160,000 from Grewal Karan Singh.

The complainant had reported the matter to a supervisor at National Intelligence Service (NIS) for assistance. The supervisor organized for an operation where the suspects received Kshs. 160,000 and were arrested. Efforts to trace the supervisor who would be a key witness to corroborate the complainant's statement that the suspects received the money were in vain.

It was also established that there was no inventory or photocopies of the money before and after recovery and neither was the recovered money treated with APQ chemical powder thus difficult to prove that the suspects came into contact with the money.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the file be closed.

Upon perusal of the file, the DPP found gaps and deficiencies that needed to be addressed by further investigation before making a final decision.

STATUS

The DPP returned the file to Multi – Agency Team under the Directorate of criminal investigations on 11th December 2019 directing that thorough investigations be carried out.

**16. ODPP/CAM/5/019/145
EACC/EL/INQ/55/2016**

**INQUIRY INTO ALLEGATIONS THAT THE
FORMER SPEAKER OF UASIN GISHU COUNTY
ASSEMBLY DEFRAUDED AN ATHLETE OF KSHS
21,500,000**

The EACC commenced investigations after a complaint that the former Speaker of Uasin Gishu County Assembly defrauded the complainant of Kshs. 21,500,000.

The transactions were executed partly in the year 2008 when the former Speaker was in private practice in the firm of Terer & Company Advocates, Eldoret and partly after he became the Speaker of the Uasin Gishu County Assembly.

Investigations revealed that the complainant bought land parcel No.s LR 12448/7 and 12448 at a cost of Kshs. 12 million. The suspect included his name in the sale agreement and when the complainant enquired why the suspect was appearing as a purchaser, the suspect informed him that it was an oversight and assured him that the same would be rectified.

The suspect caused the amalgamation of the two parcels of land and later subdivided the same into 36 plots and sold them off without the complainant's authority.

Investigations further revealed that the suspect bought another parcel of land ELDORET MUNICIPALITY/BLOCK/176 in Eldoret town at a cost of Kshs. 8 million purportedly on behalf of the complainant.

However, the complainant had not instructed the suspect to buy the said parcel of land. The purchase price of the said property was Kshs. 8 million. The complainant paid a total of Kshs. 6.5 million.

The balance was to be paid upon the transfer of the title. The suspect included himself as a joint owner yet he had not contributed anything towards the purchase. The transfer was however not affected since it later turned out that the title held by the purported vendors had been fraudulently obtained.

In addition, investigations revealed that the suspect was using his wife, who happens to be the County Land Registrar, Uasin Gishu County to carry out the fraudulent land transactions.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the matter be forwarded to DCI to charge the former Speaker with the following offences:

- Procuring execution of documents by false pretenses contrary to section 355 as read with section 349 of the Penal code,
- Making a false document contrary to section 347 (d) as read with section 349 of the Penal Code,
- Obtaining registration by false pretense contrary to section 32 of the Penal Code,
- Providing false information to a person employed in the public service contrary to section 129 of the Penal Code.

Upon perusal of the file, the DPP established that the suspect, Isaac Terer, was not a public officer during the periods the offence was committed. He was a practicing advocate and committed the offence while acting for his client, thus the matter was beyond EACC's mandate.

The DPP concurred with the commission's recommendation that the matter be referred to DCI to take over, re-investigate and resubmit file for further directions.

STATUS

The DPP forwarded the file to the DCI on 18th June 2019 directing that the DCI take over the matter, re-investigations be carried out and file resubmitted for further directions.

17. ODPP/CAM/5/019/146 EACC/MCKS/EL/INQ/03/2016

INQUIRY INTO AN ALLEGATION OF UNETHICAL CONDUCT AGAINST FIVE MEMBERS OF MAKUENI COUNTY ASSEMBLY THAT OCCURRED ON 11TH JANUARY 2018 AT ST. JOSEPH'S GIRLS SECONDARY SCHOOL

The EACC commenced investigations after a complaint on 12th January 2018 from the media indicating that five Members of County Assembly (MCA) from Makueni County had on 11th January 2018 engaged in misconduct after they attempted to prevent and evict the new St. Joseph Girls Secondary School Principal.

The Teachers Service Commission had transferred the Principal. However, the MCAs alleged that the incoming principal was a non-performer and that she would not deliver to their expectations.

It was established that the MCAs engaged in unethical conduct by blocking the school gate to prevent the new principal from settling into the school. This conduct amounted to breach of Chapter Six of the Constitution of Kenya, 2010 and the Leadership and Integrity Act, 2012.

The EACC report compiled and forwarded to the DPP on 10th April 2019 recommended that caution be issued to the MCAs as per the Leadership and Integrity Act and that they be charged with the following offences:

- Incitement to violence contrary to section 96 (c) of the Penal Code,
- Undermining authority of public officer contrary to section 132 of the Penal Code,
- Conspiracy to cause injury to reputation of a person contrary to section 395 (b) of the Penal Code.

Upon perusal of the file, the DPP found criminal liability against the suspects in respect to the allegations and directed that the matter filed in court as a criminal case No. 35/2018 proceeds to its logical conclusion.

He further directed that the five MCAs be issued with a caution pursuant to section 11(1) (e) of the Ethics and Anti-Corruption Commissions Act 2011, section 43(4) and (5) of the Leadership and Integrity Act as well as Regulation 30(1) (a) of the Leadership and Integrity Regulations, 2015.

STATUS

The DPP returned the file to EACC on 29th August 2019 directing that the criminal case No. 35/2018, at Kilungu Law Court proceeds to its logical conclusion, and that the five MCAs be issued with caution.

18. ODPP/CAM/5/019/147 EACC/FI/INQ/85/2014

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF PUBLIC FUNDS IN FOOTBALL KENYA FEDERATION

The EACC commenced investigations after an allegation of misappropriation of Kshs. 25,075,075 by Football Kenya Federation (FKF) officials. It was further alleged that USD 410,222.20 received by the Federation between 2nd February 2011 and August 2012, held in the dollar Account no. 8702016649500 at Standard Chartered, Koinange Street branch and the dollar account no. 046000012051 and 046000012050 at Family Bank, Kilimani branch, was stolen.

It was established that between 5th December 2012 to 14th June 2013, then acting FKF Secretary General did several requests to the Ministry of State for Youth Affairs and Sports, seeking for assistance in various activities of the organization.

It was established that FKF was paid a total sum of Kshs. 25,075,075. FKF owed the chairperson an amount of Kshs. 36,578,947 as at 31st December 2013. From the evidence on record, the FKF National Executive Committee approved the transfer of Kshs. 5,000,000 from the Federation's account to the chairperson's account.

The sequential evidence demonstrates that there was no impropriety or breach of law by the FKF officials

with regard to transfer of the Kshs. 5,000,000 to the chairperson.

The EACC report forwarded to the DPP on 10th April 2019 recommended for closure of the file.

Upon perusal of the file, the DPP found several gaps and deficiencies that needed to be covered by further investigations before charges were filed in court.

STATUS

The DPP returned the file to EACC on 4th November 2019 directing further investigations.

19. ODP/CAM/5/019/148 EACC/MKS/INQ/FI/09B/2015

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PURCHASE OF 2400 WATER TANKS AND ABUSE OF OFFICE BY THE MACHAKOS COUNTY GOVERNMENT STAFF

The EACC commenced investigations on 4th April 2017, after a complaint that the Chief Officer for Water in the County Government of Machakos failed to adhere to Machakos County Assembly resolution to suspend purchase of 2400 water tanks.

This led to the loss of over 100 tanks reserved for Matungulu Sub County. It was further alleged that the Matungulu Sub County Water Officer distributed tanks reserved for the said County as handouts to residents and churches.

It was established that there was a procurement plan and budget for the 2014/2015 financial year approved by the County Government of Machakos for the water tanks to be procured. Evidence on record established that the department of Water in the Machakos County Government failed to communicate to the Sub County Water Officer on how the water tanks were to be distributed.

With no clear guidelines or communication from the County Government headquarters, the officer went ahead to distribute the tanks to unauthorized recipients. The County Government took administrative action against the officer by interdicting him which interdiction was later lifted.

The EACC report forwarded to the DPP on 16th January 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found several gaps and deficiencies that needed to be covered by further investigations.

STATUS

The DPP returned the file to EACC on 29th August 2019 directing further investigations.

20. ODP/CAM/5/019/149 EACC/FI/INQ/20/2016

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AND FAILURE TO FOLLOW PROCUREMENT LAWS IN RESPECT TO THE CONSTRUCTION OF KASARANI GIRLS BOARDING HIGH SCHOOL

The EACC commenced investigations after a report on embezzlement of public funds and failure to follow procurement laws in construction of Kasarani Girls Boarding High School.

It was further alleged that the Kasarani Constituency Development Fund Committee (CDFC), irregularly paid over Kshs. 32 million to various contractors and individuals for the construction of the school long after the project had stalled owing to ownership disputes of the project site.

Investigations established that the project had been allocated a total of Kshs. 41,679,121. Further, it was established that no proper procurement processes were adopted by the CDFC in identifying the contractor and suppliers.

Further, that the invoices and quotations did not support the purported suppliers' payment vouchers as required by law and those that were provided were fictitious. This led to the loss of over Kshs. 41,679,121 meant for the construction of the school.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the members of the Constituency Development Fund Committee, the Fund Managers, the District Development Officers, the Provincial Accountant, directors/proprietors of the entities that purportedly supplied construction materials and the former Kasarani Constituency Member of Parliament be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47(A) (3) as read with section 48 of ACECA,
- Misappropriation of public funds contrary to section 198(1)(b) as read with section 199 of the PFMA,
- Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48 of ACECA,
- Abuse of office contrary to section 45(1)(a) as read with section 48 of ACECA,
- Engaging in procurement without prior planning contrary to section 45(C) as read with section 48 of ACECA,
- Failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of ACECA,
- Fraudulent payment from Public Revenues for goods not supplied contrary to section 45(2)(a) (iii) as read with section 48 of ACECA.

Upon perusal of the file, the DPP noted gaps that needed to be covered by further investigations and the file resubmitted for further directions before preferring charges. The file was returned to EACC on 16th October 2019 directing that further investigations be carried out and the file resubmitted for further directions.

EACC resubmitted the file on 30th August 2019 and upon review, the DPP was satisfied that there was sufficient evidence to establish criminal liability against the suspects and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC directing prosecution to ensue. Milimani ACC number 29 of 2019 is ongoing.

21. ODPP/CAM/5/019/153 EACC/OPS /INQ/76/2019

INQUIRY INTO ALLEGATIONS THAT THREE MEMBERS OF NAIROBI COUNTY ASSEMBLY FOR KAREN, MATHARE NORTH, AND WOODLEY WARDS REQUESTED KSHS 1,000,000 FROM A SCHOOL MANAGER IN ORDER TO INFLUENCE THE OUTCOME OF AN INQUIRY BEING CARRIED OUT BY THE CULTURE AND COMMUNITY SERVICES COMMITTEE OF THE COUNTY ASSEMBLY

The EACC commenced investigations on 25th April 2019, after a complainant reported that three Members of the County Assembly (MCAs) from Langata/Karen, Mathare North and Woodley /Kenya Golf Course wards had visited the school on various dates and alleged that it was built on public land in contravention of the Physical Planning Act, 1996.

The MCAs, members of the Culture and Social Services committee, requested a Kshs. 1,000,000 bribe in exchange for facilitating a favorable report on the inquiry against the status of the complainant's school.

On 26th April 2019, EACC organized a trap operation that resulted in the arrest of the suspects. EACC officers conducted a search on the suspects and recovered Kshs. 200,000 treated trap money.

The EACC report forwarded to the DPP on 10th June 2019 recommended that the suspects be charged with the following offences:

- Conspiracy to commit a corruption offence contrary to section 47A (3) as read with section 48 of the ACECA,
- Three counts of 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 the ACECA.

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

STATUS

The DPP returned the file to EACC on 18th October 2019 directing that the case in court, Milimani ACC No. 7 of 2019, proceeds to its logical conclusion.

22. ODPP/CAM/5/019/155 EACC/FI/INQ/30/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AT THE KITUI COUNTY GOVERNMENT IN THE CONSTRUCTION OF RIVER DRIFTS AND ROAD WORKS

The EACC commenced investigations after an intelligence report based on a letter received from the Ministry of Lands, Infrastructure & Urban Development addressed to the acting County Secretary by the Chief Officer alleging irregular procurement of emergency construction works for drifts and road structures in the various parts of the country following El-Nino rains.

The construction had 21 projects worth Kshs. 172, 156, 53.84.

Investigations established that the County Government of Kitui (CGK) had not planned for construction of drifts in the annual procurement plan in the 2015/2016 financial year. Further, the contracts awarded to the companies exceeded the recommended threshold matrix of Kshs. 20,000,000.

It was established that ten contractors listed in the tender register never collected the tender documents but they were listed as having collected in order to appear that the law had been complied with.

In addition, that the tender opening and tender evaluation committees were only created fictitiously with the suspects signing all the relevant procurement documents.

The EACC report forwarded to the DPP on 3rd May 2019 recommended that the Chief Officer, Ministry of Lands Infrastructure and Urban Development, Head of Supply Chain Management, Chairman and Secretary of the Evaluation Committee be charged with the following offences:

- Seven counts of wilful failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48 of the ACECA,
- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Knowingly making a false document to one's principal contrary to section 41 (2) as read with section 48(1) of the ACECA,
- Fraudulent practice in procurement contrary to section 40 as read with section 137 of the Public Procurement and Disposal Act.

Upon perusal of the file, the DPP found sufficient evidence establishing criminal liability against the suspect and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 11th December 2019 directing that prosecution ensue.

23. ODPP/CAM/5/019/158 EACC/FI/INQ/70/2017

INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT OF STAFF MEDICAL COVER BY THE MANAGING DIRECTOR OF NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION (NWPC) IN THE YEAR 2016/2017

The EACC commenced investigations after a complaint that the acting Managing Director – National Water Conservation and Pipeline Corporation (NWPC) in the year 2016/2017, solely procured staff medical cover amounting to Kshs. 33, 659, 84 without following appropriate procurement procedures.

On 29th September 2016, NWPC paid initial deposit of Kshs. 5,000,000 to AAR Credit Services vide various cheques. The said payment was done without supporting documents.

Investigations revealed that proper procurement procedure was followed in procuring medical cover by AAR insurance Kenya Limited for the employees of NWPC.

However, investigations established that the Managing Director, NWPC directed the cashier to make payment of Kshs. 5,000,000 to AAR Credit Services ASTA Societies without payment voucher and that he signed the cheques without ensuring that there were supporting documents.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the Managing Director be charged with willful failure to comply with the applicable law relating to incurring of expenditure contrary to section 45(2) (b) as read with section 48 of the ACECA, and two counts of 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 the ACECA.

Upon perusal of the file, the DPP established that there was no criminal liability against the suspect and directed that the matter be dealt with by way of diversion.

STATUS

The file was returned to EACC on 27th February 2020 directing diversion.

24. ODPP/CAM/5/019/159 EACC/INTEL/02/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST MERU LAND OFFICERS AT THE MERU NORTH DISTRICT LAND REGISTRAR'S OFFICE

The EACC commenced investigation after an anonymous complaint via email on 25th May 2018. The complaint reported that they were unable to receive services at the Meru North District Land Registrar's office as brokers

demanding bribes from him to access services. That service could not be rendered unless he was using the brokers.

Investigations established that there was no link between the land officials and the brokers. The evidence gathered was therefore inadequate to prefer charges against the said land officials and the brokers.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP found insufficient evidence to sustain any charges against the suspect and concurred with the commission's recommendation for closure.

STATUS

The DPP returned the file to EACC on 30th August 2019 directing closure.

25. ODPP/CAM/5/019/160 EACC/KSM/OPS/INQ.9/2018

INVESTIGATION INTO ALLEGATIONS OF CORRUPTION AGAINST A CIVIL REGISTRATION CLERK ATTACHED TO KISUMU CIVIL REGISTRATION OFFICES

The EACC commenced investigations after a complainant reported that a civil registration clerk at the Kisumu Civil Registration offices requested a Kshs. 1,500 financial benefit in order to issue him with a late birth certificate that he had earlier on applied for.

On 26th October 2018, EACC organized an operation that resulted in the arrest of the suspect. EACC officers conducted a search on the suspect and recovered Kshs. 1,500 treated trap money.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the said clerk be charged with receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, and that the case already filed in court proceeds to its logical conclusion.

Upon perusal of the file, the DPP found sufficient evidence to sustain the proposed charges against the suspect as recommended by the EACC and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 29th August 2019 directing that prosecution ensue.

26. ODPP/CAM/5/019/161 EACC/MCKS/INQ/FI/16/2016

AN INQUIRY INTO ALLEGATIONS THAT THE KANGUNDO SUB COUNTY REVENUE OFFICERS PRINTED A PARALLEL RECEIPT BOOK FOR COLLECTING REVENUE NOT REMITTING TO THE COUNTY GOVERNMENT

The EACC commenced investigations into allegations of printing a parallel receipt book for collecting revenue by Kangundo Sub-County Revenue Officers.

Investigations failed to establish evidence to prove that the Kangundo Sub-County Revenue Officers printed a parallel receipt book for revenue collection. Kangundo Revenue office uses an automated revenue management system and the office did not have an office receipt book hence making it impossible to generate parallel receipts.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the file be closed with no further action.

Upon perusal of the file, the DPP concurred with the EACC's recommendation for closure.

STATUS

The DPP returned the file to EACC on 13th September 2019 directing closure.

27. ODPP/CAM/5/019/162 EACC/PI/INQ/303/2016

INQUIRY INTO ALLEGATIONS OF MONEY LAUNDERING IN KILIFI COUNTY GOVERNMENT INVOLVING FUTURE LINK LIMITED

The EACC commenced investigations pursuant to intelligence reports received in September 2016 of suspected fraud/corruption and money laundering in Kilifi County Government (KCG) involving directors of a company known as Future Link Limited and two advocates.

It is alleged that the two advocates opened a joint bank account where the KCG deposited Kshs. 308,189,651 for purchase of nine parcels of land from Future Link Limited. Although investigations revealed that there was no money laundering, the valuers overvalued the property sold to the Kilifi County Government.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the two valuers be charged with deceiving principal contrary to section 41(1) of ACECA, and making a misleading statement contrary to section 24(c) of the Valuers Act.

Upon perusal of the file, the DPP found gaps in the evidence and directed that further investigations be carried out to cover the identified areas and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 12th February 2020 directing further investigations.

28. ODPP/CAM/5/019/163 EACC/F1/INQ/27/2016

AN ALLEGATION OF IRREGULAR AUTHORIZATION AND PAYMENT OF SITTING ALLOWANCES TO THE DIRECTOR/CEO COUNCIL OF LEGAL EDUCATION/KENYA SCHOOL OF LAW

The EACC commenced investigation following receipt of an audit report dated March 2014 from the Efficiency

Monitoring Unit alleging, inter alia that the Director/CEO of Council of Legal Education and the Kenya School of Law had irregularly and fraudulently authorized and received sitting allowances amounting to Kshs. 900,000 for the period 23rd September 2010 to 30th May 2013.

Investigations established that the Director was a member of the Council of Legal Education and doubled up as the Secretary/CEO. By virtue of his membership to the Council, he was entitled to draw sitting allowances alongside other members of the Council as determined by the Council of Legal Education under Section 5A of the Council of Legal Education Act.

The EACC report forwarded to the DPP on 7th May 2019 recommended that the file be closed with no further action.

Upon review of the file, the DPP concurred with the recommendation and directed that the file be closed.

STATUS

The DPP returned the file to EACC on 28th April 2020 directing closure.

29. ODPP/CAM/5/019/166 EACC/PI/INQ/1/2019

INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS 198,441,030.60 BY THE KENYA SCHOOL OF LAW TO ADEMWA ENTERPRISES, NGOYA COSMETICS AND BEAUTY, FRIGOYA INVESTMENTS, ALFRANC INVESTMENTS, FIRMLINE COMPANY AND DESKENCH INVESTMENTS FOR GOODS AND SERVICES NOT DELIVERED

The EACC commenced investigations following a report indicating an alleged fraud at the Kenya School of Law (KSL) of Kshs. 3,452,239.00.

This was through a cheque written in favour of a company that was not in the prequalified list of suppliers and had not supplied anything to KSL. In addition, it

indicated that there was a likelihood of other fraudulent transaction activities in the past financial year being 2017/2018.

Investigations established that six companies namely: Ademwa Enterprises, Ngoya Cosmetics and Beauty, Frigoya Investments, Alfranc Investments, Firmline Company and Deskench Investments had been paid different amounts of money totalling to Kshs. 198,441,030.60 by KSL yet they had not supplied or rendered any services to KSL.

Investigations revealed that the six companies paid different sums of money by KSL were not prequalified nor registered with the School as suppliers for the period 2013-2018. Evidence adduced revealed that there were no documentation /payment vouchers to support payments made to the six companies.

Investigations further revealed that KSL employees used their positions and credentials to authorize irregular payments to bank accounts of the six private companies.

The EACC forwarded the report to the DPP on 17th May 2019 recommended that the KSL employees be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 of the ACECA,
- Six counts of fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the ACECA,
- Six counts of fraudulently making payments from public revenue for goods not supplied contrary to section 45(2) (a) (ii) as read with section 48(1) of the ACECA,
- Five counts of abuse of office contrary to section 46 as read with section 48(1) of the ACECA,
- Two counts of conflict of interest contrary to section 42(3) as read with section 48 of the ACECA,
- One count of neglect of official duty contrary to section 128 as read with section 36 of the Penal Code.

Upon perusal of the file, the DPP identified gaps that needed to be covered to strengthen the prosecution case

and directed that further investigations be carried out and file resubmitted for further directions.

The file was returned to EACC on 17th June 2019 directing that further investigations be carried out and file resubmitted for further directions.

EACC resubmitted the file on 25th June 2019 and the DPP upon review of the resubmitted file, identified more areas for further investigation and forwarded the file to EACC on 28th August 2019 directing that the identified areas be addressed.

EACC further resubmitted the file on 18th December 2019 and the DPP upon further review and perusal of the resubmitted file identified additional areas that required to be covered. The file was returned to EACC on 25th February 2020 directing further investigations.

EACC resubmitted the inquiry file on 9th June 2020 with the identified areas having been covered. Upon further review, the DPP found that the areas identified for further investigation had been sufficiently covered and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 19th June 2020 directing prosecution to ensue. Milimani ACC 11 of 2020 is ongoing.

30. ODPP/CAM/5/019/168 EACC/ FI/INQ/123/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER TO SMART SOLUTIONS AFRICA FOR THE SUPPLY, INSTALLATION AND COMMISSIONING OF GREEN HOUSES WITH DRIP IRRIGATION BY THE YOUTH ENTERPRISE DEVELOPMENT FUND

The EACC commenced investigations after a report on 11th November 2015 alleging irregular tender award to Smart Solutions Africa Ltd. by the Youth Enterprise Development Fund (YEDF).

It was alleged that YEDF and the accounting officer had willfully failed to comply with the law and applicable procedures relating to procurement in the tender for the supply, installation and commissioning of green houses.

Investigations revealed that the procurement process for the supply of green houses to Smart Solutions was above board and in compliance with the Repealed Public Procurement and Disposals Act, 2005.

However, it was established the accounting officer did not appoint an inspection and acceptance committee in the course of the procurement process. Further that the acting CEO, Finance Manager, Senior Accountant, and Accountant allowed payments to Smart Solutions without the certificates of completion which was an express requirement of the contract.

The EACC report forwarded to the DPP on 16th January 2019 recommended that all the said officers be charged with three counts of willful failure to comply with the law relating to procurement contrary to Section 45 (2) (b) as read with Section 48 of the ACECA.

Upon perusal of the file, the DPP found gaps and directed that further investigations be carried out and the file resubmitted for further directions.

The file was returned to EACC on 28th October 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted on 20th November 2019 and the DPP directed that the suspects be reprimanded and sensitized.

STATUS

The DPP returned the file to the EACC on 31st March 2020 directing alternatives to prosecution.

31. ODPP/CAM/5/019/169 EACC/NYR/E&L/01/2017

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND OTHER RELATED OFFENCES LEVELLED AGAINST THE MEMBER OF THE NATIONAL ASSEMBLY REPRESENTING LAIKIPIA EAST CONSTITUENCY

The EACC commenced investigations into allegations of abuse of office against the Laikipia East Constituency Member of Parliament.

The Investigations revealed the Laikipia East National Government Constituency Development Fund (LENGCDF) committee members were culpable for the violating the terms of the Constitution of Kenya, 2010, the Leadership and Integrity Act, 2012 and the Public Officer Ethics Act, 2003.

It was established that the LENGCDF committee put up signage for projects in the Constituency indicating that the project had been undertaken and implemented by the Member of Parliament (MP).

The evidence revealed that it was inappropriate and improper to explicitly include the name of the MP on the signposts of the projects initiated, undertaken, and/or implemented by the LENGCDF committee. However, the investigations did not establish any criminal activities or evidence against the MP.

The EACC report forwarded to the DPP on 27th May 2019 recommended that an advisory be issued to the National Government Constituencies Development Fund (NGCDF) committees at the constituency level countrywide on guidelines regarding the branding of all projects funded by the NGCDF.

Upon perusal of the file, the DPP found no criminal culpability against the suspects and advised that the committee could not be sanctioned by way of administrative action since they were no longer in office.

The DPP directed that the file be closed and an advisory issued to the National Government CDF Board to the entire constituency CDF committee members regarding

signage to ensure that no person is given undue credit on signage for projects catered by public funds.

STATUS

The DPP returned the file to EACC on 2nd August 2019 directing that the file be closed and an advisory issued.

32. ODPP/CAM/5/019/170 EACC/OPS/INQ/80/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE CONSTABLE ATTACHED TO KASARANI POLICE

The EACC commenced investigations after a complainant reported that the suspect, a police officer attached to the petty crime department at Kasarani Police Station had solicited Kshs. 20,000 from her and her brother in law to facilitate her release and release of the confiscated gambling machines.

On 19th and 20th July 2018 EACC organized a trap operation but failed to arrest the suspect as he was on duty. The EACC officers informed the OCS that the complainant was released after paying a Kshs. 20,000 bribe. EACC officers summoned the suspect through the OCS for questioning and recording a statement. Evidence established that indeed the suspect received a bribe amounting to Kshs. 20,000.

The EACC report forwarded to the DPP on 27th May 2019 recommended that the suspect be charged with three counts 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 identified gaps and directed that the file be resubmitted after further investigations.

EACC resubmitted the file on 7th October 2019 and upon perusal, the DPP established criminal culpability against the suspect. However, to strengthen the prosecution case the DPP directed that before charges are filed in court the identified areas be covered.

STATUS

The DPP returned the file to EACC on 21st January 2020 directing prosecution to ensue subject to the identified areas being covered.

**33. ODPP/CAM/5/019/171
EACC/EL/INQ/43/2018**
INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT TOUCHING ON AN INDIVIDUAL THAT USED A FAKE DEGREE CERTIFICATE FROM MASENO UNIVERSITY TO SECURE EMPLOYMENT AT RURAL ELECTRIFICATION AUTHORITY (REA)

The EACC commenced investigations after a complaint that two staff members of the Rural Electrification Authority (REA) used fake certificates to secure employment.

It was further alleged that one staff member used a fake degree certificate from Maseno University to secure employment at the department of Renewable Energy at REA.

The other staff member equally used a fake degree certificate from the United States International University to be employed at the Human Resource department. The subject investigation centered on one suspect while the other suspect is the subject of another investigation.

It was established that the suspect was an employee at REA and had used fake certificates to secure employment and promotion while at REA for the period of 6 years that she worked therein.

The EACC report forwarded to the DPP on 27th May 2019 recommended that the suspect be charged with the following offences:

- Giving false information to a person employed in the public service contrary to section 129(a) of the Penal Code,
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the ACECA,

- Uttering a false document contrary to section 353 of the Penal Code,
- Forgery contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP was satisfied that there was criminal culpability against the suspects, but directed that gaps identified in the evidence be covered to strengthen the prosecution case and file resubmitted for further directions.

The DPP returned the file to EACC on 13th November 2019 directing that file be resubmitted after further investigations. EACC resubmitted the file on 22nd January 2020 and upon review of the file, the DPP established sufficient evidence to sustain the proposed charges against the suspect as recommended by the EACC.

STATUS

The file was returned to EACC on 31st March 2020 directing prosecution to ensue.

**34. EACC/EL/INQ/51/2016
ODPP/CAM/5/019/172**
INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY A COUNTY EXECUTIVE COMMITTEE MEMBER OF TAITA TAVETA COUNTY GOVERNMENT

The EACC commenced investigations after a report by the Centre for Law and Research on 3rd March 2015, that a County Executive Committee (CEC) member of the County Government of Taita Taveta was irregularly appointed, citing lack of academic papers.

Investigations established that the CEC misled both the nominating authority and the County Assembly's committee on appointments that he was pursuing a Masters degree in corporate management at KCA University, and that he held a bachelor of education in business studies and economics from Kenyatta University. He did not hold the academic qualifications to be appointed as CEC.

The EACC report forwarded to the DPP on 27th May 2019 recommended that the member be charged with the following offences:

- Two counts of providing false information to a public entity contrary to section 46(1) (d) and (2) of the Leadership and Integrity Act,
- Forgery contrary to section 349 as read together with section 345 of the Penal Code,
- Uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP established criminal culpability against the suspect as recommended. However, he directed that the file be resubmitted after covering the gaps identified.

The file was returned to EACC on 20th November 2019 directing that further investigations be carried out and file resubmitted for further directions. The file was resubmitted on 28th January 2020 whereupon the DPP upon review of the file directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 18th June 2020 directing prosecution to ensue. The case, Mombasa ACC 5 of 2020 is pending in court.

35. ODPP/CAM/5/019/173 EACC/OPS/INQ/126/2017

INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE AGAINST TRAFFIC POLICE OFFICERS ATTACHED TO KISII TRAFFIC BASE

The EACC commenced investigations after intelligence reports that traffic police officers from Kisii Police Station requested and received bribes from motorists in major roads within Kisii County. On 24th August 2017, EACC organized a sting operation that resulted in the arrest of two suspects. One traffic officer escaped on foot and another officer drove off in a motor vehicle registration number KCJ 935C and knocked down an EACC officer.

The EACC report forwarded to the DPP on 27th May 2019 recommended that administrative action be taken against the suspects who were captured on camera receiving bribes from motorists as provided for under Section 42 of the Leadership and Integrity Act.

Upon perusal of the file, the DPP concurred with the commission's recommendations for administrative action against the suspects, as the evidence was insufficient to warrant prosecution.

STATUS

The DPP returned the file to EACC on 28th October 2019 directing administrative action.

36. ODPP/CAM/5/019/174 CASE FILE REF NO. 251/266/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION LEVELLED AGAINST COUNTY GOVERNMENT OF KIRINYAGA OFFICIALS

The EACC commenced investigations after a complainant reported on 12th October 2018 that the director in charge of Alcoholic Drinks Control and Children Services and the Kirinyaga Central Sub-County Administrator demanded for Kshs. 300,000 from the complainant as a precondition for issuing him with a license to distribute wines within the County.

On 12th October 2018, EACC organized a trap operation that resulted in the arrest of the suspect. A search on the suspects and recovered Kshs. 200,000 treated trap money.

The EACC report forwarded to the DPP on 10th April 2019 recommended that the suspects be charged with the following offences:

- Two counts of receiving a bribe contrary to section 6(1) (b) as read with section 18 (1) of the Bribery Act,
- Abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Conspiracy to commit an offence contrary to section 47A (3) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspects, but further investigations needed to be carried out and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 17th September 2019 directing further investigations.

37. ODPP/CAM/5/019/175 EACC/ELD/INQ/26/2018

INQUIRY INTO ALLEGATIONS AGAINST OFFICIALS OF THE INTERNALLY DISPLACED PERSONS (IDPS), NANDI COUNTY

The EACC commenced investigations on 12th November 2018, after the Nandi County Commissioner, reported that some people purporting to be officials of the Internally Displaced Persons (IDPs) received bribes from the IDPs at the Equity Bank's Kapsabet branch.

It was alleged that the officials received between Kshs. 5,000 and Kshs. 9,000 from the IDPs as compensation for facilitating the payments from the government.

On 14th November 2018 EACC, organized a sting operation that resulted in the arrest of the suspects. A search on the suspects recovered Kshs. 99,050 believed to be collections from IDPs who had received compensation on that day.

The EACC forwarded the report to the DPP on 27th May 2019 recommended that the said 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 the ACECA,
- Three counts of conspiracy to defraud contrary to section 317 of the Penal Code,
- Dealing with suspect property contrary to section 47 as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution of the suspects, subject to a few identified areas being addressed.

The file was returned to EACC on 11th December 2019 directing further investigations. The file was resubmitted on 8th January 2020 and on 28th February, 2020 the DPP upon review of the same directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 28th February 2020 directing prosecution to ensue. The case Kapsabet ACC 73 of 2020 is ongoing.

38. ODPP/CAM/5/019/176 EACC/MSA/FI/INQ/23/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF A CONTRACTOR FOR THE CONSTRUCTION OF A PERIMETER WALL FENCE AT KENYATTA HIGH SCHOOL

The EACC commenced investigations after a report alleging that the Principal of Kenyatta High School, Taita Taveta County failed to follow procurement procedures when awarding a tender for the construction of the school's perimeter wall fence at a cost of Kshs. 5 million.

Further, that the company awarded the tender was associated with the Principal's wife and that the award of the tender was done by the Infrastructure Committee as opposed to the Tender Committee.

The Principal was also accused of using school building materials to construct his house and abuse of his office by using school employees to undertake private work at his house. Additionally, that he would purportedly pay the employee weekly, between Kshs. 20,000 to Kshs. 30,000, which would later be shared with him.

Evidence established that the money paid towards the construction of the perimeter fence was funded through PTA funds sourced from parents and levies from students. However, the said tender was advertised and the procurement processes followed despite the

same not being subject to the Public Procurement and Disposal Act, 2005.

Investigations revealed that the Principal did not use the school employees for his personal engagements and that the payments for the construction of the perimeter wall fence were consistent with the work done. Further, it was revealed that the Principal reallocated funds without seeking authority from the Board of Management.

The EACC report forwarded to the DPP on 27th May 2019 recommended that the file be closed and an advisory be given to the Principal to seek approvals when reallocating funds from the different accounts when the need arises. In addition, an advisory be made to the Ministry of Education, Science, and Technology to give guidelines on how PTA money should be utilized to safeguard the funds from misappropriation/embezzlement.

Upon perusal of the file, the DPP noted insufficient evidence to warrant criminal culpability against the suspects, and concurred with the commission's recommendations for closure of the file and issuance of an advisory on how PTA funds should be utilized to avoid misuse of funds contributed by parents.

STATUS

The DPP returned the file to EACC on 28th November 2019 directing closure and an advisory issued.

39. ODPP/CAM/5/019/177 EACC/MSA/OPS/INQ.12/2018

ALLEGATIONS OF BRIBERY AGAINST AN IMMIGRATION OFFICER AT IMMIGRATION DEPARTMENT OFFICES IN MOMBASA

The EACC commenced investigations after a complainant reported that an Immigration Officer at Immigration department in Mombasa requested a Kshs. 15,000 financial benefit to extend the complainant's visa.

On 16th March 2018, EACC organized a trap operation. However, the suspect was arrested before the

complainant could hand over the trap money. There was no evidence indicating that the suspect received any financial benefit from the suspect.

The EACC report forwarded to the DPP on 27th May 2019 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 concurred with the commission's recommendation for closure of the file with no further action.

STATUS

The DPP returned the file to EACC on 30th August 2019 directing closure.

40. ODPP/CAM/5/019/178 EACC/EL/INQ/90/2017

INQUIRY INTO ALLEGATION OF UNETHICAL CONDUCT AGAINST AN ASPIRANT FOR GOVERNOR OF HOMABAY COUNTY BY IRREGULAR ACQUISITION OF ACADEMIC CERTIFICATES

The EACC commenced investigations after an anonymous report on 2nd June 2017 alleging that the aspirant for the seat of Governor for Homa Bay County had a degree certificate from the University of Nairobi (UoN) yet he was a form two dropout.

Investigations established that the suspect was a pupil at Godber Primary School and sat for his Certificate of Primary Education in 1981. He later joined Our Lady's Ringa School for his O-Levels.

In addition, he sat for CPA Section 1 in December 1989 and passed all the papers. He applied to the University of Nairobi for a Diploma in Human Resource Management on 27th October 2012 and was admitted to the said campus.

It was further established that the suspect applied to the University of Nairobi for a Bachelor degree in Project

Planning and Management on 22nd September 2013. He applied for the degree programme before graduating with the Diploma in Human Resource Management, which was a requirement prerequisite. It was established that the resident lecturer enabled the irregular process of admitting the suspect in both the diploma and degree courses.

The EACC report forwarded to the DPP on 27th May 2019 recommended that administrative action be taken against the resident lecturer for allowing the suspect to attend classes before completing the admission process as per the provisions of the University of Nairobi policy on admissions and payment of fees.

Additionally, the validity of the degree and diploma certificates of the suspect be reviewed by the Senate to establish whether there were irregularities in the process of admission in order to undertake the necessary action.

Finally, the EACC conducts a systems audit at the University of Nairobi to identify weaknesses and gaps to strengthen the process of admissions and payments of fees in order to forestall the possibility of similar cases occurring in the future.

Upon perusal of the file, the DPP found insufficient evidence to warrant prosecutions and directed that administrative action be taken against the suspect, and a system audit be undertaken at the University of Nairobi to identify any loopholes that can be abused and advice on corrective action.

STATUS

The DPP returned the file to EACC on 29th October 2019 directing administrative action and a system audit at the University of Nairobi.

41. ODPP/CAM/5/019/193 EACC/FI/INQ/13/2013

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ELECTRONIC FUND TRANSFER OF KSHS 89,543,270 BELONGING TO KENYA RURAL ROADS AUTHORITY (KeRRA) TO A WRONG

ACCOUNT LEADING TO EMBEZZLEMENT OF FUNDS

The EACC commenced investigations after the KeRRA Director General, Mwangi Maingi vide letter dated 26th February 2013, requested for investigations.

Investigations established that KeRRA made payments of Kshs. 89,543,270 to two accounts held at KCB, Moi Avenue belonging to Cowford General Contractors Limited and Countrywide Chemfert Enterprises Limited. A businessperson was a director in both companies, which he co-owned with his sister and his wife.

It was established that the physical payment vouchers and the manual authorized RTGS excel sheets for transmission into KCB Quick Pay platform had the correct payee account KeRRA intended to pay. However, the Quick Pay text file transmitted to KCB for payment had the correct payee name narration and account code but a different account number.

All the five questioned transactions uploaded into Quick Pay by assistant Accountant and were authorized by KeRRA authorizers, acting Finance Manager, Finance Manager and General Manager, Finance.

The EACC report forwarded to the DPP on 26th June 2019 recommended that the assistant Accountant, acting Finance Manager, Finance Manager, General Manager, Finance, the directors of Cowford 12/2016 General Contractors, and Countrywide Chemfert Enterprises Limited be charged with the following offences:

- Five counts of conspiracy to defraud contrary to section 45(1) (A) as read with section 48 of the ACECA,
- Seven counts of abuse of office contrary to section 46 as read with section 48 of the ACECA,
- Two counts of unlawful acquisition of public property contrary to section 45 (1) (A) as read with section 48 of the ACECA.

Upon perusal of the file, the DPP found sufficient evidence conceivable of criminal culpability against the

suspects, but found gaps that needed to be covered by further investigations and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 6th December 2019 directing further investigations.

42. ODPP/CAM/5/019/179 EACC/MSA/FI/INQ/48/2016

INQUIRY INTO ALLEGATIONS THAT TAITA TAVETA COUNTY GOVERNMENT MADE IRREGULAR PAYMENTS TOTALLING KSHS 6,427,750 FOR THE GROUND BREAKING CEREMONY OF MGENO LAND MEANT FOR THE CONSTRUCTION OF THE COUNTY HEADQUARTERS IN THE FINANCIAL YEAR 2013/2014

The EACC commenced investigations after information that the County Council of Taita Taveta irregularly paid for the acquisition of Mgeno land for the construction of the county headquarters.

Investigations established that Taita Taveta County government officials misappropriated the funds and used fake receipts to account for the imprest issued. Administrative action was taken against the public officials and the funds not properly accounted for recovered.

The EACC report forwarded to the DPP on 27th May 2019 recommended that as administrative action had been taken against the suspects, criminal action would amount to double jeopardy and as such the file be closed with no further action.

Upon perusal of the file, the DPP concurred with the recommendation of the EACC and directed the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 19th November 2019 directing closure.

THIRD (3RD) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST JULY 2019 TO 30TH SEPTEMBER 2019

1. ODPP/CAM/5/019/194 EACC/KSM/FI/INQ/48/2015

INVESTIGATIONS INTO ALLEGATIONS THAT THE CONSTRUCTION COST OF THE PROPOSED SHOPPING MALL FOR THE LAKE BASIN DEVELOPMENT AUTHORITY (LBDA) WAS INFLATED TO KSHS 2.5 BILLION

The EACC commenced investigations after a complaint that the construction cost for the Lake Basin Development Authority (LBDA) Mall in Kisumu had been inflated up to Kshs. 2.5 billion.

The evidence on record established that various procurement laws were breached. These included approval for the Lake Basin Mall project after the procurement of the project had commenced, no prior approved budget, unresponsive bids were evaluated and awarded contracts, and there was variation of the project without requisite approvals.

On 1st July 2019, the EACC report forwarded to the DPP recommended that the Evaluation Committee members, Tender Committee members, Accounting Officer, Ag. Head of Procurement, members of the Board, Directors of Quantech, Symbion, Feradon, the Consultants and Directors of Erdemann Property Limited be charged with the following offences:

- Conspiracy to commit an economic crime contrary to section 47A(3).
- Deceiving the principal contrary to section 41(1).
- Engaging in a project without prior planning contrary to section 45(2)(c), willful failure to comply with the law applicable to procurement contrary to section 45 (2) (b).
- Abuse of office contrary to section 46.
- Failure to disclose a private interest to one's principal contrary to section 42(1).
- Unlawful acquisition of public property contrary to section 45 (1) (a)
- Unlawful disposal of public property contrary to section 45(1)(b),
- All as read with section 48 of ACECA.
- Neglect of official duty by a public officer contrary to section 128 of the Penal Code.
- Financial misconduct contrary to section 197(1)(e) as read with section 199 of the Public Finance Management Act.

Upon perusal of the evidence, the DPP identified areas that required further investigations. On 1st August 2019 the DPP returned the file to the EACC directing further investigations be conducted and the file resubmitted for further direction.

The file was resubmitted by the EACC and upon further review, the DPP found sufficient evidence establishing criminal culpability against the suspects, and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 6th September 2019 directing that prosecution ensue. Milimani ACC 25/2019 and ACC 26/2019 are ongoing in court.

2. ODPP/CAM/5/019/201 EACC/INQ/38/2018

INQUIRY INTO AN ALLEGATION OF MISAPPROPRIATION/ EMBEZZLEMENT OF PUBLIC FUNDS BY COUNTY GOVERNMENT OF NANDI IN THE AWARD OF TENDER TO

KORSO ENTERPRISES LIMITED A COMPANY ALLEGED TO BE ASSOCIATED TO THE FORMER GOVERNOR AT A COST OF KSHS 103,383,420

The EACC commenced investigation after a complaint alleging misappropriation and/ or embezzlement of public funds by the County Government of Nandi in the award of tenders to Korso Enterprises Limited at a cost of Kshs. 102,383,420. The former Governor of Nandi County owns properties registered under Korso Enterprise Company Limited in Nandi County.

Investigations established that Korso Enterprises Company Limited was awarded tender no. NDCG/TA/12/2013-2014 for the proposed construction of the Governor's office block and paid a total of Kshs. 96,350,911 by Nandi County Government. Further, that the county officials engaged in a project without prior planning by constructing an additional floor without an approval from the Tender Committee.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the former Governor of Nandi County, County Secretary, County Works Officers, Finance and Economic Planning CEC, Ag. Chief Officer, Transport and Infrastructure, Tender Committee members and Director of Korso Enterprises Company Limited be charged with the following offences:

- Engaging in a project without prior planning contrary to section 45 (2)(c),
- Willful failure to comply with the law relating to procurement contrary to section 45(2)(b),
- Abuse of office contrary to section 46,
- Unlawful acquisition of public property contrary to section 45(1) (a) all as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003,
- Neglect of official duty by a public officer contrary to section 128 of the Penal Code,
- Incurring wasteful expenditure contrary to section 197(1) (i) as read with section 99 of the Public Finance Management Act.

Upon perusal of the file, the DPP identified gaps and directed that the areas be covered by further investigations and the file be resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 10th June 2020 directing further investigations.

STATUS

The ODPP returned the file to EACC on 4th September 2019 directing further investigations.

3. ODPP/CAM/5/019/203 EACC/FI/INQ/19/2019

INQUIRY INTO ALLEGATIONS OF UNLAWFUL ACQUISITION OF PUBLIC FUNDS BY HOMABAY COUNTY GOVERNMENT EMPLOYEES AND THEIR PROXIES BETWEEN 2016 AND 2018

The EACC commenced investigations after receiving a complaint that Homa Bay County Government employees and their proxies were involved in suspected fraud of Kshs. 99,354,746.54.

Investigations established that the County Assembly employees illegally acquired Kshs.99, 354,746.54 from the County Assembly directly and indirectly through use of proxies and companies registered in their names. This was done through fraudulent payments of money for no services rendered or goods delivered to the County Assembly of Homa Bay.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the County Assembly Clerk, Chief Finance Officer, Senior Accounts Controller, Administrative Officer and Manager, Equity Bank Homa Bay branch, be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47 A (3),
- Unlawful acquisition of public property contrary to section 45 (1) (a) all as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003,
- Money laundering contrary to section 3 (b) (iii) as read with section 16 (1) (a) of the Proceeds of Crime and Anti- Money Laundering Act.

Upon perusal of the file, the DPP established gaps that needed to be covered by further investigations.

4. ODPP/CAM/5/019/202 EACC/FI/INQ/54/2018

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR CONSTRUCTION OF HOMA BAY COUNTY ASSEMBLY WINGS TO THREE DIFFERENT CONTRACTORS FOR KSHS 17,316,044 DURING THE FINANCIAL YEAR 2015/2016

The EACC commenced investigation after receiving a complaint alleging embezzlement and/ or misappropriation of public funds amounting to Kshs. 97 million by Homa Bay County Assembly.

Investigations established that the County Assembly misappropriated funds through irregular awards of several tenders. Various procurement laws were breached and the tender opening and evaluation were not done according to the laws.

Forged minutes for tender opening and evaluation were prepared and payments for various contracts awarded effected without the Inspection and Acceptance Committee issuing the requisite certificates.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the Accounting Officer, Principal Procurement Officer, Chief Finance Officer, Tender Committee chairperson, Evaluation Committee chairperson, Directors and Agents of Oduru Enterprises, Oxygen Transport & Construction and Sconan Trading Limited be charged with the following offences:

- Conspiracy to commit an offence of corruption contrary to section 47 (A) (3),
- Willful failure to comply with the law relating to procurement contrary to section 45(2) (b),
- Abuse of office contrary to section 46,
- Knowingly using a false/misleading document to one's principal contrary to section 41(2) all as read with section 48 of ACECA.

Upon perusal of the file, the DPP identified areas to be covered by further investigations.

STATUS

The DPP returned the file to EACC on 8th November 2019 directing further investigations.

5. ODPP/CAM/019/198 EACC/FI/INQ/22/2019

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARDING OF TENDER FOR UPGRADING OF ROADS AND EMBEZZLEMENT OF PUBLIC FUNDS BY OFFICIALS OF THE COUNTY GOVERNMENT OF KIAMBU

The EACC commenced investigation after a complaint that the County Government of Kiambu irregularly awarded a contract for upgrading of various gravel roads to bituminous in Thika, Limuru, Gatundu North, Juja and Ruiru Sub Counties to Testimony Enterprises Limited at a contract sum of Kshs. 588 million during the 2017/2018 financial year.

Evidence on record established that various procurement laws were breached in that there was no budget, prerequisite tender documents, and that the company awarded the tender was not qualified among other breaches. The contractor was paid a total of Kshs. 221,490,499.80 from the Kiambu County Government for substandard work.

On 9th July 2019, the EACC report forwarded to the DPP and an amended report prepared on 17th July 2019 recommended that the Governor, Chief Officer, Roads, Transport, Public Works and Utilities, Tender Evaluation Committee members, Directors of Testimony Enterprises Ltd, Directors of Saika Two Estate Developers Ltd, and Proprietors of Bienvenue Delta Hotel, be charged with the following offences:

- Conflict of interest contrary to section 42(3),
- Two counts of dealing with suspect property contrary to section 47(1) as read with section 47(2)(a),

- Abuse of office contrary to section 46,
- Willful failure to comply with the law relating to procurement contrary to section 45(2)(b) all as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003,
- Two counts of engaging in a fraudulent practice in procurement contrary to section 66(1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015,
- Three counts of money laundering contrary to sections 3(b)(i) as read with section 16 of the Proceeds of Crime and Anti-Money Laundering Act.

Upon perusal of the file, the DPP established sufficient evidence to warrant prosecution of the suspects and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 26th July 2019 directing prosecution to ensue. ACC 22 of 2019 is pending before Milimani Law courts.

6. ODPP/CAM/5/019/204 EACC/KIS/FI/INQ/05/2016

INQUIRY INTO ALLEGATION OF FAILURE TO COMPLY WITH PROCUREMENT LAWS AND REGULATIONS, MISAPPROPRIATION OF PUBLIC FUND, CONFLICT OF INTEREST AND ABUSE OF OFFICE AGAINST OFFICIALS OF KABONDO KASIPUL NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND IN THE IMPLEMENTATION PROJECT OF PUNDO SPORTS GROUND PROJECT

The EACC commenced investigation on 25th July 2016 after the Kabondo Kasipul Integrity Watch reported that Kabondo Kasipul Constituency Development Fund misappropriated public funds during the 2014/2015 financial year.

Evidence on record has established that various procurement laws were breached including project commencement and completion before tender award, no issuance of notification of a letter of award and payments effected for works not done among other breaches.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the Fund Manager, Clerk of Works, Chairperson and Secretary of Tender Sub-Committee, District Accountant and District Treasury Accounts Clerk of Rachuonyo South District, Chairperson and Secretary of Pudo Sports Ground Project Management Committee and Director of County Tops Enterprises with the following offences:

- Failure to comply with procurement laws and regulation/procedures applicable to management of public funds contrary to section 45(2) (b),
- Deceiving principal contrary to section 41(2),
- Fraudulent acquisition of public property contrary to section 45(1)(a),
- Conspiracy to commit an offence of corruption contrary to section 47a (3),
- Fraudulently making payment contrary to section 45(2)(a)(iii) all as read with section 48(1) of the ACECA,
- Forgery contrary to section 349 and abuse of office contrary to section 101as read with section 102 all of the Penal code.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution, however to strengthen the prosecution case there were identified areas to be addressed by further investigation.

STATUS

The DPP returned the file to EACC on 9th April 2020 directing further investigations.

7. ODP/CAM/5/019/206 EACC/FI/INQ/100/2016

AN INQUIRY INTO ALLEGATION THAT A BUSINESS MAN THROUGH HIS THREE

BUSINESS COMPANIES AND M/S HORIZON LIMITED ENGAGED IN TAX EVASION

The EACC commenced investigations after a complaint from the DPP that the suspect through his three companies and M/s Horizon Limited had evaded paying tax for the years between 2014 and 2015.

Investigations established that the suspect had registered three business firms that had transacted with the Ministry of Devolution and Planning. The suspect and his companies had not registered for VAT and had not declared the true income, which made the suspect evade paying tax.

A report forwarded to the DPP on 3rd July 2019 recommended that the suspect be charged with unlawful failure to pay taxes contrary to section 45(1) (6) of ACECA and unlawful failure to register for VAT contrary to section 34 of VAT Act.

Upon perusal of the file, the DPP found sufficient evidence to support the charges against the suspect, though to strengthen the prosecution case, some areas needed further investigations.

STATUS

The DPP returned the file to EACC on 10th March 2020 directing further investigations.

8. ODP/CAM/019/280 EACC/FI/INQ/54/2017

AN INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS BY THE DISTRICT EDUCATION OFFICER OF SAMBURU EAST SUB COUNTY IN THE FINANCIAL YEARS 2015-2016 AND 2016-2017

The EACC commenced investigations after a complaint that the District Education Officer (DEO), Samburu East had embezzled money allocated to him as the AIE holder.

The funds were meant to settle expenses incurred in the distribution of food to various schools under the school feeding program in his district during the 2015/2016 and 2016/2017 financial years.

Investigations established that the DEO received Kshs 1,426,962 for 1st and 2nd half of the financial year. However, most persons who were purportedly paid the money denied receiving it.

The total amount purportedly paid to the said persons was Kshs 720,000. The companies that were paid to transport the food never offered transport services as had been indicated by the DEO.

On 15th August 2019, the EACC report forwarded to the DPP recommended administrative action be undertaken and that the suspects be charged with the following offences:

- Abuse of office contrary to section 46,
- Fraudulent acquisition of public property contrary to section 45 (1) (a),
- Deceiving principal contrary to section 41,
- Conspiracy to commit a corruption offence contrary to section 47 A (3) all as read with section 48 of ACECA,
- Giving false information contrary to section 197 (1) (n) as read with section 199 of the Public Finance Management Act,
- Forgery contrary to section 345 as read together with section 351 and uttering false documents contrary to section 353 all of the Penal Code.

Upon perusal of the file, the DPP on 6th September 2019 noted errors on the statutory report and returned it to EACC for correction. EACC resubmitted the file on 17th January 2020 with a corrected version of the statutory report. The DPP upon perusal of the file found sufficient evidence to establish criminal culpability and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 19th May 2020 directing that prosecution ensue.

9. ODPP/CAM/5/019/289 EACC/MLD/INQ/FI/01/15

INQUIRY INTO ALLEGATIONS THAT THE CURRENT MOKOWE WARD ADMINISTRATOR ILLEGALLY ADDED NAMES OF HIS CRONIES TO THE LIST OF PROJECTS AFFECTED PERSONS TO BENEFIT FROM THE LAPSSET COMPENSATION FUNDS

The EACC commenced investigations after a complaint that the current Mokowe Ward Administrator irregularly added names of his family members and friends to the list of project affected persons for monetary compensation under the LAPSSET Project.

Investigations established that some of the Administrator's family members were compensated. However, the Administrator had no role in profiling of the LAPSSET beneficiaries. The National Land Commission did the beneficiary profiling and compiled the list for compensation.

On 2nd September 2019, the EACC report forwarded to the DPP recommended closure of the inquiry file.

Upon perusal of the file, the DPP noted that there were outstanding areas to be covered by investigations.

STATUS

The DPP returned the inquiry file to EACC on 25th September 2019 directing further investigations.

10. ODPP/CAM/5/019/290 EACC/GSA/FI/INQ/28/2017

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF FUNDS SET ASIDE FOR REHABILITATION OF TWO BOREHOLES AT MADOGO BY OFFICERS WORKING AT TANA RIVER COUNTY GOVERNMENT

The EACC commenced investigations after allegations that the Chief Officer Water, the Technical Manager,

and the Managing Director used Davis and Shirtliff Company to siphon money from the Tana Water and Sanitation Company.

Investigations established that the County Government of Tana River did not follow procurement laws and procedures to engage Davis and Shirtliff Ltd.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspects be charged with the following offences:

- Abuse of office contrary to section 46,
- Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) all as read with section 48(1) of ACECA,
- Financial misconduct contrary to section 197(1) (h) as read with section 199 of the Public Finance Management Act Cap. 412c.

Upon perusal of the file, the DPP identified areas to be covered by further investigations and the file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 18th February 2020 directing further investigations.

Investigations revealed that there was no procurement plan for the supply of training services for the Town Planning Committee. The procurement thresholds provided for request for quotations method were not adhered to. Therefore, the payment of Kshs.4.2 million made to the service providers was unlawful.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspects be charged with the following offences:

- Willful failure to comply with the applicable law relating to procurement contrary to section 45(2) (b),
- Engaging in a procurement without prior planning contrary to section 45(2) (c),
- Unlawful acquisition of public property contrary to section 45(1) (a),
- Failure to disclose a private interest to one's principal contrary to section 42(3) all as read with section 48 of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution as recommended by the EACC and directed that prosecution to ensue.

STATUS

The DPP returned the file to EACC on 21st November 2019 directing that prosecution ensues.

11. ODPP/CAM/5/019/295 EACC/MSA/FI/8/2014

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF KSHS 4.2 MILLION AT MOMBASA COUNTY ASSEMBLY

The EACC commenced investigations after the Star Newspaper reported that in January 2014, a Ward representative from Mombasa County obtained Kshs 4.2 million from the County Government of Mombasa unlawfully.

The Kshs 4.2 million was for training 17 members of the Mombasa County Town Planning Committee, which was alleged to have taken place in Kisumu County.

12. ODPP/CAM/5/019/294 EACC/KSI/FI/INQ/01/2019

INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AND ABUSE OF OFFICE BY OFFICIALS OF THE COUNTY GOVERNMENT OF HOMA BAY

The EACC commenced investigations after a report that companies owned by Homa Bay County officials traded with the County Government of Homa Bay.

Investigations revealed that companies registered by some Homa Bay County officials and others using proxies, either traded with the County or received money for no services offered.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspects be charged with the following offences:

- Conflict of interest,
- Abuse of office,
- Unlawful acquisition of public property,
- Carrying on the business of a contractor without being registered,
- Fraudulent acquisition of public property.

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

STATUS

The DPP returned the file to EACC on 11th November 2019 directing prosecution to ensue.

13. ODPP/CAM/5/019/293 EACC/PI/INQ/043/2018

INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER NO. NCB/MOTIH&UD/DOU&MED/NAMSIP/WKS-02/2018-2019 FOR THE PROPOSED CONSTRUCTION OF NGONG MARKET IN KAJIADO COUNTY BY THE MINISTRY OF TRANSPORT, INFRASTRUCTURE, URBAN DEVELOPMENT AND PUBLIC WORKS UNDER THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WORTH KSHS 705,000,000

The EACC commenced investigations after complaints of irregular award of tender No. NCB/ MOTIH& UD/ SDOH&UD/ DOU&MED/ NAMSIP/ WKS-02/2018-2019 for the proposed construction of Ngong market in Kajiado County by the Ministry of Transport, Infrastructure, Urban Development and Public Works under the State Department of Housing and Urban Development.

It was alleged that the Tender Evaluation Committee recommended that a tender of Kshs. 705,000,000 be

awarded to the lowest evaluated bidder, M/S Concordia Building & Civil Engineering Co. Ltd. However, the Principal Secretary issued instructions to the Tender Evaluation Committee to change the award to another firm, M/s China Tiancheng Engineering East Africa Ltd. Investigations established that there was an irregular award of the tender for the construction of Ngong market, Kajiado County to M/s China Tiancheng Engineering East Africa Ltd.

The said company submitted documents filled in pencil contrary to the requirements set out in the bid documents. The Principal Secretary instructed the evaluation committee to re-evaluate the said company that had already been marked as non-responsive. Ms. Wardy Communications Limited submitted forged letters to influence the award of the said tender.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspects be charged with the following offences:

- Abuse of office contrary to section 46,
- Willful failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b) all as read with section 48 of ACECA,
- Forgery contrary to section 349, section 350,
- Uttering documents without authority contrary to section 357 (b) all of Penal Code.

Upon perusal file, the DPP found insufficient evidence hence no disclosure of criminal culpability against the suspect.

STATUS

The DPP returned the file to EACC on 27th February 2020 directing that prosecution was not viable and that the file may be reopened after the World Bank undertakes its project audit.

14. ODPP/CAM/5/019/214 EACC/MSA/AT/INQ/5/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR ACQUISITION OF PLOT NO.3 NEW NYALI BY THE FORMER MEMBER OF MOMBASA COUNTY ASSEMBLY

The EACC commenced investigations after reports that the former Member of County Assembly (MCA) irregularly acquired property known as Plot No.3 New Nyali Mombasa through forgery of documents in 2005.

Investigations established that the MCA irregularly acquired the plot through forgery of the letter of allotment, the letter of acceptance and part development plan. The property was a road reserve and therefore incapable of being allocated to private individuals.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the Commission supports the DCI's case. The DCI had charged the MCA in criminal case No. 9 of 2017 for forgery contrary to section 349, uttering false documents contrary to section 353 and making documents without the author contrary to section 357 all of the Penal Code.

Further, the EACC to pursue ELC No. 145 of 2018 EACC vs. Ann Wanjiku, Mtamwini Enterprise Limited and Ocean view Plaza Limited to recover the subject property.

Upon perusal of the file, the DPP concurred with the EACC recommendations that the matter before court proceeds to its logical conclusion.

STATUS

The DPP returned the file to EACC on 3rd December 2019 directing that criminal case No. 9 of 2017 proceeds to its logical conclusion.

INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS 28 MILLION BY THE NAIROBI CITY COUNTY GOVERNMENT TO M/S SCHINDLER LIMITED FOR THE REHABILITATION OF CITY HALL ANNEX

The EACC commenced investigations after a complaint of an irregular payment of Kshs. 28,000,000 made by the Nairobi City County Government to Schindler Limited for rehabilitation of the lifts at City Hall Annex.

The investigations established that the award of tender to the contractor was improperly since due procedure for the use of direct procurement method was not followed. There was non-disclosure on conflict of interests.

The contract was signed one year after acceptance of the award thus the first payment of Kshs. 14,481,990 was made without a valid contract. Further Kshs. 15,939,978 was irregularly paid to the contractor from the imprest account.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspects including a former Governor of Nairobi City County be charged with the following offences:

- Willful failure to comply with procurement laws contrary to section 45 (2) (b),
- Abuse of office contrary to section 46,
- Conspiracy to commit an economic crime contrary to section 47A (3),
- Willful failure to comply with laws relating to management of funds contrary to section 45 (2) (b) as read with section 48 of ACECA,
- Conflict of interest contrary to section 43 (1) (a) and (8) as read with section 137 (a) of the Public Procurement and Disposal Act.

Upon perusal of the file, the DPP noted that there were two other matters, Milimani ACC 32 of 2018 and ACC 8 of 2019, related to this matter and deferred making a decision to charge until the two matters progress to an advanced stage.

STATUS

The DPP retained the file pending progression of Milimani ACC 32 of 2018 and ACC 8 of 2019.

15. ODPP/CAM/5/019/299 EACC/AT/INQ/89/2017

**16. ODPP/CAM/5/019/210
EACC/EL/INQ/6A/2018**

INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY A PUBLIC OFFICER AT THARAKA NITHI COUNTY GOVERNMENT

The EACC commenced investigations after a complaint that a Procurement Officer at Tharaka Nithi County Government used a fake academic certificate to secure employment in the County.

Investigations revealed that the suspect presented herself as being a holder of holder of the bachelor's of commerce in procurement and logistics degree. The suspect also presented a forged degree certificate to Tharaka Nithi's Public Service Board purporting it to be a genuine degree certificate from Kenya Polytechnic University College.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with the following offences:

- Knowingly using a misleading document to one's principal contrary to section 41 (1),
- Knowingly making a misleading statement to one's principal contrary to section 41 (1) all as read with section 48 of ACECA,
- Providing false information contrary to section 46 (1) (d) as read with section 46(2) of LIA,
- Uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to warrant criminal culpability against the suspect and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 13th December 2019 directing prosecution to ensue. Chuka ACC 1 of 2020 ongoing.

**17. ODPP/CAM/5/019/209
EACC.NKR/EL/INQ/06/2018**

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROMOTION OF AN EMPLOYEE OF NAKURU COUNTY GOVERNMENT, FROM JOB GROUP 'L' TO JOB GROUP 'R' CONTRARY TO THE CONSTITUTION AND PROVISIONS OF THE LEADERSHIP AND INTEGRITY ACT

The EACC commenced investigations after a complaint that a public officer had been promoted from the position of Senior Superintendent (Water Engineering) Job group 'L' to the Director, Administration position at Job Group 'R', without following the laid down procedures.

Investigations revealed, inter alia, that the public officer received a letter of confirmation of appointment to the post of Director of Water Job Group R from the former County Secretary, Nakuru County Government. The said appointment was irregular since the provision of the County Governments Act, 2012 were not adhered to.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to sustain proposed charges and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 29th November 2019 directing prosecution to ensue. Nakuru ACC 1 of 2020 is ongoing.

**18. ODPP/CAM/5/019/216
EACC/EL/INQ/6/2017**

INQUIRY INTO ALLEGATIONS OF IRREGULAR ACQUISITION OF PUBLIC LAND LR. NO. MOMBASA/BLOCK XLVII/73 BELONGING TO KENYA PORTS AUTHORITY BY DIRECTORS OF JOHN GROSSERT COMPANY LIMITED

The EACC commenced investigations after a complaint that the Directors of M/S John Grossert & Company Ltd, forged documents purporting to be Directors of the said company that holds a lease agreement with Kenya Ports Authority (KPA) on Land Number Mombasa Block XLVII/73.

It also alleged that an official from the Registrar of Companies assisted the two suspects. Further, that the company continued to pay Kshs. 2,464 instead of Kshs. 600,000 rent, and that the land was charged to Barclays Bank for a loan of Kshs. 16 million.

Investigations established that there was a lease agreement between KPA and M/S John Grossert & Company Ltd for the land number Mombasa/Block XLVII/73. The lease agreement commenced in the year 1949 and the company had been paying varied amounts of money in terms of annual rent contrary to the legal provisions.

The lease was used to secure a Kshs 16 million loan from Barclays Bank of Kenya Limited for African Marine and General Engineering Company Ltd (AMGECO), in the year 2002 but the loan had since been paid in full.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that an advisory be issued to the KPA officials on the need to safeguard the entity's property.

Upon review of the file, the DPP concurred with the recommendation by the EACC for closure of the file.

STATUS

The DPP returned the file to EACC on 17th June 2020 directing closure.

**19. ODPP/CAM/5/019/222
EACC/GSA/E&L/INQ/6/2017**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE HUMAN RESOURCE MANAGER, GARISSA WATER, AND SANITATION COMPANY

The EACC commenced investigations after a complaint that the Human Resource Manager, Garissa Water and Sewerage Company (GAWASCO) was earning two salaries, as an employee of GAWASCO and also an employee of the County Government of Garissa where he was working as the Deputy Director Administration, Ministry of Water.

Investigations established that the suspect was employed at GAWASCO and the County Government of Garissa. The suspect earned two salaries in the month of April 2017. In the months of May, June, and July 2017, the suspect earned a full salary from the County Government of Garissa and an allowance of Kshs. 40,000 per month from GAWASCO.

On 3rd July 2019, the EACC report forwarded to DPP recommended that an advisory on recruitment of staff be issued to the County Government of Garissa and Kshs. 198,847 recovered from the suspect.

Upon perusal of the file, the DPP found no criminal culpability established against the suspect, however he directed administrative action be taken against the suspect to refund the money paid irregularly.

STATUS

The DPP returned the file to EACC on 11th December 2019 directing administrative action.

**20. ODPP/CAM/5/019/281
EACC/MSA/EL/INQ/11/2018**

AN INQUIRY INTO ALLEGATIONS OF INTIMIDATION OF A POLICE OFFICER BY THE OFFICER COMMANDING MOMBASA

TERMINUS POLICE DIVISION IN RESPECT TO INVESTIGATION VIDE OB/8/7/4/2018 OVER THEFT OF TWO CONTAINERS BELONGING TO THE KENYA RAILWAYS CORPORATION

The EACC commenced investigations after a complaint from a police officer attached to the Kenya Railways Police Station that he was being harassed and intimidated by senior police officers and the Officer Commanding Police Division at Mombasa Terminus in respect to investigation vide OB/8/7/4/2018 over theft of two containers belonging to the Kenya Railways Corporation.

Investigations conducted established no evidence of criminal culpability of any offence of corruption, economic crime, bribery, or unethical conduct, against the said senior police officers.

On 15th August 2019, the EACC report forwarded to the DPP recommended for an advisory to the National Police Service Commission and the Inspector General of Police, pursuant to section 18(2) of the Leadership and Integrity Act, 2012 and closure of the inquiry file.

Upon perusal of the file, the DPP concurred with the EACC's recommendations that there was insufficient evidence to sustain corruption/bribery charges against the suspects.

The DPP directed administrative action be taken against the 1st suspect and an advisory issued to the National Police Service Commission and Inspector General of Police on participation of officers in public collection of funds.

STATUS

The DPP returned the file to EACC on 10th February 2020 directing administrative action against the 1st suspect and an advisory issued to the National Police Service Commission and Inspector General of Police.

**21. ODPP/CAM/5/0019/218
EACC/EL/INQ/81/2017**

INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY A SERGEANT AT KENYA FOREST SERVICE

The EACC commenced investigations upon the suspect being arrested at Moi University, Eldoret campus on 4th May 2017, after he presented fake academic certificates for purposes of authentication. He intended to submit the certificate at Kenya Forest Services (KFS) in order to gain promotion.

Investigations established that the suspect presented fake academic certificates to KFS.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the CEO of Kenya Forest Services put in place a verification system of academic certificates presented by staff of KFS and the suspect be charged with the offence of presenting fake certificates.

Upon perusal of the file, the DPP found sufficient evidence establishing criminal culpability against the suspects however before prosecution ensued there were areas to be covered by further investigations.

STATUS

The DPP returned the inquiry file to EACC on 6th December 2019 directing further investigations.

**22. ODPP/CAM/5/019/292
EACC/ELD/EL/INQ/07/2018**

AN INQUIRY INTO ALLEGATIONS OF SELECTIVE PAYMENT OF NANDI COUNTY ASSEMBLY STAFF SCHOOL FEES

The EACC commenced investigations into allegations that the Clerk and Head of Human Resources at the Nandi County Assembly irregularly paid tuition fees for their doctorate of philosophy (PHD) studies.

Investigations established that the Clerk and Head, Human Resources Officer used their positions to recommend and approve payments of Kshs. 160,000, as tuition fees for a PHD programme in business

administration at Jomo Kenyatta University of Agriculture and Technology and Kshs. 160,000 for a PHD programme in human resource development. They did not have the requisite approval from the County Assembly Service Board Training Committee at the Nandi County Assembly.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that Nandi County Assembly Service Board takes administrative action against the officers and recover the amount paid irregularly. The officers and the suspects be charged with abuse of office contrary to section 46 and unlawful acquisition of public benefit contrary to section 45 (1) (a) all as read with section 48 ACECA.

Upon perusal of the file, the DPP found sufficient evidence conceivable of criminal culpability against the suspects however there were pertinent areas to be covered by further investigations.

STATUS

The DPP returned the file to EACC on 30th September 2019 directing further investigations.

23. ODPP/CAM/5/019/287 EACC/KIS/EL/INQ/13/2017

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST A FORMER ASPIRANT FOR MEMBER OF COUNTY ASSEMBLY FOR KEMERA WARD WITHIN NYAMIRA COUNTY

The EACC commenced investigations after a report that a former MCA aspirant for Kemera Ward within Nyamira County, was a class four drop out. It was also alleged that he used a fake certificate belonging to an ex-Air Force officer to achieve political ambitions and that he adopted the name as his own.

Investigations established that the suspect submitted a self-declaration form to EACC indicating that he had a diploma, despite being a primary school dropout. Further, he used a forged stamp purported to belong to an advocate and forged the signature of the said advocate.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with the following offences:

- Providing false information contrary to section 46 (1) (d) as read with section 46 (2) of the Leadership and Integrity Act,
- Two counts of forgery contrary to section 345 as read with section 349,
- Uttering a false document contrary to section 353,
- Making a document without authority contrary to section 357 (a) all under the Penal Code.

Upon review of the inquiry file, the DPP found that there were areas to be covered and directed further investigations be conducted and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 6th December 2019 directing further investigations.

24. ODPP/CAM/5/019/302 EACC/KIS/EL/INQ/4/2018

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST AN ASSISTANT CHIEF IN WINJO SUB-LOCATION MUHURU EAST LOCATION IN MIGORI

The EACC commenced investigations after a report alleging that the Assistant Chief of Winjo Sub-Location, Muhuru Bay in Migori County used and is in possession of a forged/ fake Kenya Certificate of Secondary Education (KCSE) Certificate.

Investigations established that the suspect used fake names in order to secure employment as the Assistant Chief and presented a forged KNEC certificate to the Office of the President department of Provincial Administration.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with forgery contrary to section 345 as read with section 349

and uttering a false document contrary to section 353 all under the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to warrant criminal culpability against the suspect and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 25th November 2019 directing prosecution to ensue.

25. ODPP/CAM/5/019/297 EACC/NYR/E&L/INQ/23/2016

AN INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE LEVELLED AGAINST THE LAIKIPIA EAST CONSTITUENCY DEVELOPMENT FUND ACCOUNT MANAGER

The EACC commenced investigations after a complaint against the Fund Account Manager of Laikipia East Constituency Development Fund that he conferred upon himself an undeserving benefit of approximately Kshs. 236,000 from the bursary kitty of the Laikipia East Constituency Development Fund.

The investigations established that officials from CDF misappropriated and mismanaged the funds allocated to the Laikipia East Constituency Development Fund.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspects be charged with the following offences:

- Willful failure to comply with the law relating to the management of funds, contrary to Section 45(2)(b),
- Abuse of office, contrary to section 46,
- Attempting to commit an offence involving corruption contrary to section 47A(1) as read together with section 47A(2) and all as read together with section 48 of the ACECA,
- Misappropriating funds from the Constituencies Development Fund contrary to section 48 of the (now repealed) Constituencies Development Fund Act, 2013.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution against the suspects and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 13th December 2019 directing prosecution to ensue.

26. ODPP/CAM/5/019/225 EACC/OPS/INQ/84/2018

INQUIRY INTO ALLEGATIONS THAT AN UNIDENTIFIED KENYA CIVIL AVIATION AUTHORITY (KCAA) OFFICER DEMANDED FOR UNSPECIFIED AMOUNT OF BRIBE FROM BIDDERS OF TENDER NO. KCAA/072/2017-2018

The EACC commenced investigations after a report by an anonymous person purporting that an unidentified member of the KCAA evaluation committee requested an unspecified amount of bribe to award tender No. KCAA/072/2017-2018.

Investigations revealed that no KCAA evaluation committee member requested a bribe from the successful bidders.

On 3rd July 2019, the EACC report forwarded to the DPP recommended closure of file.

Upon perusal of the file on 29th October 2019, the DPP found that there was need for further investigations on identified areas and the file be resubmitted for final directions. The file was resubmitted on 10th January 2020 and upon review the DPP concurred with EACC there was insufficient evidence to warrant prosecution and directed the file be closed with no further action.

STATUS

The DPP returned the file to EACC on 31st March 2020 directing closure.

**27. ODPP/CAM/5/019/224
EACC/OPS/INQ/11/2018**

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE OF KENYA POWER AND LIGHTING COMPANY (KPLC) TOGETHER WITH OTHER PERSONS PURPORTING TO BE KPLC OFFICIALS REQUESTED FOR FINANCIAL BENEFIT SO AS TO RECONNECT ELECTRICITY POWER THAT THEY HAD DISCONNECTED

The EACC commenced investigations after a complainant reported that some Kenya Power officials requested for a Kshs. 135,000 financial benefit as an inducement to reinstall electricity in his premises.

The complainant had sent Kshs. 15,000 through his electrician to the said officials to secure the release of the said electrician whom the Kenya Power officials had arrested.

The EACC carried out a trap operation that led to the arrest of the electrician for receiving Kshs. 100,000. However, it was established that the electrician was only acting on instructions from the complainant and had not conspired with the purported Kenya Power officials who had requested for a bribe. Efforts to trace the purported Kenya Power officials bore no fruits.

On 3rd July 2019, the EACC report forwarded to the DPP recommended closure of the file for lack of evidence.

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

STATUS

The DPP returned the file to EACC on 13th December 2019 directing closure.

**28. ODPP/CAM/5/019/223
EACC/OPS/INQ/65/2018**

INQUIRY INTO ALLEGATIONS OF DEALING WITH SUSPECT PROPERTY AGAINST A POLICE OFFICER ATTACHED TO NAIVASHA POLICE STATION

The EACC commenced investigations after anonymous complaints that traffic police officers manning the Nakuru-Nairobi highway, around Naivasha junction, demanded bribes and harassed motorists.

The Commission officers undertook an undercover surveillance between 22nd and 26th of May 2018 to establish the veracity of the allegations.

On 21st June 2018, a trap operation was conducted along the Nairobi-Nakuru-Naivasha junction that led to the arrest of the suspects and recovery of a total of Kshs. 3,250. However, the suspects arrested were not the same persons captured in the video during surveillance.

On 3rd July 2019, the EACC report forwarded to the DPP recommended closure of the file with no further action.

Upon perusal of the file, the DPP found insufficient evidence to sustain any charges against the suspect and directed that the file be closed with no further action.

STATUS

The DPP returned the inquiry file to EACC on 10th December 2019 directing closure.

**29. ODPP/CAM/5/019/213
EACC/OPS/INQ/23/2018**

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO MLOLONGO WEIGHBRIDGE

The EACC commenced investigations after a complaint that a police officer attached to Mlolongo Weighbridge, requested for a Kshs. 80,000 financial benefit not to charge the complainant with the offence of overloading.

A sting operation was planned. However, the police officer escaped thus the operation aborted.

On 3rd July 2019, the EACC report forwarded to the DPP recommended closure of the file with no further action.

Upon perusal of the inquiry file, the DPP found insufficient evidence to warrant criminal culpability and directed administration action be taken against the suspect.

STATUS

The DPP returned the file to EACC on 29th August 2019 directing administrative action.

30. ODPP/CAM/5/019/231 EACC/OPS/INQ/55/2018

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST A BUSINESS MAN AND THE DIRECTOR AT THE ATHI WATER SERVICES BOARD

The EACC commenced investigations after a complaint on 13th August 2018 from a Chinese national that a businessman and director at the Athi Water Service Board requested for a Kshs. 5,000,000 financial benefit which was later reduced to Kshs 3,000,000, as facilitation fee in order not to seize counterfeit building materials from the suspect's go down.

The evidence gathered revealed that the suspects had requested for and agreed to receive a financial benefit of Kshs 3,000,000. However, although there was evidence to prove the offence of receiving a bribe, the complainant had returned to China and was unwilling to further pursue the case. Efforts to bring her to testify in this case would be challenging.

The EACC advised that administrative action be taken against the director. However, his term as a director at Athi Water Services Board expired in October 2018 and he no longer holds the said position.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the inquiry file be closed with no further action.

Upon perusal of the inquiry file, the DPP noted that the evidence on record did not meet the threshold to amount to a prosecutable case against the suspect and directed the file be closed.

STATUS

The DPP returned the inquiry file to EACC on 22nd October 2019 directing closure.

31. ODPP/CAM/5/019/212 EACC/OPS/INQ/73/2019

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PERSONS PURPORTING TO BE EMPLOYEES OF NAIROBI CITY COUNTY

The EACC commenced investigations after a complaint that various persons purporting to be from Nairobi City County Government officers demanded for a Kshs. 40,000 bribe from the complainant. The persons alleged that the complainant was operating a business without requisite license and that he had purportedly tampered with the water meter at his home.

Investigations revealed that the suspects requested and received bribes from the complainant. However, the three suspects were not employees of the County Government as they had indicated to the complainant.

On 3rd July 2019, the EACC report forwarded to the DPP recommended administrative action against the Planning Department Officer at Nairobi City County Government and to charge the suspects with the offence of requesting for a bribe contrary to section 6 (1) of the Bribery Act, 2016.

Upon perusal of the file on 17th December 2019, the DPP established sufficient evidence to warrant prosecution of the suspects, however there were further identified areas to be covered and file resubmitted for final directive.

On 8th January 2020 the EACC resubmitted the file and upon further analysis and review, the DPP found sufficient evidence to sustain the proposed charges.

STATUS

The file was returned to EACC on 9th March 2020 directing prosecution to ensue. The case, Milimani ACC 10 of 2020 is ongoing.

**32. ODPP/CAM/5/019/205
EACC/BGM/OPS/INQ/6/2019**
**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST A PRIVATE PERSON**

The EACC commenced investigations after a report on 5th March 2019 that the suspect requested for a Kshs. 120,000 financial benefit in order to forbear instituting a court case against the current Member of Parliament and committee members of Kimilili Constituency Development Fund for abuse of office, misappropriation of fund and abuse of the rule of law.

Investigations revealed that the suspect requested for a Kshs. 120,000 financial benefit from the MP and received Kshs. 75,100 so as to forebear instituting a court case.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with five counts for the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) and (3) of the Bribery Act, 2016.

Upon perusal of the inquiry file, the DPP found sufficient evidence to warrant prosecution of the suspect. However, the DPP noted that crucial evidence missing would negatively influence the intended prosecution and directed for further investigation.

On 6th February 2020, EACC resubmitted the file and upon review the DPP directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 8th April 2020 directing prosecution to ensue.

**33. ODPP/CAM/5/019/207
EACC/OPS/INQ/82/2018**
**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST RICHARD TOPILIA AND KOSKEI
KIPIYEGON**

The EACC commenced investigations after a complaint that an EACC investigator requested for a benefit from traffic police officers who he had been assigned to investigate so as to terminate the investigations.

Investigations revealed that the suspect requested for a Kshs. 120,000 benefit and received Kshs. 110,000 from the said traffic officers to assist in terminating the said investigations.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that suspects be charged with the offence of receiving a bribe contrary to section 6(1) (b) as read with section 18 (1) of the Bribery Act, 2016 Laws of Kenya.

Upon perusal of the file, on 17th September 2019, the DPP found sufficient evidence to warrant criminal culpability against the suspects however there were identified areas to be covered to strengthen prosecution's case.

The file was resubmitted on 5th February 2020 with the areas for further investigation covered and DPP upon review of the resubmitted file directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 30th April 2020 directing prosecution to ensue. The case, Milimani ACC 5 of 2020 is ongoing.

**34. ODPP/CAM/5/019/217
EACC/OPS/INQ/78/2018**
**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST TWO POLICE OFFICERS NAMELY
HAMADI MOHAMED MGWISHO AND DANIEL
MBOLE WHO HAD BEEN DEPLOYED TO**

CONTROL BODABODA FROM ACCESSING CENTRAL BUSINESS DISTRICT, NAIROBI

The EACC commenced investigations after a complaint on 13th July 2018 against two police officers stationed at a police station in Nairobi. They had detained a motorbike and demanded a Kshs. 5,000 bribe in order to release it.

Investigations did not establish documented evidence of the complainant's arrest or detention of his motorbike. Further, there was no record of demand or issuance of the bribe. However, the presence of APQ powder in one of the suspect's hands gave a clear indication that his conduct was wanting.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the National Police Service Commission takes appropriate administrative action against the suspects pursuant to sections 4, 42, 43(5) of the Leadership and Integrity Act, 2012, and Regulation 4 of the Leadership and Integrity Regulations, 2015.

Upon perusal of the file, on 29th October 2019, the DPP noted that there were gaps to be addressed and directed further investigation be done and file resubmitted. The file was resubmitted and upon review on 8th April 2020 the DPP found insufficient evidence to warrant criminal culpability against the suspect and directed that the file be closed.

STATUS

The DPP returned the file to the EACC on 8th April 2020 directing closure.

35. ODPP/CAM/5/019/219 EACC/OPS/INQ/34/2019

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TWO EMPLOYEES OF MATHARI MENTAL HOSPITAL FOR REQUESTING KSHS 5,000 FROM PRIVATE FIREARM HOLDERS SEEKING PSYCHIATRIC EVALUATION REPORTS AS PART OF THE FIREARMS VETTING EXERCISE

The EACC commenced investigations in February 2019, after complaints that employees of Mathari National Teaching and Referral Hospital- Private Firearms Psychiatric Department solicited for financial benefits from clients who were seeking psychological evaluation reports from the said department, which is a requirement for applying for licenses to be private firearm holders.

Investigations conducted established that the suspects requested a public officer to pay an additional Kshs. 5,000, without a receipt in order to be issued with an evaluation report.

The Commission organized a sting operation that did not take place since the services offered by the said department were suspended. However, the two suspects were arrested for requesting a bribe.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspects be charged with the offence of receiving a bribe contrary to section 6 (1) (a) as read with section 18 (1) and (3) of the Bribery Act.

Upon review of the file, the DPP found insufficient evidence to warrant prosecution and directed that the matter be dealt with administratively.

STATUS

The DPP returned the file to EACC on 25th November 2019 directing administrative action.

36. ODPP/CAM/5/019/220 EACC/NKR/INQ/OPS/4/2019

INQUIRY INTO ALLEGATIONS OF OFFERING A BRIBE AGAINST BENJAMIN ONGERI ONYINKWA A BUSINESSMAN IN THE MATATU INDUSTRY

The EACC and National Police Service officers conducted an operation on 22nd December 2018 to arrest motorists who offer bribes to traffic police officers when found to have committed traffic offences. The operation was conducted along the highways in the South Rift Region.

The operation led to the arrest of the suspect for offering a bribe of Kshs. 3000 to a police officer in order to stop detention of a public service motor vehicle registration No. KCJ 032T that was operated without a road service license.

On 3rd July 2019, the EACC report forwarded to DPP recommended that the suspect be charged with the offence of giving a bribe, contrary to section 5(1) as read with section 18(1) and (2) of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP noted inconsistencies in the evidence that needed to be addressed by further investigation and file resubmitted for directions.

STATUS

The DPP returned the file to EACC on 4th September 2019 directing further investigations.

37. ODPP/CAM/5/019/221 CR.NO. 755/398/2018

INVESTIGATION INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE BY AN EMPLOYEE OF WATER RESOURCES MANAGEMENT AUTHORITY

The EACC commenced investigation after a report that an employee of Water Resources Management Authority requested for a Kshs. 150,000 financial benefit from the officials of Mutitu B water project as an inducement to reduce the projects' water bill from Kshs. 1,200,000 to Kshs. 317, 000.

A trap operation carried out by Commission's officers led to the arrest of the suspect after she received Kshs.75, 000 from an official of the project. However, it was not clear as to the reason why the trap money was received.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that an administrative action be taken against the suspect who had breached a number of duties and obligations imposed on a public officer by the Constitution of Kenya, 2010; the Public Officer Ethics Act No.4 of 2003 (POEA) and the Leadership and Integrity Act, 2012 (LIA).

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

STATUS

The DPP returned the file to EACC on 14th October 2019 directing administrative action.

38. ODPP/CAM/5/019/211 EACC/OPS/INQ/1/2019

AN INQUIRY INTO ALLEGATIONS THAT A PRIVATE PERSON GAVE AN INSPECTOR (IP) KSHS.1, 000 FOR HIM TO FOREBEAR CHARGING HIS FRIEND WITH A TRAFFIC OFFENCE OF DRIVING WHILE EXCEEDING SPEED LIMIT

The EACC and the National Police Service undertook a joint operation on 31st December 2018, along Nairobi - Mombasa highway to arrest offenders offering and or giving bribes to public officers.

The operation led to the arrest of the suspect for offering and giving a bribe of Kshs.1000 to a police officer, so as to forebear charging his friend with an offence of driving while exceeding the speed limit.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with two counts of the offence of giving a bribe contrary to Section 5 (1) (a) as read with Section 18 (1) and (3) of the Bribery Act, 2016.

Upon review of the file, the DPP found sufficient evidence to prefer charges against the suspect. However, upon consideration of the amount involved and the resources that would be expended in prosecution of the matter, the DPP established that it would not be in public interest to pursue prosecution.

STATUS

The DPP returned the file to EACC on 26th September 2019 directing that alternatives to prosecution to be pursued.

39. ODPP/CAM/5/019/208 EACC/NKR/INQ/OPS/2/2019

INQUIRY INTO ALLEGATIONS OF OFFERING A BRIBE AGAINST MOTORIST WHO OFFERED BRIBES TO TRAFFIC POLICE OFFICERS WHEN THEY WERE FOUND TO HAVE COMMITTED TRAFFIC OFFENCES

The EACC and National Police Service undertook a joint operation on 21st December 2019, along the highways in the South Rift region to arrest motorists offering bribes to traffic officers to avoid arrests for various traffic offences.

The operation led to the arrest of the suspect for offering a bribe of Kshs. 1,000 to a public officer so as not to be charged for the offence of exceeding the 50 kilometers per hour speed limit set for Chepseon Trading Centre.

On 3rd July 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with the offence of giving a bribe contrary to section 5 (1) (a) as read with section 18 (1) and (2) of the Bribery Act, 2016.

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 DPP returned the file to the EACC on 30th January 2020 directing closure.

40. ODPP/CAM/5/019/282 EACC/OPS/INQ/48/2019

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST A MEMBER OF THE NAIROBI CITY COUNTY ALCOHOLIC DRINKS CONTROL AND LICENSING BOARD

The EACC commenced investigations upon receipt of a report that a member of the Nairobi City County

Alcoholic Drinks Control and Licensing Board solicited for a Kshs. 20,000 bribe as an inducement to fast track issuance of a Liquor license to the complainant's bar located along Langata Road.

EACC organized a trap operation that resulted in the arrest of the suspect who received Kshs. 10,000 treated trap money.

On 15th August 2019, the EACC report forwarded to the DPP 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, 2016.

Upon perusal of the file, the DPP identified areas for further investigation and on 11th December 2019 returned the file for further investigations.

The EACC resubmitted the file on 3rd February 2020 and the DPP upon further review on 24th April 2020 directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 24th April 2020 directing prosecution to ensue. Milimani ACC 4 of 2020 was filed, concluded and accused person convicted.

41. ODPP/CAM/5/019/285 EACC/OPS/INQ/14/2019

AN INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO OFFICERS ATTACHED TO THE ANTI-CRIME OFFICE

The EACC commenced investigations after complaints that two police officers attached to the Anti-Crime office requested for a Kshs 5,000 bribe to help the complainant recover a debt owed to him by a motor vehicle spare parts broker.

EACC organized a trap operation that led to the arrest of the two suspects for requesting and receiving bribe money.

On 15th August 2019, the EACC report forwarded to the DPP recommended that the suspects 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, 2016 and conspiracy to commit an offence of corruption contrary to section 47A (3) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to sustain charges proposed by EACC against the suspect, however to strengthen the prosecution case there were identified areas to be addressed by further investigation and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 25th September 2019 directing further investigations.

42. ODPP/CAM/5/019/284 EACC/OPS/INQ/64/2019

AN INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICERS FROM NAIROBI CITY COUNTY STATIONED AT EMBAKASI WEST

The EACC commenced investigations on 23rd January 2019, after complaints that officials from Nairobi City County stationed at Embakasi west offices solicited a Kshs. 40,000 bribe as an inducement to allow the complainant to continue building her house.

EACC organized a trap operation that resulted in the arrest of the suspects who requested for Kshs. 40,000 and received Kshs. 20,000 treated trap money.

On 15th August 2019, the EACC report forwarded to the DPP recommended that the suspects 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, 2016 and conspiracy to commit an offence of corruption contrary to section 47 A (3) of ACECA.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution however there were identified areas to be covered by further investigations.

STATUS

The DPP returned the file to EACC on 5th February 2020 directing further investigations.

42. ODPP/CAM/5/019/283 EACC/NKR/ INQ /OPS/3/2019

INQUIRY INTO ALLEGATION OF OFFERING A BRIBE AGAINST A BUSINESSMAN BASED IN NAIROBI

The EACC and National Police Service undertook a joint operation on 24th December 2019, along the highways in the South Rift region to arrest motorists offering bribes to traffic officers to avoid being arrested for various traffic offences.

The operation led to the arrest of the suspect for offering a bribe of Kshs. 1,500 to a public officer so as not to be charged for the offence of exceeding the 50 kilometre per hour speed limit set for Chepseon Trading Centre.

On 15th August 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with two counts for the offence of giving a bribe contrary to section 5 (1) (a) as read with section 18 (1) and (2) of the Bribery Act No. 47 of 2016.

Upon perusal the file, the DPP found sufficient evidence to charge the suspect. However, taking into account the time and resources to be expended in prosecution and considering the amount involved, it was deemed not make economic sense to both the government and taxpayers to prosecute the matter.

STATUS

The DPP returned the file to EACC on 14th February 2020 directing alternatives to prosecution be pursued.

43. ODPP/CAM/5/019/300 EACC/OPS/INQ/53/2019

INQUIRY INTO ALLEGATIONS OF BRIBE DEMAND AND IMPERSONATION BY A PRIVATE PERSON IMPERSONATING A CITY COUNTY GOVERNMENT EMPLOYEE

The EACC commenced investigations after a report that an employee of Nairobi City County solicited Kshs. 5000 as facilitation fee to assist the complainant recover his motorcycle registration number KMDT 071C that had been confiscated by the Nairobi City County Enforcement Officers.

A trap operation conducted led to the arrest of the suspect who solicited for Kshs. 5,000 and received Kshs. 4,000.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with two counts of receiving a bribe, contrary to section 6(1) (a) as read with section 18 (1) (2) of the Bribery Act No. 47 of 2016 and impersonating a public service employee contrary to section 105 (b) of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to warrant prosecution subject to identified areas being addressed.

The file was returned to EACC on 18th September 2019 directing prosecution to ensue subject to further investigations. The file was resubmitted on 16th October 2019 and the DPP upon review directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 11th December 2019 directing prosecution to ensue. Milimani ACC 3 of 2020 is ongoing.

**44. ODPP/CAM/5/019/296
EACC/OPS/INQ/3/2019**

AN INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO EMPLOYEES OF NAIROBI WATER AND SEWERAGE COMPANY

The EACC commenced investigations after a complaint that employees of Nairobi Water and Sewerage Company demanded Kshs. 300,000 in order to forebear charging the complainants for illegal water connection.

A trap operation conducted led to the arrest of one of the suspects for requesting Kshs. 300,000 and receiving the said amount.

On 2nd September 2019, the EACC report forwarded to the DPP 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), (2) of the Bribery Act no. 47 of 2016.

Upon review of the file on 27th February 2020, the DPP found sufficient evidence to warrant prosecution against the suspects, however there were areas to be addressed by further investigations before charges are filed in court.

On 11th March 2020 EACC resubmitted the file and upon review the DPP was satisfied there was evidence to sustain prosecution and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 14th April 2020 directing prosecution to ensue.

**45. ODPP/CAM/5/2019/288
CR.NO.411/28/2019**

INQUIRY INTO ALLEGATIONS OF REQUESTING AND RECEIVING A BRIBE BY AN EMPLOYEE OF NATIONAL TRANSPORT AND SAFETY AUTHORITY

The EACC commenced investigations after a complaint that an employee of National Transport and Safety Authority requested for a Kshs. 150,000 financial benefit from the complainant as an inducement to fix the complainant's motor vehicle with an inspection sticker when the motor vehicle had faded colour and defective lights.

A trap operation conducted led to the arrest of the suspect after he received Kshs.4, 000 trap money from the complainant.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspects be charged with two counts of the offence of receiving a bribe, contrary to section 6(1) (a) as read with section 18 (1), (2) of the Bribery Act no. 47 of 2016 and abuse of office.

Upon perusal of the file, the DPP found gaps to be covered by further investigation. On 21st January 2020, the file was resubmitted and upon review the DPP was satisfied that the evidence was sufficient to warrant prosecution and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 9th April 2020 directing prosecution to ensue.

45. ODPP/CAM/5/2019/286 EACC/KIS/OPS/INQ/9/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY AN OFFICIAL OF KENYA RURAL ROADS AUTHORITY (KeRRA) WITHIN MARANI SUB-COUNTY, KISII COUNTY

The EACC commenced investigations after a complaint that an official working with Kenya Rural Roads Authority, (KeRRA) requested for a Kshs. 10,000 financial benefit from the complainant to facilitate alteration of the road map so as to spare the complainant's water tank allegedly on the road reserve.

On 27th November 2018, a trap operation conducted led to the arrest of the suspect after he received Kshs. 10,000 trap money from the complainant.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspect be charged with requesting and receiving a bribe.

Upon perusal of the file, the DPP on 17th September 2019 found sufficient evidence to warrant prosecution, however there were areas to be addressed before charges were filed in court.

On 8th January 2020, the file was resubmitted with the identified areas addressed and the DPP upon review directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 18th February 2020 directing prosecution to ensue.

46. ODPP/CAM/05/019/301 EACC/ELD/OPS/ INQ/4/2019

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST COUNTY ENFORCEMENT OFFICERS OF MOIBEN SUB-COUNTY, UASIN GISHU COUNTY

The EACC commenced investigations after a complaint that the County Enforcement Officers demanded for a Kshs. 10,000 bribe from the complainant, in order to release an amplifier confiscated by the said officers during a raid at Kabato Night club in Moiben – Uasin Gishu County.

On 9th May 2019, a trap operation conducted led to the arrest of the suspects. One of the suspects received Kshs. 6,000 from the complainant.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspects be charged with receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file on 17th September 2019, the DPP found sufficient evidence to warrant prosecution, however to strengthen the prosecution case there were areas to be covered and file resubmitted by further investigation.

On 18th November 2019, the file was resubmitted and upon review on 20th March 2020, the DPP found sufficient evidence to sustain prosecution and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 20th March 2020 directing prosecution to ensue.

**47. ODPP/CAM/5/2019/303
EACC/OPS/INQ/13/2019**

**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST A PERIMETER SECURITY MANAGER**

The EACC commenced investigations on 7th December 2018, after complaints alleging that the Chief Operations Officer at Perimeter Protection Limited requested for a Kshs. 8,000 financial benefit to renew the complainant's employment contract with the said company.

On 7th December 2018, a trap operation conducted led to the arrest of the suspect who received Kshs. 2,000 trap money from the complainant.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspect be charged with receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP identified areas to be covered by further investigation and the file be resubmitted for further action. The file was returned to EACC on 22nd October 2019 directing further investigations.

The EACC resubmitted the file and the DPP upon review on 22nd May 2020 directed closure.

STATUS

The DPP returned the file to EACC on 22nd May 2020 directing closure.

**48. ODPP/CAM/5/019/304
EACC/BGM/OPS/5/2019**

**INQUIRY INTO ALLEGATIONS OF BRIBERY
AGAINST A POLICE OFFICER BASED AT
BUSIA POLICE STATION**

The EACC commenced investigations on 4th February 2019, after complaints alleging that the deputy OCS Busia Police Station, requested for a Kshs. 200,000

financial benefit which was later reduced to Kshs 50,000 to release motor vehicle UAQ 670K which was detained at Busia Police Station.

Investigations established that the suspect requested and received a financial benefit of Kshs. 50,000 from the complainant.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon review of the file on 17th September 2019, the DPP found sufficient evidence to warrant prosecution, however there were areas to be addressed by further investigation in order to strengthen the prosecution case.

On 20th March 2020, the file was resubmitted and having reviewed the evidence therein, the DPP directed for prosecution to ensue.

STATUS

The DPP returned the file to EACC on 20th March 2020 directing prosecution to ensue.

**48. ODPP/CAM/5/019/298
EACC/OPS/INQ/57/2019**

**AN INQUIRY INTO ALLEGATIONS OF
CORRUPTION AGAINST A NURSE BASED
AT MATHARI NATIONAL TEACHING
AND REFERRAL HOSPITAL REGARDING
REQUESTING A BRIBE**

The EACC commenced investigations after a complaint that a Nurse based at Mathari National Teaching and Referral Hospital requested for a Kshs. 100,000 financial benefit to facilitate the employment of the complainant as a Nurse at the Nairobi County Government.

The suspect had already received Kshs. 70,000 and was awaiting the balance of Kshs. 30,000.

A trap operation was organized where the suspect received the balance of Kshs. 30,000 trap money from the complainant.

On 2nd September 2019, the EACC report forwarded to DPP recommended that the suspect be charged with two counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP found sufficient evidence to warrant criminal culpability and directed prosecution to ensue.

STATUS

The DPP returned the file to EACC on 22nd October 2019 directing prosecution to ensue.

49. ODPP/CAM/5/019/291 EACC/OPS/INQ/56/2019

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST THE CHIEF-LUKENYA LOCATION, OCS KBC POLICE STATION MATUNGULU AND A POLICE INSPECTOR – JOSKA POLICE POST MATUNGULU

The EACC commenced investigations after a complaint that police officers from KBC Police Station requested for a Kshs. 50,000 financial benefit from the complainant to release his cattle detained at KBC police station.

The investigations established that the suspects requested for a Kshs. 50,000 bribe from the complainant and a trap operation was organized where the suspects received Kshs. 40,000 trap money from the complainant.

On 2nd September 2019, the EACC report forwarded to the DPP recommended that the suspects be charged with three counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016 and abuse of office contrary to section 46 of ACECA.

Upon perusal of the file, the DPP directed further investigations to strengthen the prosecution case. The file was returned to EACC on 10th December 2019 and resubmitted on 3rd February 2020. The DPP directed that a joint meeting be held.

STATUS

The DPP returned the file to EACC on 24th April 2020 pending the joint meeting.

FOURTH (4TH) QUARTER ODPP ANTI-CORRUPTION REPORT COVERING THE PERIOD 1ST OCTOBER 2019 TO 31ST DECEMBER 2019

1. ODPP/CAM/5/019/ 382 EACC/FI/INQ/21/2019

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST PUBLIC AND STATE OFFICERS FROM NAIROBI CITY COUNTY GOVERNMENT FOR CONFLICT OF INTEREST AND IRREGULAR PROCUREMENT, AWARD

AND IMPLEMENTATION OF CONTRACT FOR AWARDED HARDI ENTERPRISES LIMITED AND FIVE OTHER COMPANIES TENDER NO. NCC/WEFE&NR/276/2017-2018, HIRING OF HEAVY EQUIPMENT AND VEHICLES, IN THE FINANCIAL YEAR 2017/2018 AND WHERE NAIROBI CITY COUNTY GOVERNMENT PAID HARDI ENTERPRISES LTD KSHS 357,390,299 BETWEEN OCTOBER 2018 AND MARCH 2019

The EACC commenced investigations after allegations of corruption, procurement irregularities, misappropriation of public funds and conflict of interest at the Nairobi City County Government (NCC) by the Governor of Nairobi City County and the other officials, during the 2017/2018 financial year.

Investigations revealed that the Nairobi City County Government irregularly paid Kshs. 357,390,299 to M/s Hardi Enterprises Limited about tender No. NCC/WEFE&NR/276/2017-2018, for hire of heavy equipment and vehicles.

The EACC report forwarded to the DPP on 27th November 2019 recommended that the Governor, County Secretary, the Head Supply Chain Management, the negotiation of Nairobi City County Government, the Opening and Tender Evaluation committee members, the Deputy Dumpsite Manager, Dumpsite Manager and Hardi Enterprises be charged with the following offences:

- Conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003,
- Receiving bribe contrary to section 6 (1)(a) of the Bribery Act 2016,
- Dealing with suspect property contrary to section 47 (2) (a) of ACECA,
- Willful failure to comply with procurement procedures contrary to section 45(2) (b) of ACECA, 2003,
- Abuse of Office contrary to section 46 of ACECA,
- Public officer acting without authorization imposed under the PFM Act contrary to section 148(1&2) as read with 196 (7) (b) of PFMA Act,
- Deceiving principal contrary to section 41 (2) as read with Sec 48 of ACECA,
- Two counts of Willful failure to comply with procurement procedures contrary to section 45(2) (b) of ACECA, 2003,
- Unlawful failure to pay taxes contrary to section 45(1)(d),
- Unlawful acquisition of public property contrary to section. 45 (1) (a) of ACECA, 2003,
- Giving a bribe contrary to section 5 (1) of Bribery Act.

Upon perusal of the file, the DPP found sufficient evidence to sustain charges against the suspects and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 6th December 2019 directing prosecution to ensue. The cases Milimani ACC 31 of 2019, ACC 32 of 2019 and ACC 1 of 2020 are ongoing.

2. ODPP/CAM/5/019/383 EACC/FI/INQ/30/2019

INQUIRY INTO ALLEGATIONS OF FRAUDULENT ACQUISITION AND IRREGULAR ALLOCATION OF UNALIENATED LAND IN NAIROBI SOUTH "C" ESTATE

The EACC commenced investigations after an anonymous report that a city tycoon had commenced construction of a multi-storey building in a wetland designated as public land in South "C" Estate.

Investigations revealed that the land, Nairobi/Block 103, was located within a residential scheme. The block consists of 792 plots subdivided from LR. 209/10282, LR. 209/12175 and LR. 209/11141. Investigations further revealed that Nairobi/Block 103/793 was not allocated any use and neither did it exist in the survey plan records.

Investigations revealed that on 20th September 2012, a 99 years' certificate of lease for parcel Nairobi/Block 103/793, measuring approximately 0.2108 Ha was issued. Investigations further established that the lease certificate was issued based on a part development plan purportedly signed by a senior planner and a letter of allotment purportedly by then Town Clerk.

Further, that the ground visit and computation i.e. survey work, was done by a County licensed surveyor while the Amended Registry Index Map (RIM) was done at the Survey of Kenya.

Investigations established that the land was fraudulently acquired through forged documents and through an

irregular subdivision process marred with fraud and use of forged documents.

The EACC report forwarded to the DPP on 4th December 2019 recommended that the County Chief Officer Lands, the Secretary in the executive Office, an Advocate of the High Court, the Director Survey and Geographical Information, former Cateress in the office of the President and several business persons be charged with the following offences:

- Fraudulent acquisition of public property contrary to section 45(1) A,
- Two counts of abuse of office contrary to section 46,
- Eight counts of dealing with suspect property contrary to section 47(2) A,
- Fraudulent disposal of public property contrary to section 45(1) B of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA,
- Making a false document contrary to section 347 as read with section 349 of the Penal Code,
- Conspiracy to commit an economic crime contrary to section 47A of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA,
- Money laundering contrary to section 3(b) (iii) as read with section 16(1)(a) of Proceeds of Crimes and Anti- Money laundering Act and
- Unlawful acquisition of public property contrary to section 45(1) A of the Anti- Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA.

Upon perusal of the file, the DPP found gaps in evidence that needed to be addressed and directed that further investigations be carried out.

STATUS

The DPP returned the file to EACC on 29th January 2020 directing further investigations.

3. ODPP/CAM/05/19/32 EACC/ISL/FI/INQ/02/2019

INQUIRY INTO ALLEGATIONS OF CORRUPTION AND PROCUREMENT IRREGULARITIES AGAINST THARAKA NITHI COUNTY GOVERNMENT OFFICIALS IN THE PROCUREMENT AND AWARD OF TENDER TO SUPPLY, INSTALL AND COMMISSION A SOLID WASTE INCINERATOR

The EACC commenced investigations after a complaint that in 2018/2019 financial years, the Tharaka Nithi County Government irregularly procured a solid waste incinerator at Kshs. 40,000,000.

Investigations established that the procurement process was initiated without the NEMA license or the Bill of Quantities that resulted in the County acquiring the solid waste incinerator at an inflated price of Kshs. 34,998,500.

Investigations further established that the tender process was flawed and further that Generation Electronic & Allied Ltd, a company owned by a relative to the Governor Tharaka Nithi County, bought and imported the solid waste incinerator.

Evidence further pointed at a case of money laundering by the Westomaxx Investment Ltd Directors who signed a contract after submitting a forged performance bond from Madison Insurance. The contract sum was paid through Westomaxx Investment Ltd.

The EACC report forwarded on 8th October 2019 recommended that fifteen individuals: the Governor Tharaka Nithi County, Chief Officer Environment and Natural Resources, Ag. Director Procurement, the two Directors Westomaxx Investment Ltd, Director Generation Electronic & Allied Ltd, two Finance Officers, the Architect, two Procurement Officer II, an Accountant, Environment and Natural Resources Officer, Director Gentech Supplies Ltd and the proprietor, Gsort Ltd be charged severally and jointly with the following offences:

- Conflict of interest contrary to section 42(3),
- Two counts of conspiracy contrary to section 47(A) (3),

- Five counts of Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 as read with section 48 of ACECA,
- Four counts of fraudulent procurement practice contrary to section 66 (2) as read with section 77(a) Public Procurement and Asset Disposal Act, 2015,
- Uttering a false document contrary to section 353 as read with section 349 of the Penal Code,
- Fraudulent Acquisition of Public Property contrary to section 45(1),
- Two counts of money laundering contrary to section 42(3) of the Anti-Corruption and Economic Crimes Act, 2003 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,
- Unlawful failure to pay taxes contrary to section 45(1)(d) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP identified gaps in evidence that needed to be addressed and directed that the areas be covered and file resubmitted.

STATUS

The DPP returned the file to EACC on 24th January 2020 directing further investigations.

4. ODPP/CAM/5/019/333 EACC/ISL/FI/INQ/6/2018

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF DESIGN FOR THE CONSTRUCTION OF COUNTY ASSEMBLY OF THARAKA NITHI COUNTY

The EACC commenced investigations after a report that Tharaka Nithi County Assembly officials were involved in procurement irregularities in the tender number Kathwana T.No. TNCA/T/01/2015-2016 for the proposed construction of the County Assembly worth Kshs. 369,642,688.

Investigations established that the Tharaka Nithi

County Assembly had advertised for expression of interest for consultancy services for architectural designs on 23rd January 2014. Investigation further established that there were no approved architectural designs by the County's Physical Planner and neither was there a contract management committee to advise on payments.

Payments were authorized by the County Clerk and the Principal Finance Officer and made without the Procurement department's approval or acceptance by the Inspection & Acceptance committee.

The EACC report forwarded to the DPP on 4th December 2019 recommended that the Speaker Tharaka Nithi County, the Clerk Tharaka Nithi County, the Principal Finance Officer, the Senior Legal Counsel Baseline Architects Limited and Senior Quantity Surveyor be charged with the following offences:

- Willful failure to comply with the applicable procedures and guidelines relating to procurement contrary to section 45(2) (b) as read with section 48 of Anti-Corruption and Economic Crimes Act, 2003,
- Four counts of abuse of office contrary to section 46 of Anti-Corruption and Economic Crimes Act, 2003,
- Unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48 of Anti-Corruption and Economic Crimes Act, 2003,
- Fraudulent payment from public revenues for services not rendered contrary to sec 45 (2) (a) (iii) as read with section 48 of Anti-Corruption and Economic Crimes Act, 2003.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 24th January 2020, directing further investigations.

**5. ODPP/CAM/5/2019/332
EACC/ISL/FI/INQ/45/2016**

INQUIRY INTO ALLEGATION OF MISAPPROPRIATION OF PUBLIC FUNDS BY THE SAMBURU COUNTY GOVERNMENT COUNTY EXECUTIVE COMMITTEE MEMBER FOR AGRICULTURE DURING THE PURCHASE OF VACCINES IN THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016

The EACC commenced investigations after an allegation that the Samburu County Executive Committee Member for Agriculture misappropriated public funds in the purchase of vaccines in the 2013/2014, 2014/2015 and 2015/2016 financial years respectively.

Investigations established that the Samburu department of Agriculture prepared procurement plans for the 2013/2014, 2014/2015 and 2015/2016 financial years for the purchase of vaccines. Investigations further revealed that the Samburu County approved budget allocation of Kshs. 22 million, 20 million and 32 million for the 2013/2014, 2014/2015 and 2015/2016 financial years, for the purchase of vaccines.

The investigation further revealed that the department purchased the said vaccine(s) from a government institution known as Kenya Veterinary Vaccines Production Institute which does not handle cash and that all its transactions are done through the bank.

Additionally, the investigations established that there were procurement irregularities as the user department failed to seek and obtain approval from the Tender Committee before using direct procurement method and further that there was no written contract between Kenya Veterinary Vaccines Production Institute and the County Government in relation to the said purchase procurement.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the Samburu County Government undertakes administrative action against the Chief Officer Agriculture and Deputy County Director for Agriculture.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 20th May 2020, directing further investigations.

**6. ODPP/CAM/5/019/331
EACC/KSI/F1/INQ/10/2016**

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY OFFICIALS OF THE COUNTY GOVERNMENT OF NYAMIRA IN THE RECRUITMENT OF STAFF IN THE DEPARTMENT OF GENDER, YOUTH, SPORTS, CULTURE AND SOCIAL SERVICES (GYSC&SS)

The EACC commenced investigations after an informant reported that there was irregular/illegal recruitment in the Department of Gender, Youth, Sports, Culture & Social Services (GYSC&SS) in the County Government of Nyamira.

In June 2016, the County Government of Nyamira advertised for twenty (20) vacancies in different positions. The Nyamira County Public Service Board (PSB) proceeded to recruit forty-four (44) persons and later increased the number to 56 persons without the approval of the Cabinet.

Investigations established that the recruitment process was marred with influence peddling, corruption, nepotism, and clannism. Further, the investigations revealed that the County Executive Committee Member in the Department of Gender, Youth, Sports, Culture and Social Services, the Chairperson, Vice Chair, and the Secretary County Public Service Board used their official position to unduly influence the recruitment process.

Investigations further established that some of the recruited staff had presented forged academic certificates when applying for the positions while others did not qualify for the position offered.

Further, that although appointment and deployment letters were issued to all the 56 irregularly recruited staff, they never reported to their respective stations. It was further confirmed that following protests from the Board members, County Assembly, Deputy Governor, and the user department, the process was nullified.

The EACC report forwarded to the DPP on 4th December 2019 recommended that the County Executive Committee in the department of GYC&SS, Chairperson, Secretary and a Commissioner at Nyamira Public Service Board, assistant Director Administration in the department of GYC&SS, Nyamira Chief Officer-Lands, Nyamira Principal Culture Officer and two members of the public be charged with the following offences:

- Four counts of Abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,
- Three counts of Forgery contrary to section 345 as read with section 349 of the Penal Code,
- Three counts of uttering a false document contrary to section 353 of the Penal Code,
- Three counts of making a document without authority contrary to section 357(a) of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to sustain charges against the suspects and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 4th June 2020 directing that prosecution ensue.

7. ODPP/CAM/5/019/340 EACC/OPS/INQ/103/2019

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST AN EMPLOYEE IN THE MINISTRY OF LANDS

The EACC commenced investigations after a Nairobi County resident reported that in 2015 after he applied for a lease certificate for parcel number, Nairobi/Block

152/136, at the Land Office at Ardhi House, they made several visits to the said office in vain.

On 25th June 2019, while on visiting the land's office, they met an assistant Customer Care Officer who assured them of assistance and demanded for a Kshs. 3,000.00 bribe to facilitate the processing of the lease certificate.

The EACC conducted a trap operation on 26th June 2019, where the said officer received Kshs. 3000.00 treated money. Investigations established that the evidence obtained was sufficient to sustain charging the suspect for requesting and receiving a bribe.

The EACC report forwarded to the DPP on 23rd October 2019, recommended that the suspect be charged with two counts of receiving a bribe, contrary to Section 6(1) (a) as read with Section 18 (1), (2) of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP found areas that required further investigation and directed the same to be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 12th March 2020 for further investigations.

8. ODPP/CAM/5/019/326 EACC/MSA/PI/INQ/03/19

INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE AND ACCRUAL OF IMPROPER BENEFITS BY THE GENERAL MANAGER MOMBASA PORT OPERATIONS AND HARBOR ON THE 25TH AND 26TH DECEMBER 2018

The EACC commenced investigations after a complaint on 23rd January 2019 that between 25th and 26th December 2018, the General Manager Mombasa Port Operations and Harbor abused his office and accrued improper benefits at Kenya Ports Authority in regard to towing of MV Serval which had stalled at sea.

Investigation revealed that KPA was requested to provide the towing services for MV Serval. It was towed from the Sea to Kilindini Port at the cost of USD 300,000. The said amount was paid to KPA through a bank account and a clearance certificate issued.

Investigations further established the General Manager never received any benefit and that the towing services were properly rendered and as such, the charges of abuse of office could not be sustained against the two suspects.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the file be closed.

Upon perusal of the file, the DPP concurred with the recommendations that the file be closed for insufficient evidence.

STATUS

The DPP returned the file to EACC on 19th May 2020 directing closure.

9. ODPP/CAM/5/019/334 EACC/AT/INQ/58/2017

INQUIRY INTO ALLEGATIONS THAT ERA TWO THOUSAND ENTERPRISES IS SUSPECTED TO HAVE DEFRAUDED THE GOVERNMENT OF KSHS 1,173,234,004 FOR THE SUPPLY OF STATIONERY AND CHEMICALS TO THE STATE DEPARTMENT OF PLANNING AND STATISTICS, YOUTH AFFAIRS AND INTERIOR

The EACC commenced investigations after a report received on 13th July 2017 that two companies, Big Sale Superstore and Era Two Thousand Enterprises owned by the same proprietor, were suspected to have defrauded government ministries of monies to a tune of Kshs. 1,173,234,004 in a period of seven months between 1st January 2016 and August 2016.

Investigations revealed that Era Two Thousand Enterprise entered into a contract with the supplies branch of the Ministry of Lands, Housing and Urban

Development under contract number S/69652. The contract was for the supply of provisions and foodstuff.

The State Department of Public Service and Youth and the State Department of Interior adopted the contract as a general practice. Era Two Thousand was therefore issued with several LPOs from the said state Departments. NYS issued 21 LPOs while Administration Police Service issued 40 LPOs.

Investigation further established that the company supplied the goods requested and payment was made based on the delivery notes. The State Department of Public Service and Youth and the State Department of Interior paid Kshs 256,524,300 to Big Sale Superstore and Kshs. 1,173,324,625 to Era Two Thousand Enterprise. Investigations did not reveal any fraud on the part of the two companies as alleged.

Investigations further revealed that the proprietor failed to file tax returns since the year 2016 amounting to Kshs. 887,971,580. However, he paid Kshs. 117,000,000 and gave KRA a Kshs. 100,000,000 invoice to enforce collection through agency notice.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the file be forwarded to Kenya Revenue Authority (KRA) to pursue the tax offences.

Upon perusal of the file, the DPP concurred with the recommendation and directed that KRA pursue alternative dispute resolution to collect the pending taxes.

STATUS

The DPP returned the file to EACC on 19th May 2020 directing KRA to pursue alternatives to prosecution.

10. ODPP/CAM/5/019/341 EACC/KIS/EL/INQ/6/2018

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST A MEMBER OF COUNTY ASSEMBLY KEGOGI WARD IN KISII COUNTY

The EACC commenced investigations after a report that the current Member of County Assembly (MCA

for Kegogi Ward within Kisii County, used forged certificates belonging to a different person for purposes of vying for the said position.

The names on the certificate are Kepha Sokoro Nyakundi while his real name is Joseph Onchong'a.

Investigations revealed that the MCA for Kegogi Ward used Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary School (KCSE) certificates belonging to Kepha Sokoro Nyakundi, to enroll for a degree course at Kisii University, Eldoret Campus.

Further, that the said MCA was currently pursuing a master's degree at Jomo Kenyatta University of Agriculture and Technology (JKUAT), Eldoret Campus. The MCA submitted the duly filled EACC self-declaration form for clearance on 4th May 2017 at the EACC desk Eldoret Huduma Centre attaching the KCSE certificate belonging to Kepha Sokoro Nyakundi, for purposes of vying for the MCA seat. Investigations established that the handwriting on the declaration form belonged to the MCA.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with the following offences:

- Three counts of providing false information contrary to section 46(1)(d) as read with section 46(2) of the Leadership and Integrity Act, 2012, Laws of Kenya,
- Three counts of personation of a person named in a certificate contrary to section 384 of the Penal Code,
- Three counts of uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found gaps and deficiencies and directed that further investigations be carried out and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 15th April 2020 directing further investigations.

11. ODPP/CAM/5/019/342 EACC/ELD/EL/INQ/25/2017

INQUIRY INTO ALLEGATIONS THAT A PUBLIC OFFICER FALSIFIED DOCUMENTS TO SECURE EMPLOYMENT AT THE MOI TEACHING AND REFERRAL HOSPITAL (MTRH)

The EACC commenced investigations after an anonymous report that an officer was appointed as Public Relations assistant at the MTRH on contract basis on 3rd November 2014 upon submitting a forged diploma certificates in social work and public relations.

Subsequently, on 24th November 2015 he was appointed as Public Relations Officer I on permanent and pensionable terms after submitting a degree certificate in mass communication (News Writing) option from Multi Media University College.

Investigations revealed the diploma certificates in social work and public relations used by the suspect were neither from East Africa Vision Institute nor the degree certificate in mass communication Multi Media University as alleged. The certificates were forged.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with the following offences:

- Four counts of uttering a false document contrary to section 353 of the Penal Code,
- Four counts of making a false document contrary to section 347 (a) as read with section 357(b) of the Penal Code,
- Deceiving principal contrary to section 41(1) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 14th February 2020 for further investigations.

12. ODPP/CAM/5/019/335 EACC/MCKS/EL/INQ/2/2019

INQUIRY INTO ALLEGATIONS THAT A COUNTY EXECUTIVE COMMITTEE MEMBER FOR TRADE, KITUI COUNTY GOVERNMENT PRESENTED A FORGED DEGREE CERTIFICATE DURING HIS APPOINTMENT AS A COUNTY EXECUTIVE MEMBER

The EACC commenced investigations after allegations that the County Executive Committee member (CEC), Trade, Cooperative & Investment in Kitui County Government presented forged a degree certificate and Kenya Certificate of Secondary Education (KCSE) certificate during the recruitment that led to his appointment as CEC Member in the 2017/18 financial year.

Investigations established that the degree certificate in business administration in information technology was purportedly issued by Mt. Kenya University. The CEC attached the degree certificate to his self-declaration form submitted to the Commission on 21st September 2017.

Investigations further established that the degree certificate was forged and that Mount Kenya University does not offer degree courses in business administration in information technology.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with the following offences:

- Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003,
- Deceiving Kitui County Government contrary to section 46 (1) (b) as read with section 46 (2) of the Leadership and Integrity Act, Cap. 182 Laws of Kenya,
- Two counts of uttering a false document Contrary to section 353 of the Penal Code, as read with section 349 of the Penal Code.

Upon perusal of the file, the DPP concurred with the recommendations for prosecution subject to identified gaps in evidence being addressed to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 20th March 2020 for further investigations.

13. ODPP/CAM/5/019/325 EACC/MSA/EL/INQ/3/19

INQUIRY INTO ALLEGATIONS THAT THE MEMBER OF THE COUNTY ASSEMBLY FOR AIRPORT WARD, IRREGULARLY TRANSFERRED KSHS 100,000 FROM THE WARD'S OFFICE ACCOUNT TO HIS PERSONAL ACCOUNT AND THAT HE HAD ALSO IRREGULARLY EMPLOYED HIS WIFE TO THE WARD OFFICE AS A MANAGER

The EACC commenced investigations after a report that the Member of the County Assembly for Airport Ward Mombasa County illegally transferred public funds totaling to Kshs. 100,000 from the Ward bank account number 01141619143900 to his personal bank account and that he also irregularly employed his spouse as the Ward Manager.

Investigation established that the MCA employed his wife as Ward Office Manager without disclosing this fact to the Mombasa County Assembly Clerk. Investigation further established that on 20th February 2018, the MCA transferred Kshs. 100,000 from the Ward account to his personal account.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with failure to disclose a private interest to one's principal contrary to section 42(1) as read with section 48(1) of the Anti-Corruption, and Economic Crimes Act and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the DPP found areas that required further investigation and directed the same to be covered and file resubmitted.

STATUS

The DPP returned the file to EACC on 13th May 2020, directing further investigations.

**14. ODP/CAM/5/019/329
EACC/EL/INQ/68/2017**

INQUIRY INTO ALLEGATIONS OF FORGERY OF ACADEMIC CERTIFICATES BY THE MEMBER OF COUNTY ASSEMBLY OF KAJIADO

The EACC commenced investigations after an anonymous complaint that an aspirant for the Kajiado West constituency parliamentary seat forged a certificate from JKUAT University, which he also used to get admission at the University of Nairobi.

Investigations established that the MCA presented a forged KCPE certificate to JKUAT, which led to him being awarded a certificate in county governance. Investigations further revealed that the MCA subsequently attached the certificate from Jomo Kenyatta University of Agriculture and Technology to the self-declaration form submitted to EACC indicating that he had attained that level of education. Further, the MCA acted as a Commissioner for Oaths by commissioning the said document, yet he was not a Commissioner for Oaths.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the Keekonyokie Ward MCA be charged with the following offences:

- Providing false information contrary section 46(1)(d) as read with section 46(2) of the Leadership and Integrity Act, 2012,
- Uttering a false document contrary to section 353 of the Penal Code,
- Deceiving a public entity contrary to section 46 (1) (b) as read with Section 46 (2) of the Leadership and Integrity Act,
- Unlawfully acting as a Commissioner for Oaths contrary to section 7 of the Oaths and Statutory Declarations Act.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted.

STATUS

The DPP returned the file to EACC on 15th May 2020 directing further investigations.

**15. ODP/CAM/5/019/327
EACC/ELD/EL/INQ/10/2017**

INQUIRY INTO ALLEGATIONS THAT THE MEMBER OF COUNTY ASSEMBLY FOR KAPOMBOI WARD FALSIFIED AN ACADEMIC CERTIFICATE

The EACC commenced investigations after a report that an Enforcement Officer I in Trans Nzoia County presented to the Human Resource department personal documents that included a sworn affidavit stating that Ben Wanjala Wanyonyi and Wanyonyi Henry B referred to the same person. He said that the Kenya Certificate of Secondary Education (KCSE) certificate No. 503205/066 in the name of Wanyonyi Henry B was his.

Investigations established that the names belong to two different people and thus the KCSE certificate belonged to Mr. Wanyonyi Henry B. Investigations further established that the officer had indicated in the self-declaration form that he attained a D+ in his KCSE examinations. The officer used the fake certificate to secure employment at the County on contract basis.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with the following offences:

- Providing false information contrary section 46(1)(d) as read with section 46(2) of the Leadership and Integrity Act, 2012,
- Two counts of making false declaration contrary to section 11 of the Oaths and Statutory Declarations Act,
- Impersonating a person named in a certificate contrary to section 384 of the Penal Code,

- Forgery Contrary to section 347 of the Penal Code,
- Uttering a false document Contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted.

STATUS

The DPP returned the file to EACC on 24th April 2020 directing further investigations.

16. ODPP/CAM/5/019/337 EACC/ELD/OPS/ INQ/10/19

INVESTIGATION INTO BRIBERY ALLEGATIONS AGAINST A CIVIL ENGINEER AT THE COUNTY GOVERNMENT OF UASIN GISHU AND A MEMBER OF THE PUBLIC

The EACC commenced investigations after a complaint lodged on 18th June 2019 that a person purporting to be a civil engineer attached to Uasin Gishu County Government called the complainant and demanded a Kshs. 100,000 bribe as an inducement to prepare a favorable inspection report for rental apartments at Subaru area within Eldoret Municipality.

Investigations established that the civil engineer paid a bribe of Kshs. 60,000. The EACC organized an operation and Kshs. 10,000 operation money was received by the civil engineer's proxy, Hezron Motindu Ondari, who is a businessman in Eldoret town. Further, out of the Kshs. 10,000 treated trap money, only Kshs. 9,000 was recovered from the two suspects as they had already spent Kshs.1000.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the Uasin Gishu County Government's civil engineer and his proxy be charged with three counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP concurred with the recommendation and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 24th April 2020 directing that prosecution ensue.

18. ODPP/CAM/5/019/330 EACC/OPS/INQ/146/2018

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE AGAINST A POLICE OFFICER AT INDUSTRIAL AREA POLICE STATION

The EACC commenced investigations after a complainant alleged that three friends operating a car hire business were arrested and detained at Industrial Area Police Station. The three had gone to report a stolen motor vehicle, Toyota Axio, registration No. KCN 885V, which was in the custody of one of their clients.

However, a police officer at the station advised them to pay Kshs. 100,000 each. Kshs. 50,000 would be receipted and the other Kshs. 50,000 used to facilitate their release without being taken to court.

Investigations established that the police officer received Kshs. 30,000 in order to dismiss the case. Investigations further established that the request amounted to requesting and receiving a financial benefit to facilitate release of the two businessmen from police custody.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with three counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

The DPP upon perusal of the file, the DPP concurred with the recommendation and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 14th April 2020 directing prosecution to ensue. The case Milimani ACC 6 of 2020 is ongoing.

**19. ODPP/CAM/5/019/324
EACC/OPS/INQ/161/2018**

ALLEGATIONS OF CORRUPTION LEVELLED AGAINST THE QUALITY MANAGER AT FREEDOM AIRLINES EXPRESS

The EACC commenced investigations after a report that a Kenya Civil Aviation Authority (KCAA) Airworthiness Inspector made a Kshs. 300,000 financial demand through his colleague, a Quality Manager at Freedom Airlines Express Limited.

The financial benefit was to influence the outcome of an investigation being conducted by KCAA against the Freedom Airlines Express manager.

Investigations established that the Kshs. 300,000 demand was not substantiated, and neither was it captured in the audio recordings. The entire audio recordings did not disclose a specific amount that constituted a bribe. Further investigations revealed that the suspect never received the treated trap money amounting to Kshs. 200,000.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the file be closed.

Upon perusal of the file, the DPP found that the evidence on record was insufficient to sustain charges under the Bribery Act and accepted EACC's recommendation for closure of the file.

The DPP further directed that an advisory do issue to Kenya Civil Aviation Authority to ensure they enforce their recommendations in relation to the investigations on Freedom Airlines Express.

STATUS

The DPP returned the file to EACC on 2nd June 2020 directing closure and an advisory to Kenya Civil Aviation Authority.

**20. ODPP/CAM 5/019/339
EACC/MCKS/OP/INQ/52/2018**

ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE NATIONAL POLICE SERVICE

The EACC commenced investigations after a complaint that a police officer attached to Machakos Police Station requested for a Kshs. 10,000 financial benefit to drop charges of giving false information to a police officer against Benson Nzioka Mboi who had falsely reported a case of defilement at Machakos Police Station.

Investigations established that the police officer requested for the financial benefit of Kshs 10,000. She received Kshs 8, 000 treated money that was later recovered from her by the EACC officers.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with three counts of receiving a bribe contrary to section 6(1) as read with section 18 of the Bribery Act, 2016.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 24th April 2020, directing further investigations.

**21. ODPP/CAM/5/019/338
EACC/OPS/INQ/187/2018**

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ASSISTANT PROCUREMENT OFFICER AT THE RIFT VALLEY WATER SERVICES BOARD

The Commission and the National Police Service traffic department launched a joint multi-agency operation on all the major highways across the country during the December 2018 to January 2019 festive season. The

objective was to ensure that motorists adhere to traffic rules and those breaching arrested. Those who bribed officers executing the operation were also arrested by the EACC officers and charged for bribery.

On 19th December 2018 while in the course of the operation in Nakuru at the KFA roundabout along the Nairobi-Nakuru-Eldoret highway, the multi agency team arrested a passenger in a motor vehicle registration No. KBT 357T who had failed to buckle up the safety belt.

Investigations revealed that when asked why he did not have his safety belt on, the passenger requested to be pardoned. However, when the driver was asked to produce his driving license, the driver handed over his driving license with Kshs. 500 tucked in it. He informed the officer to keep the money and return his driving license since he was taking the passenger to a workshop at Egerton hotel.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the suspect be charged with giving a bribe contrary to section 5 (1) as read with section 18 (1) (2) of the Bribery Act No. 47 of 2016.

Upon perusal of the file, the DPP noted that the value of the subject matter was not commensurate with the time and resources that would be expended in the prosecution of the suspect and directed closure of the file.

STATUS

The DPP returned the file to EACC on 6th April 2020 directing closure.

22. ODPP/CAM/5/019/336 EACC/OPS/INQ/7/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TRAFFIC AND GENERAL DUTIES POLICE OFFICERS FROM LONDIANI AND CHEPSEON POLICE STATIONS

The EACC commenced investigations after complaints from members of the public that traffic police officers

openly and carelessly extorted money from drivers plying the Nakuru-Kericho road.

The Commission conducted a surveillance operation along the road between 17th December 2017 and 20th January 2018. They established that the police officers took bribes from motorists. Furthering the investigations, the suspected police officers were positively identified by their superiors.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that disciplinary action be taken by the National Police Service Commission against the police officers.

Upon perusal of the file, the DPP concurred with the recommendation and directed that the suspects be subjected to administrative action.

STATUS

The DPP returned the file to EACC on 15th May 2020 directing that administrative action be taken on the suspects.

23. ODPP/CAM/5/019/328 EACC/MLD/OPS/INQ/05/2018

ALLEGATION OF BRIBERY AND UNETHICAL CONDUCT BY A JUDICIAL OFFICER AT MALINDI LAW COURTS

The EACC commenced investigations after a report alleging unethical conduct and bribery against the Malindi's Senior Resident Magistrate. The magistrate had an affair with the plaintiff in Children Case No. 23 of 2014 and further received Kshs. 20,000.00, which adversely worked against the defendant in the case.

It was further alleged that the magistrate received a Kshs. 20,000 bribe from the plaintiff through one of her employees. The defendant filed an application for the magistrate to recuse himself from the case, but the application was dismissed.

Investigations established that indeed the magistrate had an affair that resulted in conflict of interest in

executing their duty in the children case. However, there was no cogent evidence that the magistrate received Kshs. 20,000 as a bribe.

The EACC report forwarded to the DPP on 23rd October 2019 recommended that the magistrate be subjected to disciplinary action for breaching the Judicial Code on conflict of interest.

Upon perusal of the file, the DPP concurred with the recommendation and directed that the Judicial Service Commission (JSC) subject the suspect to administrative action.

STATUS

The DPP returned the file to EACC on 5th May 2020 directing that the Judicial Service Commission takes administrative action on the suspect.

24. ODPP/CAM/5/019/323 EACC/BGM/FI/INQ/14/2019

INQUIRY INTO ALLEGATIONS AGAINST BUSIA COUNTY SECRETARY FOR FAILING TO PROVIDE DOCUMENTS

The Commission commenced investigations after an anonymous report that an accountant in Busia County Government Finance and ICT department embezzled public funds using three companies that irregularly received Kshs. 56 million for alleged supply of stationary to the County.

Investigations established that the County Government of Busia irregularly paid three companies: Evam Enterprise Limited, Draccy Enterprise Limited, and Loviannah Enterprise Kshs. 56 million. However, the County Secretary failed to provide the information relating to the issue as requested.

The letters requesting documents were received at the County Government of Busia but no documents were supplied. The County Secretary only wrote to the various county departments requesting for documents after the inferno of 25th September 2019, despite being aware of the destruction of the evidence.

Investigations further revealed that the Busia County Government Accountant was a director of Evam Enterprise Limited, one of the beneficiaries of the Kshs. 56 million and that the other two companies belonged to his relatives.

The EACC report forwarded to the DPP on 29th October 2020 recommended that the Busia County Secretary, Chief Finance, Economic Planning and ICT department, Busia County Government Accountant and Ag. Director, Accounting Services be charged with the following offences:

- Conspiracy to commit an offence of economic crime contrary to section 47A(3) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,
- Concealing of records contrary to section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003,
- Failing to comply with a written notice to provide information contrary to section 27(3) as read with section 27(4) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003,
- Two counts of neglect of official duty by a public officer contrary to section 128 as read with section 36 of the Penal Code.

Upon perusal of the file, the DPP directed that further investigations be carried out and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 4th January 2020 directing further investigations.

25. ODPP/CAM/5/019/380 EACC/ELD/FI/INQ/58/2016

INQUIRY INTO ALLEGATION OF ABUSE OF OFFICE, CONFLICT OF INTEREST AND NON-COMPLIANCE WITH PROCUREMENT LAWS BY THE TURKANA SOUTH CONSTITUENCY FUND ACCOUNT MANAGER BY AWARDING TENDERS TO HIS COMPANIES DURING THE 2014/2015 FINANCIAL YEAR

The EACC commenced investigations after an anonymous report that during the 2016/2017 financial years, the Turkana South Constituency Development Fund (CDF) Fund Manager awarded a tender for planting of trees in the CDF offices compound in Lokichar trading centre for the sum of Kshs. 1.9 million to a company where he is a director.

It was further alleged that the tender was not advertised, that the total cost of the project was paid before the works were done and that the works had not been done as at the time of this investigation.

Investigations established that the request for quotations procurement method used did not meet the required threshold for quotations. Further, that the Fund Manager submitted a bid for his company that was awarded the contract.

Investigations further revealed that the Fund Manager sat in the Turkana South Constituency Development Fund meeting held on 14th September 2015 to deliberate payments of Kshs. 1,800,000.00 to his company, Parabuku Logistics and Fleet Hire Management Ltd, for branding CDF projects. He did not disclose his interest in the contract.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the Fund Manager, Parabuku Logistics and Fleet Hire Management Ltd and the Fund Manager's wife be charged with the following offences:

- Fraudulent acquisition contrary to section 45(1)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act,

- Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act,
- Eight forgery contrary to section 347(a) as read with section 349 of the Penal Code,
- Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act,
- Willful failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the DPP found sufficient evidence to sustain the charges recommended by EACC and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 19th May 2020 directing prosecution to ensue.

26. ODPP/CAM/5/019/365 EACC/MSA/PI/INQ/22/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF MEDICAL INSURANCE COVER AT A COST OF KSHS 78 MILLION AT TECHNICAL UNIVERSITY OF MOMBASA DURING THE FINANCIAL YEAR 2017/2018

The Commission commenced investigations after a complaint that officials of the Technical University of Mombasa (TUM) were involved in procurement irregularities, bribery, and abuse of office in the procurement of staff medical insurance cover for the 2017/2018 financial year.

Investigations established that the contract for provision of staff medical insurance services for 2016/2017 financial year tender No. TUM/MEDI/2016-2017 for the sum of Kshs. 85,699,998 was signed before the lapse of 14 days after the award of the contract. Further, that different persons were appointed to the negotiation committee in place of the initial members of the Tender Evaluation committee.

Despite these, the PPAR Board on 4th May 2017 held that the procuring entity was at liberty to proceed with the procurement to its logical conclusion despite noting the irregularities in the contract signed.

The EACC report forwarded to the DPP on 25th November 2019 recommended that administrative action be taken against the culpable officers and also that an advisory be issued to the procuring entity to ensure that they comply with the relevant procurement laws.

Upon perusal of the file, the DPP noted that the evidence was insufficient to sustain any charges against the suspects and thus concurred with the recommendation that administrative action be taken against the suspects. He further directed that an advisory be issued to the institution to ensure compliance with the procurement laws in their procurement.

STATUS

The DPP returned the file to EACC on 2nd June 2020 directing administrative action on the suspects and an advisory to Technical University of Mombasa.

27. ODPP/CAM/5/019/367 EACC/KSM/PI/INQ/02/2014

INVESTIGATION INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR RESIDENT MAGISTRATE AND STATION ACCOUNTANT RESPECTIVELY, KEHANCHA LAW COURTS.

The EACC commenced investigations after a complaint that a Magistrate based at the Kehancha Law Courts incurred running and servicing expenses on a motor vehicle registration No. GK A 020 Land Rover that was at the relevant time grounded following an accident.

He converted Kshs. 150,000 meant for fueling the government vehicle for his personal vehicle registration No., KAR 312 C with the help of the accountant.

Investigations revealed that the government vehicle attached to Kehancha Law Courts was involved in an accident on 16th February 2012 and was towed to CMC Motors Ltd in Kisumu for repairs on 2nd March 2012,

where it stayed up to 7th March 2013. During this time, the station driver was deployed at the customer care desk.

Investigations further established that during the period the vehicle was at the garage, the Magistrate being the AIE holder, incurred the following expenses purportedly for the vehicle.

- Kshs. 12,000 to Kehancha Metal Works for servicing the motor vehicle engine and exhaust,
- Kshs. 58,000 to Waloot Technical Services for the redecoration of horse pipe,
- Kshs. 397,056 fuel at the Haki na Jasho filling station.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the Magistrate, Accountant, Mechanic and a Business lady be charged with the following offences:

- Six counts of abuse of office contrary to section 46 as read with section 48[1] of the ACECA,
- Three counts of fraudulent disposal of public property contrary to section 45(1) (b) as read with section 48(1) of the ACECA,
- Fraudulently making payment from public revenue for services not rendered contrary to section 45(2)(b)(iii) as read with section 48[1] of the ACECA,
- Two counts of conspiracy to commit an economic crime contrary to section 47A (3) as read with section 48[1] of the ACECA.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 24th February 2020 directing further investigations.

28. ODPP/CAM/5/019/370 EACC/AT/INQ/56/2007

INQUIRY INTO ALLEGATIONS OF FINANCIAL MALPRACTICE AGAINST THE TURKANA DISTRICT ACCOUNTANT

The EACC commenced investigations after a complaint that the former Turkana district Accountant engaged in financial malpractices.

The evidence established financial malpractice at the Turkana district's treasury office. The Accountant irregularly processed and approved 29 imprest warrants occasioning a loss of Kshs. 2,600,060. However, he was willing to refund the amount.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the process of recovery be initiated.

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

STATUS

The DPP returned the file to EACC on 20th May 2020 directing that prosecution ensue.

Investigations revealed that the degree certificate number /17 8721 as well as the academic transcripts used to secure employment were not issued by JKUAT. Further, that the deputy Registrar, College of Human Resource, and Development at JKUAT fraudulently issued the employee with a letter dated 15/12/2016 indicating that he had successfully completed his studies, yet he had not.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the Tharaka Nithi County ICT Officer I and the deputy Registrar, College of Human Resource and Development at JKUAT be charged with the following offences:

- Three counts of making false documents contrary to section 347(a) as read with section 349 of the Penal Code,
- Three counts of uttering false documents section contrary to section 353 of the Penal Code,
- Abuse of abuse contrary to section 46 as read with section 48 of the Anti- Corruption and Economic Crimes Act.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for directions.

STATUS

The DPP returned the file to EACC on 20th March 2020, directing further investigations.

29. ODPP/CAM/5/019/376 EACC/EL/INQ/49/2016

INQUIRY INTO ALLEGATIONS OF FORGERY AGAINST AN EMPLOYEE OF THE COUNTY GOVERNMENT OF THARAKA NITHI

The EACC commenced investigations after a report that an ICT Officer employed by the Tharaka Nithi County submitted a forged degree certificate number /17 8721 – Bachelor of Business Information from Jomo Kenyatta University of Agriculture and Technology (JKUAT) to secure employment as an ICT Officer.

30. ODPP/CAM/5/019/381 EACC/EL/INQ/53/2017

ALLEGATIONS OF FALSIFYING ACADEMIC DOCUMENTS BY THE ODM SENATORIAL ASPIRANT FOR NAIROBI COUNTY AND USING THEM TO SECURE EMPLOYMENT AT THE KENYA INVESTMENT AUTHORITY

The EACC commenced investigations after a letter from Kenya Investment Authority (KIA) dated 24th April 2017 that an officer had used falsified academic papers to secure employment at KIA.

Investigations established that the individual secured employment at KIA, Nairobi City Council Government (NCCG) and Moi Teaching and Referral Hospital MTRH using forged academic certificates.

These included a master's degree from Daystar University, bachelors degree from Maseno University and Diplomas in Project Management, Diploma in HIV Counseling, Certificate in Project Planning and Management all from Catholic Diocese of Nakuru.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the Nairobi City Council Government Ward Administrator, Mathare Sub County be charged with the following offences:

- Five counts of forgery contrary to section 345 as read with section 349 of the Penal Code,
- Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Act,
- Four counts of providing false information to public bodies contrary to section 46(2)(1)(d) as read with section 46(2) of the leadership and integrity Act,
- Two counts of uttering a false document contrary to section 353 of the Penal Code.

Upon perusal of the file, the DPP found areas that required further investigation, and directed the same to be covered and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 27th May 2020 directing further investigations.

31. ODPP/CAM/5/019/379 EACC/ELD/EL/ INQ/03/2015

INVESTIGATION INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE PRINCIPAL, ZIWA TECHNICAL TRAINING INSTITUTE, NOW ELDORET NATIONAL POLYTECHNIC- ZIWA

The EACC commenced investigations after a complaint that the Eldoret National Polytechnic's Principal

authorized the release of 37 bags of cement from Eldoret Polytechnic's main campus and fraudulently diverted the same for the construction of his own house under the pretext that they were being delivered to Eldoret Polytechnic's Ziwa Campus.

Investigations established that only seven bags of cement were issued from the main campus on 5th February 2014 and that they were all delivered to Ziwa campus and properly documented. Investigations further established that the gate pass submitted was altered to read 37 instead of seven bags of cement.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the inquiry file be closed.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted.

STATUS

The DPP returned the file to EACC on 15th May 2020 directing further investigations.

32. ODPP/CAM/5/019/371 EACC/ELD/OPS/INQ/25/2018

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PRIVATE PERSON AND TWO KPLC OFFICERS RESPECTIVELY IN KITALE, TRANSNZOIA COUNTY

The EACC commenced investigations after a complaint that Kenya Power & Lighting Company (KPLC) officers had disconnected their electric power line and demanded a Kshs.5000 bribe to reconnect the power.

Investigations established that on 20th November 2018, a private person and two KPLC officers deployed to Kitale town in Trans Nzoia County, met with the complainant and jointly requested for a Kshs. 5000 financial benefit from him in order to reconnect his electricity power line.

Investigation further established that on 21st November 2018, the private person was arrested receiving Kshs. 5000 trap money on behalf of the KPLC officers. The private person had presented himself as a KPLC officer and subsequently disconnected the electricity power line.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspects be charged with the following offences:

- Two counts of request for bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act,
- Conspiracy to commit a corrupt offence contrary to section 47(A)(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act No 3 Of 2003,
- Impersonating a person employed in the Public Service contrary to section 105(B) of the Penal Code.

Upon perusal of the file, the DPP found sufficient evidence to sustain the charges proposed by EACC and directed that prosecution ensue.

STATUS

The DPP returned the file to EACC on 14th April 2020 directing prosecution to ensue.

33. ODPP/CAM/5/019/378 EACC/OPS/INQ/155/2019

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS MANNING GARISSA TOWN – MODIKA ROAD

The EACC commenced investigations after anonymous complaints on diverse dates from motorists that the traffic police officers manning Garissa town –Modika road were notorious for receiving bribes from motorists for unspecified offences.

An undercover surveillance carried out from 9th to 24th September 2018 revealed that the traffic police officers manning the Garissa town –Modika road engaged

in corrupt conduct. However, the video clips were insufficient to support bribery charges as no money was recovered and the exact amount of money received unknown.

The EACC report forwarded to the DPP on 25th November 2019 recommended that administrative action be taken against the police officers.

Upon perusal of the file, the DPP found insufficient evidence to support the bribery charges against the suspects and directed that two of the suspects face administrative action.

STATUS

The DPP returned the file to EACC on 30th January 2020 directing administrative action.

34. ODPP/CAM/5/019/368 EACC/MSA/OPS/INQ/47/2018

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A LAW ENFORCEMENT OFFICER, MOMBASA COUNTY GOVERNMENT

The EACC commenced investigations after a report that Mombasa County Government Law Enforcement Officers had requested for a Kshs. 200,000 financial benefit in order not to demolish the complainant's structure that was allegedly built on a road reserve.

Investigations established that on 16th November 2018, the officers requested for a Kshs 200,000 financial benefit which was later reduced to Kshs. 50,000. The suspect received Kshs. 10,000 treated money, which was later, recovered from him by the investigating team.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspects be charged with four counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act No. 47 of 2016, and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,

Upon perusal of the file, the DPP found sufficient

evidence to support the recommended charges and directed that prosecution ensues.

STATUS

The DPP returned the file to EACC on 28th February 2020 directing that prosecution ensues.

35. ODPP/CAM/5/019/369 EACC/ELD/OPS/INQ/9/2019

INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST A MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT EMPLOYEE AT KAPSABET REGION, NANDI COUNTY

The EACC commenced investigations after a complaint that an officer at the Ministry of Interior and Coordination of National Government had requested a Kshs. 500 bribe to facilitate the late registration of births for two children.

Investigations established that on 30th May 2019, the officer requested for Kshs. 500 bribe and subsequently received Kshs. 1,000 treated monies. He was arrested and the treated money recovered.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspect be charged with three counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

Upon perusal of the file, the DPP noted that due to the amount of money involved, prosecution was not economically viable and directed that administrative action be taken against the suspect.

STATUS

The DPP returned the file to EACC on 28th February 2020 directing that administrative action be taken on the suspect.

36. ODPP/CAM/5/019/366 EACC/OPS/KIS/INQ/2/2019

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY A SECURITY OFFICER AT HOMA BAY LAND REGISTRAR'S OFFICE WITHIN HOMA BAY COUNTY

The EACC commenced investigations after a complainant reported on 2nd April 2019 that a security guard at the customer care desk at Homa Bay Land Registrar's office demanded for Kshs. 1,000 to facilitate the issuance of title deeds. He had visited to process his and his late father's title deeds.

The investigations established the bribe demand and that the suspect received the bribe money. Further investigation revealed that the suspect was instructed by an intern at the Land Registrar's office to collect the Kshs. 1,000 from every person who sought a title deed. The trap money was recovered from the suspect.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspect be charged with three counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

Upon perusal of the file, the DPP noted that due to the amount of money involved, prosecution was not economically viable and directed that administrative action be taken against the suspect.

STATUS

The DPP returned the file to EACC on 27th May 2020 directing that administrative action be taken on the suspect.

37. ODPP/CAM/5/019/374 EACC/OPS/INQ/105/2019

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST NAIROBI WATER AND SEWERAGE COMPANY (NAWASCO) EMPLOYEE

The EACC commenced investigations after a report that a Nairobi Water and Sewerage Company (NAWASCO) employee had requested for a Kshs. 50,000 bribe in order not to charge the complainant for tampering with the water meter.

Investigations revealed that the suspect requested for a Kshs. 50,000 bribe as an inducement not to charge the complainant with the offence of tampering with a NAWASCO water meter. Investigations further revealed that the suspects received Kshs. 30,000 treated money.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspect be charged with three counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act.

Upon perusal of the file, the DPP found areas that required further investigation, directed that the same be covered, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 24th April 2020, directing further investigations.

38. ODPP/CCAM/5/019/364 EACC/MCKS/OP/INQ/1/2019

INQUIRY INTO ALLEGATIONS OF REQUESTING A BRIBE BY KENYA POWER AND LIGHTING COMPANY EMPLOYEES

The EACC commenced investigations after a complaint that KPLC officers demanded for a bribe in order not to disconnect an illegal connection. The officers alleged that the complainant's house had an illegal electricity

connection and as such, demanded for a Kshs. 300,000 bribe so as not to disconnect power.

Investigations established a Kshs. 225,000 bribe demand. Further investigations revealed that the suspect received Kshs. 50,000 treated money, which was later, recovered from him. Investigations also established that the suspects impersonated KPLC officers.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the property sales agent and a Kitengela business man be charged with the following offences:

- Four counts of requesting for bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act,
- Impersonating persons employed in the Public Service contrary to Section 105(B) of The Penal Code,
- Uttering false document contrary to section 353 as read with section 349 of the Penal Code.

Upon perusal of the file, the DPP found that the evidence disclosed charges under the Penal Code and concurred with recommendation for prosecution subject to the areas identified being addressed to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 12th March 2020 directing further investigations.

39. ODPP/CAM/5/019/372 EACC/ELD/OPS/16/2018

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TRANS-NZIOIA WATER SERVICES COMPANY EMPLOYEES IN KITALE WITHIN TRANS NZIOIA COUNTY

The EACC commenced investigations after a report that Trans -Nzoia Water Services Company officers requested for a Kshs. 5,000 financial benefit in order to reconnect water supply and return the water meter, which they had confiscated despite the complainant having paid the outstanding bill of Kshs. 7,500.

Investigations established that the metering supervisor and an administrative secretary demanded Kshs. 5,000, which he later received. Further investigations revealed that Kshs. 5,000 treated money was recovered from the suspect. A second officer prevented the investigators from leaving the premises after the arrest by ordering that the gates be closed.

The EACC report forwarded to the DPP on 25th November 2019 recommended that the suspects be charged with two counts of requesting for a bribe contrary to section 6 (1) (a) as read together with section 18 (1) (2) of the Bribery Act and obstruction contrary to section 66 (1) (a) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act.

Upon perusal of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensue subject to identified gaps being addressed to strengthen the prosecution case.

STATUS

The DPP returned the file to EACC on 24th February 2020 directing further investigations.

40. ODPP/CAM/5/019/375 EACC/OPS/INQ/176/2018

AN INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST THE NAIROBI CITY COUNTY WATER AND SEWERAGE COMPANY EMPLOYEES

The EACC commenced investigations after a complaint that Nairobi City Water and Sewerage Company officers demanded for a Kshs. 100,000 bribe to compromise a complaint for illegal water connection in a building situated at Huruma Estate.

Investigations established that the Company's security; security assistant and Investigation supervisor were found at the complainant's alleged illegal water connection site. They were arrested and detained overnight at Pangani Police Station. The suspects declined to receive the money.

The EACC report forwarded to the DPP on 25th November 2019 recommended that administrative action be taken against the Nairobi City Water and Sewerage Company employees.

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, and the suspects be subjected to disciplinary action.

STATUS

The DPP returned the file to EACC on 27th January 2020 directing administrative action and closure.

41. ODPP/CAM/5/019/377 EACC/OPS/INQ/NYR/3/2019

AN INVESTIGATION INTO ALLEGATIONS OF BRIBERY AGAINST THE MABAE PRIMARY SCHOOL HEAD TEACHER

The EACC commenced investigations after a report that Mabae Primary School's Head Teacher in Murang'a County requested for a Kshs. 2,500 financial benefit in order to issue a leaving certificate to a former student of the school.

Investigations established that Kshs. 950 demanded by the Head Teacher was meant for BOG allowance owed to the school. The BOG resolved that students contribute towards their allowances.

The EACC report forwarded to the DPP on 29th November 2019 recommended that the file be closed, and the BOG be sensitized on carrying out their duties in accordance with the law.

Upon perusal of the file, the DPP found insufficient evidence to support any charges of bribery against the suspect and concurred with the recommendation on sensitization of the Board of Management of the school.

STATUS

The DPP returned the file to EACC on 16th March 2020 directing sensitization.

**42. ODPP/CAM/5/020/001
EACC/EL/INQ/37/2019**

INQUIRY INTO ALLEGATIONS THAT THE GOVERNOR NAIROBI CITY COUNTY SWORE A FALSE DECLARATION IN THE SELF-DECLARATION FORM SET OUT IN THE FIRST SCHEDULE OF THE LEADERSHIP AND INTEGRITY ACT, 2012(LIA) AND SUBMITTED TO THE ETHICS AND ANTI-CORRUPTION COMMISSION ON THE 9TH MARCH, 2017

The EACC commenced investigations after auditing a self-declaration form filed by the Nairobi County Governor on 9th March 2017, in compliance with Chapter six of the Constitution, Leadership and Integrity Act, 2012 and Regulation 46 of the Elections Regulations 2012.

Investigations revealed that the Governor had falsely answered No to question 9 (m), which inquired whether he had ever been convicted of any offence and sentenced to serve imprisonment for a period of at least six months. Further investigations established that the he was charged in Mombasa CR/NO.341/97, for making a document without authority contrary to section 357 (a) of the Penal Code.

He failed to attend court and a warrant of arrest was issued. He was arrested and produced in court on a guilty plea, sentenced to pay a fine of Kshs. 200,000 or in default serve a six- month sentence. He did not raise the fine and was committed to Shimo la Tewa prison to serve his custodial sentence.

The EACC report forwarded to the DPP on 5th December 2019 recommended that the suspect be charged with the following offences:

- Providing false information to Ethics and Anti-Corruption Commission contrary to section 46(1)(b) as read with section 46(2) of the Leadership and Integrity Act,
- Two counts of false declaration contrary to section 11 of the Oaths and Statutory Declarations Act,
- Escape from lawful custody contrary to section 123 as read with section 36 of the Penal Code.

Upon perusal and review of the file, the DPP noted areas that required further investigations, directed that the same be addressed, and file resubmitted for further directions.

STATUS

The DPP returned the file to EACC on 19th June 2020 for further investigations.

A photograph of the entrance to the Directorate of Criminal Investigations Headquarters. The entrance is a large, white, rectangular structure with a black door. Above the entrance is a large sign that reads "DIRECTORATE OF CRIMINAL INVESTIGATIONS HEADQUARTERS". In the foreground, there are several black and yellow striped bollards. The background shows a paved road and some trees.

DIRECTORATE OF CRIMINAL INVESTIGATIONS HEADQUARTERS

PHOTO: NATION

4

**HIGH LEVEL ANTI – CORRUPTION AND ECONOMIC
CRIME CASES INVESTIGATED BY THE DCI AND
SUBMITTED TO THE ODPP FROM JANUARY 2019 TO
DECEMBER 2019**

CHAPTER FOUR

HIGH LEVEL ANTI – CORRUPTION AND ECONOMIC CRIME CASES INVESTIGATED BY THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI) AND SUBMITTED TO THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN THE YEAR 2019 (JANUARY 2019 TO DECEMBER 2019)

The National Police Service of Kenya is established under Part 4 of the Constitution of Kenya and Section 4 of the National Police Service Act (CAP 84) Laws of Kenya. In particular, Article 243 (3) of the Constitution stipulates that the National Police Service is a national service and shall function throughout Kenya.

Among the objectives and functions of the National Police Service as captured under Article 244 of the Constitution are, among others, to prevent corruption and promote and practice transparency and accountability.

Article 245 establishes the Office of the Inspector – General of the National Police Service who exercises independent command over the National Police Service and performs any other functions prescribed by national legislation.

On the other hand, the Directorate of Criminal Investigations is established under Part V of the National Police Service Act (CAP 84) Laws of Kenya, which shall be under the direction, command, and control of the Inspector-General.

Section 35 captures the functions of the Directorate of Criminal Investigations which includes among others undertaking investigations on serious crimes

including homicide, narcotic crimes, human trafficking, money laundering, terrorism, economic crimes, piracy, organized crime, and cybercrime.

Section 157 (4) of the Constitution empowers the Director of Public Prosecutions to direct the Inspector - General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.

Section 35 of the National Police Service Act mandates the Directorate of Criminal Investigations to execute the directions given to the Inspector-General by the Director of Public Prosecutions pursuant to Article 157 (4) of the Constitution.

The year under review, saw the Director of Public Prosecutions and Director of Criminal Investigations work together on a number of high profile corruption cases both in respect to cases forwarded to the DPP for review and directions and matters filed in court.

The following presents some of the significant files touching on Anti-Corruption and Economic Crimes cases forwarded to the DPP by the Director of Criminal Investigations and the directions issued thereof.

1. ODP/CAM/5/019/152 DCI INQ 122/2018

INQUIRY INTO ALLEGATIONS THAT THE CONCEPTION, PROCUREMENT AND PAYMENT PROCESS FOR THE ARBOR AND KIMWARER DAM PROJECTS IN ELGEYO MARAKWET COUNTY WERE RIDDLED WITH MASSIVE ILLEGALITIES

The DCI undertook investigations from 18th September 2018, after complaints touching on governance and operation challenges in the management of the two dam projects (Arbor and Kimwarer) that required urgent attention. Upon investigations, it was established that the conception, procurement, and payment process for the Arbor and Kimwarer Dam projects in Elgeyo Marakwet County were riddled with massive illegalities.

In February 2019, the DPP received a preliminary investigation report and upon review, directed, on 8th March 2019, that the breaches of the law disclosed and their consequences were serious and merited a detailed and thorough investigation. He directed further investigations and engagement of international partners.

In June 2019, the DCI submitted the investigation file to the DPP for directions. The investigations established that government officials flouted all procurement rules and abused their oath of office to ensure the scheme went through. Many procurement procedures as stipulated by the law for such projects were ignored and the law was circumvented to ensure that CMC di Ravenna got the contract.

Investigations further established that the Kerio Valley Development Authority (KVDA) chose Public Procurement and Disposal Act (PPDA), 2005 for the concession agreements despite the fact that the law in 2013 prescribed Public Private Partnerships (PPP). The public officials who should have pointed this out failed to do so and went ahead to award the contracts to Italy's CMC Di Ravenna to run concurrently while aware that the firm was, at the time of award, straining and getting into voluntary liquidation back in Italy.

Further, the National Treasury entered into a facility contract in Euros while the commercial contracts were in USD therefore occasioning further loss to the Kenyan Government through exchange rates.

Investigations further established that out of the Kshs. 63 billion in respect of the projects, as at January 2019, the Government of Kenya had made the following payments: advance payment, commitment fee, insurance and other costs totaling Kshs. 19,714,366,991. Out of this, Kshs 11 billion for insurance was paid upfront.

In contrast, if the borrowing was justified, a government guarantee would have sufficed at no cost to the Government of Kenya. Further, Euros 40,031,927 (approximately Ksh. 4.6 billion) was borrowed in addition to the principal amount to pay interest in advance during the construction period that had not commenced.

A further Kshs. 643 million was released by the National Treasury as counterpart funds which was intended for the resettlement of the persons that would be affected by the said projects, as compensation for the land acquired.

It was further established that no land had been acquired four years down the line.

Furthermore, Kenya Forest Service in a bid to protect our environment strongly opposed any excision of forestland pointing to significant adverse impact on the forest ecosystem. Based on expert opinion, if this project was carried out in strict adherence to the law and existing policies in place for safeguarding the public interest it should not have cost Kshs. 63 billion.

Upon receiving the file and reviewing the evidence, the DPP was satisfied that there was sufficient evidence to charge and prosecute the perpetrators.

On 22nd July 2019, the DPP directed prosecution to ensue against the following individuals involved in the project.

- Cabinet Secretary, National Treasury,
- Principal Secretary National Treasury,
- Principal Secretary, Ministry of East Africa Community,

- Managing Director, Kerio Valley Development Authority (KVDA),
- Chief Economist and Head of Europe II Division National Treasury,
- Director Resource Mobilization Department National Treasury,
- Inspector General of State Corporations,
- Director CMC di Ravenna,
- CMC di Ravenna – Itinera JV Italy
- CMC di Ravenna – Itinera JV Kenya,
- Head of Supply Chain Management (KVDA),
- Manager Engineering Services (KVDA),
- Tender Committee members,
- Ad hoc Technical and Financial Evaluation Committee Team 2 members
- National Environment Management Authority (NEMA) officials

The suspects were to be charged for the following offences:

- Conspiracy to defraud contrary to section 317 of the Penal Code, Cap 63 Laws of Kenya,
- Willful failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2)(b) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003,
- Engaging in a project without prior planning contrary to section 45 (2) (c) as read with section 48 of Anti-Corruption and Economic Crimes Act No. 3 of 2003,
- Abuse of office contrary to section 46 as read with section 48 of Anti-Corruption and Economic Crimes Act No. 3 of 2003,
- Committing an offence of financial misconduct contrary to section 197 (1) (o) (i) of the Public Finance Management Act No. 18 of 2012,
- Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003,
- Knowingly giving a misleading document to principal contrary to section 41 (2) as read with section 48 of Anti- Corruption and Economic Crimes Act no. 3 of 2003 of the Laws of Kenya,
- Willful neglect to perform official duty contrary to section 128 as read with section 36 of the Penal Code.

STATUS

The DPP returned the file to the DCI on 22nd July 2019 with directions that prosecution ensues. The cases, Milimani ACC 18 and ACC 20 of 2019 are ongoing.

2. ODPP/CAM/5/019/128 DCI INQUIRY FILE NO. 14 OF 2019

INVESTIGATIONS INTO ALLEGATIONS OF FORGERY, TAX EVASION IN THE MANUFACTURE AND PROCESSING OF ALCOHOLIC BEVERAGES BY AFRICA SPIRIT LIMITED, WOW BEVERAGES LIMITED AND ASSOCIATED COMPANIES

The DCI undertook investigations pursuant to information that a lorry Registration No. KCD 672Y/ZF 3996 was ferrying suspicious goods suspected to be unaccustomed ethanol.

The investigations revealed that the lorry was transporting 80 drums of ethanol each of 250-litres, which were concealed by 35 bags of maize, to Africa Spirits Limited. A search at the factory disclosed counterfeit stamps affixed to alcoholic drinks. Further, reports from Kenya Revenue Authority revealed commission of tax offences. The inquiry file was forwarded to the DPP on 25th March 2019.

Upon review of the file, the DPP found the sufficient evidence to establish criminal culpability and on 7th August 2019 directed that the suspects be charged with the following offences:

- Being in possession of unaccustomed goods contrary to section 200(d)(iii) of the EACCMA,
- Conspiracy to contravene section 193 as read with section 203 of the EACCMA,
- Being in possession of counterfeit excise stamps contrary to section 40 as read with section 41 of the Excise Duty Act,
- Aiding the commission of a tax offence contrary to section 101 of the Tax Procedure Act,
- Being in possession of excisable goods affixed with counterfeit excise stamps contrary to section 40 as read with section 41 of the Excise Duty Act,

- Failing to pay tax contrary to section 95 as read with section 104(1) and 105 of the Tax Procedures Act and Fraud in relation to tax contrary to section 97(a) as read with section 104(3) and 105 of the Tax Procedures Act.

STATUS

The DPP returned the file to DCI on 7th August 2019 directing that prosecution ensues. Milimani CR 1333/2019, 1334/2019 and 1342/2019 are ongoing.

3. ODPP/CAM/014/5 KRA (DCI UNIT) POLICE FILE NO. 714 -716/2019

INQUIRY INTO ALLEGATIONS OF TAX FRAUD BY THE DIRECTORS OF KEROCHE BREWERIES LIMITED

The DCI undertook investigations pursuant to the allegations of tax fraud on various products manufactured and sold by Keroche Breweries Limited during the period January 2015 to June 2019 which products attract excise duty and Value Added Tax (VAT).

The investigations revealed that Keroche Breweries evaded payment of tax totaling to Kshs. 14,451,836,375.

The DCI forwarded the results of their investigations to the DPP on 18th August 2019.

Upon review the file, the DPP found sufficient evidence to support the recommended charges and on 22nd August 2019, directed that the suspects be charged with fraud in relation to tax contrary to section 97(c) as read with section 104(3) of the Tax Procedures Act.

STATUS

The DPP returned the file to the DCI on 22nd August 2019, directing that prosecution ensues. Milimani criminal case number 1436/19 is ongoing.

4. ODPP/CAM/5/019/199 DCI INQUIRY FILE NO. 102 OF 2019 (KRA 1 – 60)

THIS IS AN INQUIRY FILE IN RESPECT TO ALLEGED TAX EVASION SCHEMES FACILITATED BY KRA OFFICIALS.

The DCI undertook investigations after intelligence reports that Kenya Revenue Authority, Domestic Tax Department (DTD) officers had been facilitating tax evasion in conjunction with taxpayers, proxies, and other Kenya Revenue Authority officials from other departments.

The intelligence was further to the effect that some officials had registered SIM cards using proxies and family members, whom they used to communicate and receive/send bribes. They also channeled part of these proceeds to their bank accounts through mobile money transfers and in some instances; they deposited cash directly to their bank accounts or associate's account.

The investigations revealed that the scheme involved KRA officials and individuals who would contact the Domestic Tax Department (DTD) officers and request them to facilitate irregular issuance of Tax Compliance Certificates (TCCs) to non – qualified tax payers upon payment of a benefit/bribe.

Investigations further revealed that the scheme entailed KRA officials sharing bribes through registered Mpesa Accounts and through proxy Mpesa accounts to facilitate irregular issuance of TCCs, irregular approval of waivers, KRA officials collecting bribes by asking taxpayers to directly make cash withdrawals from Mpesa agents, deletion of tax liabilities in both the Itax and Legacy systems.

DCI initially forwarded the results of their investigations in respect to 45 inquiry files to the DPP on 16th July 2019 recommending that 68 KRA officials and other persons be charged with the following criminal offences under the Tax Procedures Act, the Anti – Corruption and Economic Crimes Act, the East African Community Customs Management Act and the Penal Code:

- Willful contravention of the Tax Procedure Act contrary to section 102 as read with section 104,
- Receiving a benefit contrary to section 9 (1) of the East African Community Customs Act,
- Abuse of office contrary to section 46 as read with section 48 (1) of the Anti – Corruption and Economic Crimes Act,
- Making a false entry contrary to section 102 (1) as read with section 104 (2) of the Tax Procedure Act,
- Money Laundering contrary to section 3 as read with section 16 (1) of the Proceeds of Crime and Anti – Money Laundering Act.

Upon initial review of the inquiry file, the DPP found gaps and deficiencies that needed to be addressed. The files were resubmitted for further directions.

The file was returned to DCI on 23rd July 2019 with directions that the areas identified be covered by further investigations and the file be resubmitted for further directions.

Upon further review and perusal of the resubmitted file, the DPP found sufficient evidence to support the recommended charges against 64 Kenya Revenue Authority officials and 25 non-Kenya Revenue Authority officials

STATUS

The DPP returned the file to DCI on 16th September 2019, directing that prosecution ensue.

On 18th September 2019, DCI submitted a second batch of 14 files for perusal and advice. The DPP upon initial review and perusal of the inquiry file, the DPP found gaps and deficiencies that needed to be addressed and the files resubmitted for further directions.

Prosecution has however not ensued as various Kenya Revenue Authority officials have filed applications in the High Court Miscellaneous Application No. 134/2019 & 141/2019 Kenneth Omondi Ochieng & 37 Others versus the Republic, which is pending hearing and determination.

5. ODPP/CAM/5/019/385 ECCU NO 118/2019

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF FUNDS AT THE MAASAI MARA UNIVERSITY

The DCI undertook investigations into allegations that several officers at the Maasai Mara University were involved in a systematic misappropriation of funds.

Upon conclusion of investigations, the DCI on 26th November 2019 forwarded the inquiry file with recommendations that several suspects be charged with various offences.

Upon preliminary perusal of the file, the DPP noted that the file was incomplete and on 14th January 2020 directed that the DCI resubmit the file with all the evidentiary material. The complete inquiry file was submitted to the DPP on 5th February 2020.

Upon review of the file, the DPP found gaps and directed further investigations to cover the identified areas. The inquiry file was returned to the DCI on 12th March 2020 directing further investigations. The file was resubmitted on 27th May 2020.

Upon further review of the file, the DPP noted the progress made but found a few gaps and the file was returned to DCI directing further investigations.

STATUS

The DPP returned the file to DCI on 12th June 2020 directing further investigations.

6. ODPP/CAM/5/019/085 DCI INQUIRY FILE NO. 74 OF 2018

THIS WAS AN INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF GOVERNMENT FUNDS BY KENYA BROADCASTING CORPORATION'S MANAGEMENT AND

FAILURE TO REMIT STATUTORY DEDUCTIONS TO SACCOS, KRA, PENSIONS SCHEME, AND INSURANCE COMPANIES.

The DCI undertook investigations after receiving a report from COTU that Kenya Broadcasting Corporation did not remit statutory deductions to COTU because of corruption by officials.

The investigation did not disclose any criminal culpability as the reasons given indicated that the corporation was financially strained.

The DCI forwarded their file to the DPP on 6th February 2019 recommending closure.

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

STATUS

The DPP returned the file to DCI on 17th May 2019 directing closure.

7. ODPP/CAM/5/019/100 DCI INQUIRY FILE NO. 32 OF 2019

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND CONSPIRACY TO DEFRAUD KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO)

The DCI undertook investigations that revealed KETRACO overpaid land compensation for acquisition of land for project implementation of transmission line way-leave, in execution of Lot 3 as an extension and modification of the Embakasi and Rabai sub-stations.

The DCI report forwarded to the DPP on 6th March 2019 recommended that the suspects be charged with the following charges under the Penal Code and the Anti-Corruption and Economic Crimes Act (ACECA):

- Abuse of office contrary to section 46 as read with section 48 of ACECA,

- Willful failure to comply with the law relating to Public Finance and Management Act contrary to section 45 (2) (b) as read with section 48 of ACECA,
- Conspiracy to defraud KETRACO contrary to section 317 of the Penal Code,
- Obtaining money by false pretences contrary to section 313 of the Penal Code.

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

STATUS

The DPP returned the file to DCI on 31st May 2019 directing further investigations.

8. ODPP/CAM/5019/151 DCI INQUIRY FILE NO. 141 OF 2018

INQUIRY INTO ALLEGATIONS OF FLOUTING PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT IN PROCUREMENT OF UCHUMI HOUSE LIFTS, UNLAWFUL TERMINATION OF INDUSTRIAL AND COMMERCIAL DEVELOPMENT CORPORATION (ICDC) ICT MANAGER, UNLAWFUL APPOINTMENT OF A NEW ICDC- ICT MANAGER, FLAWED PROMOTIONS AND FAILURE TO PAY INTERESTS ON STAFF LOANS.

The DCI undertook investigations that revealed irregularities in the procurement and installation of four passenger lifts at Uchumi House with overpayment of USD 36,315.08 above the contractual amount with no justification.

The allegations that the termination of the ICDC ICT Manager and appointment of his predecessor were unlawful and unprocedural had no basis as they were found to be proper, procedural and that due process had been followed.

The alleged flawed promotions and failure to pay interest on staff loans at ICDC were unfounded and unsupported by evidence.

The DCI forwarded the results of their investigations to the DPP on 11th April 2019 recommending that file be closed with no further police action.

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

STATUS

The DPP returned the files to DCI on 2nd April 2020 directing further investigations.

9. ODP/CAM/5/019/180 DCI INQUIRY FILE NO. 44 OF 2019

INQUIRY INTO ALLEGATIONS THAT KENYA PIPELINE CORPORATION (KPC) AWARDED TENDER TO EMPRO ELECTRICAL AND MECHANICAL ENGINEERING LIMITED FOR CONTRACT OF ADDITIONAL BOTTOM LOADING FACILITIES.

The DCI undertook investigations into the circumstances under which Kenya Pipeline Corporation awarded two contracts for the same tender on the construction of additional bottom loading facilities at Eldoret Depot to a company registered as Empro Electrical and Mechanical Engineering Limited.

Investigations established that the company was first awarded a contract for the project and despite slow progress and incomplete work; KPC paid Kshs. 109,492,457 to the contractor. The contract was later terminated and a civil suit filed in Nairobi.

KPC later undertook procurement for the completion of outstanding works at the Eldoret Depot where a second contract was awarded to the same company, Empro Electrical and Mechanical Engineering Limited at an inflated price.

The DCI forwarded the results of the investigations to the DPP on 6th June 2019 recommending that the suspects be charged with the following charges under the Anti-Corruption and Economic Crimes Act (ACECA):

- Conspiracy to commit economic crime contrary to section 47A (3) as read with section 48,
- Willful failure to comply with the law relating to procurement contrary to section 42 (2) (b) as read with section 48,
- Abuse of office contrary to section 46 as read with section 48 and
- Bid rigging contrary to section 44 (1) (a) as read with section 48.

The DPP upon review and perusal of the file, found the evidence sufficient to support the recommended charges. However, the DPP directed that the DCI cover identified gaps to strengthen the prosecution case.

STATUS

The DPP returned the file to DCI on 5th February 2020 directing further investigations.

10. ODP/CAM/5/019/187 DCI INQUIRY FILE NO. 88A OF 2019

INQUIRY INTO SUSPECTED FRAUD INVOLVING HOMA BAY COUNTY EMPLOYEES AND MATORA CONSTRUCTION COMPANY LIMITED

DCI undertook investigations pursuant to a report by the Financial Reporting Centre on suspected massive fraud involving Homa Bay County Government employees who were directors or directly linked to companies suspected to have fraudulently received payments from the said county.

Investigations established that senior employees of the County were directors in a company that was awarded several contracts for routine maintenance of roads within the county.

The investigations also revealed that Matora Construction Company received fraudulent payments

from the County, as it did not provide supporting documentation. The directors, being employees of the County, took advantage of their position over other bidders and thus conflict of interest.

The DCI forwarded the results of the investigations to the DPP on 11th June 2019 recommending that the suspects be charged with the following charges under the Penal Code and Anti-Corruption and Economic Crimes Act (ACECA):

- Abuse of office contrary to section 101 (1) as read with 102A of the Penal Code,
- Conspiracy to defraud contrary to section 317 of the Penal Code,
- Conspiracy to commit economic crime contrary to section 47A (3) as read with section 48 of ACECA.

Upon review of the file, the DPP found sufficient evidence to support the recommended charges and in addition, directed further investigations to cover the identified gaps.

STATUS

The DPP returned the file to DCI on 30th March 2020 directing further investigations.

11. ODP/CAM/5/019/188 DCI INQUIRY FILE NO. 88B OF 2019

INQUIRY INTO SUSPECTED FRAUD INVOLVING HOMA BAY COUNTY EMPLOYEES AND RUMBOK UNDER PASS INVESTMENT

The DCI undertook investigations that revealed the County Government of Homa Bay awarded several contracts to Rumbek Under Pass Investment Company, whose directors were employees of the County.

The company also received fraudulent payments from the County as payments were advanced, giving an undue advantage over other bidders and thus conflict of interest. These companies also received fraudulent payments, as they did not supply any services or goods to the county.

The DCI forwarded the inquiry file to the DPP on 11th June 2019 recommending that the suspects be charged with the following charges under the Penal Code and Anti-Corruption and Economic Crimes Act (ACECA):

- Abuse of office contrary to section 101 (1) as read with 102A of the Penal Code,
- Conspiracy to defraud contrary to section 317 of the Penal Code,
- Conspiracy to commit economic crime contrary to section 47A (3) as read with section 48 of ACECA.

Upon review of the file, the DPP found sufficient evidence to support the recommended charges. However, he directed the DCI to cover identified gaps in order to strengthen the prosecution case.

STATUS

The DPP returned the file to DCI on 30th March 2020 directing further investigations be conducted and the file resubmitted for further directions.

12. ODP/CAM/5/019/189 DCI INQUIRY FILE NO. 106 OF 2019

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE, FALSE TRAVEL AND SUBSISTENCE CLAIMS, TRIBALISM AND NEPOTISM AGAINST THE DIRECTOR PROBATION AND AFTERCARE SERVICES

The DCI undertook investigations into allegations that the Director, Department of Probation, and Aftercare Services attended several meetings and seminars, and signed the transfer of some officers.

The investigations did not establish whether the director attended the specific meetings and seminars highlighted in the complaint; and whether payments were advanced for the same.

The DCI forwarded the inquiry file to the DPP on 12th June 2019 recommending that the file be closed with no further police action.

Upon review and perusal of the file, the DPP found gaps in the evidence and directed that the areas be covered and the file resubmitted for further directions.

STATUS

The DPP returned the file to DCI on 22nd August 2019 directing further investigations.

13. ODPP/CAM/5/019/215 DCI INQUIRY FILE NO. 88A/2019 AND 88B/2019

THIS IS AN INQUIRY INTO ALLEGATION OF IRREGULAR VARIATIONS OF THE ORIGINAL CONTRACT INTO THE CONVERSION OF THE INCOME TAX HOUSE TO LAW COURTS.

The DCI undertook investigations into allegations of irregular variation of the original contract for conversion of Income tax house to law courts. The DCI commenced investigations into this matter after it was reported by the Director Public Prosecutions through his letter dated 7th August 2018 ref No ODPP/CAM/018/5/1012. It is alleged that the variation breached Regulation 31(c) of the Public Procurement and Disposal Regulations, 2006.

Upon investigations, the DCI found no criminal culpability on the part of the committee members since the contract was signed in December 2004 before the Public Procurement and Disposal Act 2005, and Public Procurement and Disposal Regulations 2006, came into effect on 1st January 2007.

The DCI forwarded the file to the DPP on 20th August 2019 for further review and advice.

Upon review of the file, the DPP concurred with the findings that there was no criminal culpability disclosed but directed that if any payments were made in contravention of any law the same should be recovered forthwith.

STATUS

The DPP returned the file to DCI on 25th November 2019 with the directions that no prosecution ensues.

14. ODPP/CAM/5/019/226 DCI INQUIRY FILE NO. 78 OF 2018

INQUIRY INTO ALLEGATIONS THAT THE OFFICER IN CHARGE OF GK ELDORET PRISON JOINTLY CONSPIRED WITH ANOTHER TO MISAPPROPRIATE PUBLIC FUNDS AND GOVERNMENT STORES OF KSHS 104,737,937 DURING THE FINANCIAL YEARS 2015/2016, 2016/2017 TO 28TH FEBRUARY 2018

The DCI undertook investigations that revealed irregular procurement and non-compliance with the Procurement laws and regulations in relation to suppliers at the GK Eldoret Prison. Some of these supplies were later unlawfully distributed to private businesspersons and kept for personal use. Further, funds from the institution's account were unprocedurally withdrawn.

The DCI forwarded the inquiry file to the DPP on 10th July 2019 recommending that the officer be charged with the following charges under the Penal Code:

- Abuse of office contrary to section 101 (1) as read with 102A,
- False claims by persons employed in the public service contrary to section 100 as read with section 102A,
- Falsification of register contrary to section 361,
- Conspiracy to defraud contrary to section 317 and stealing by servant contrary to section 280.

Upon review of the file, the DPP found sufficient evidence to support the recommended charges and directed that prosecution ensue. However, gaps were identified that required to be covered to strengthen the prosecution case.

STATUS

The DPP returned the file to DCI on 3rd March 2020 directing that prosecution ensue.

15. ODPP/CAM/5/019/227 DCI INQUIRY FILE NO. 63 OF 2019

INQUIRY INTO ALLEGATIONS THAT KENYA BUREAU OF STANDARDS REGIONAL MANAGERS AND FINANCE OFFICERS FROM MOMBASA OUTSTATION HAVE BEEN FRAUDULENTLY AND WITHOUT AUTHORITY SPENDING MONIES COLLECTED AS REVENUE

The DCI undertook investigations that revealed misappropriation of funds by officials at the Kenya Bureau of Standards (KEBS) regional offices based in Mombasa, between 1st July 2017 and 31st September 2018.

The DCI forwarded the inquiry file to the DPP on 1st July 2019 recommending that the officers be charged with the following charges under the Penal Code:

- Conspiracy to defraud contrary to section 317,
- False accounting by public officer contrary to section 331 (1) as read with section 331 (2),
- Stealing by servant contrary to section 281,
- Abuse of office contrary to section 101 (1) as read with 102A,
- Neglect of duty contrary to section 128 as read with Section 36.

Upon review of the file, the DPP found gaps to be covered before a final decision.

STATUS

The DPP returned the file to DCI on 3rd April 2020 directing further investigations.

16. ODPP/CAM/5/019/228 DCI INQUIRY FILE NO. 1 OF 2018

INQUIRY INTO SUSPECTED MONEY LAUNDERING ACTIVITIES BETWEEN ARGHYA ENTERPRISES LIMITED, A UK BASED COMPANY AND GO FOR GREEN KENYA LIMITED

The DCI undertook investigations into alleged money laundering activities revealed that Go For Green (K) Limited is a fully registered company in Kenya operating as an export company dealing with export of vegetables and fruits. It is duly registered with the Agricultural and Food Authority (Horticultural Crops Directorate) and is a member of Fresh Produce Exporters Association of Kenya.

Investigations also reveal that Arghya Enterprises Limited is a company based in the United Kingdom and is listed as the consignee of fresh produce exported by Go Green (K) Limited in documents issued by Kenya Plant Health Inspectorate Service (KEPHIS).

However, the evidence on record does not establish a conclusive relationship between the two companies and KRA compliance of Go For Green (K) Limited is unknown.

The DCI forwarded the inquiry file to the DPP on 18th June 2019 recommending that the file be closed with no further police action.

Upon review of the file, the DPP found gaps and directed further investigations to cover the identified areas.

STATUS

The DPP returned the file to DCI on 5th November 2019 directing further investigations.

17. ODPP/CAM/5/019/229 DCI INQUIRY FILE NO. 62 OF 2019

INQUIRY INTO ALLEGATIONS OF STEALING BY OFFICERS OF THE KENYA FOREST SERVICE

The DCI undertook investigations that revealed revenue was generated from the sale of forest produce at the Kenya Forest Services within Busia County in December 2018.

However, these funds were not remitted to the Institution but were collected by the forest guards and sent to the KFS Accountant in cash and through MPESA to his personal mobile number.

The DCI forwarded the inquiry file to the DPP on 19th July 2019 recommending that the suspects be charged with the following charges under the Penal Code:

- Stealing contrary to section 281,
- Abuse of office contrary to section 101 (1),
- Conspiracy to commit a felony contrary to section 393.

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

STATUS

The DPP returned the file to DCI on 8th April 2020 directing further investigations.

18. ODPP/CAM/5/019/230 DCI INQUIRY FILE NO. 133 OF 2019

INQUIRY INTO ALLEGATIONS THAT AN IMPORTER, CLEARING AGENT, KENYA BUREAU OF STANDARDS AND KRA CUSTOMS OFFICIALS STATIONED AT INLAND CONTAINER DEPOT NAIROBI CONSPIRED TO UNLAWFULLY RELEASE FOUR CONTAINERS OF IMPORTED COOKING OIL THAT HAD FAILED TO CONFORM TO KEBS STANDARDS.

The DCI undertook investigations that revealed that Gendipe Enterprises through its clearing agent Landmark Freight Services Limited, imported cooking oil which was initially undeclared leading to its seizure. Following a presidential amnesty, the Multi Agency Team released the cooking oil pursuant to a meeting requiring procedures involving payment of taxes, conformity with KEBS standards and clearance.

Investigations also revealed that out of the nine containers seized, five were to be released under seal while four were not to be released. However, the containers were released unprocedurally and those under seal were undisclosed to relevant authorities. This implicated five out of the eight suspects who were

the importers of the cooking oil containers from Dubai, officials at KEBS who released the containers without authorization and port clerk attached to the clearing agent who facilitated the release of the containers.

The DCI forwarded the inquiry file to the DPP on 19th July 2019 recommending that eight suspects be charged with the following offences under the Penal Code and Standards Act:

- Conspiracy to commit a misdemeanor contrary to section 394 of the Penal Code,
- Abuse of office contrary to section 101 (1) as read with section 102A of the Penal Code,
- Neglect of duty contrary to section 128 as read with section 36 of the Penal Code,
- Willful disobedience of statutory duty contrary to section 130,
- Breach of trust contrary to section 127 (1) as read with section 127 (2),
- Conspiracy to defeat justice contrary to section 117 (a),
- Entering into an agreement permitting release of non-conforming goods contrary to section 14A (11) (b) as read with section 14A of the Standards Act,
- Dealing with goods under seal contrary to section 14B (6) of the Standards Act.

Upon review of the file, the DPP found sufficient evidence to support the recommended charges against five of the eight suspects and directed that prosecution ensues but the identified gaps be covered to strengthen the prosecution case.

STATUS

The DPP returned the file to DCI on 18th February 2020 directing that prosecution ensue subject to the further areas being covered.

19. ODPP/CAM/5/019/279 DCI INQUIRY FILE NO. 4/2018

INQUIRY INTO AN ALLEGED MISAPPROPRIATION OF PUBLIC FUNDS BY THE COUNTY GOVERNMENT OF THARAKA NITHI

The DCI undertook investigations pursuant to an audit report conducted by the Office of the Auditor General that revealed misappropriation of funds at the Tharaka Nithi County Assembly through double payment, payment of allowances and expenditure for meetings that did not take place.

The DCI forwarded the inquiry file to the DPP recommending that the suspects be charged with the following offences:

- Stealing by a person employed in the public service contrary to section 280 of the Penal Code,
- Abuse of Office contrary to section 46 as read with section 48 of ACECA,
- Fraudulently making payments from public revenue for services not rendered contrary to section 45(2)(a)(iii) of ACECA,
- Conspiracy to defraud contrary to section 317 of the Penal Code.

Upon perusal of the file, the DPP noted several gaps that needed to be covered by way of further investigations and directed further investigations.

STATUS

The DPP returned the file to the DCI on 28th April 2020 directing further investigations.

20. ODPP/CAM/5/019/305 DCI CASE FILE NO. 161/229/2019

AN INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE POLICY ADVISOR TO THE CABINET SECRETARY, MINISTRY OF PETROLEUM, AND MINING

The DCI undertook investigations into allegations of abuse of office by the Policy Advisor to the Cabinet Secretary, Ministry of Petroleum, and Mining.

The DCI investigations revealed that on 14th May 2019, an agent of In-depth Mining Limited, applied for a permit from the Ministry of Petroleum and Mining. It is alleged that at the Ministry's headquarters in Upper hill,

he met a person who alleged that they were the Policy Advisor to the CS, Ministry of Petroleum, and Mining.

It was further alleged that the said Policy Advisor to the Cabinet Secretary, Ministry of Petroleum and Mining promised to fast track the permit of the agent of In-depth Mining Limited if he facilitated the process with Kshs. 50,000 paid in US dollars.

The agent of In-depth Mining Limited reported the matter to the DCI Parklands Police Station, who organized for a sting operation, arrested the suspect, and recovered USD 100 from him.

The DCI forwarded the file the DPP on 19th September 2019 recommending that the suspect be charged with the offence of abuse of office contrary to section 101(1) as read with section 36 of the Penal Code.

Upon review of the file, the DPP found gaps and deficiencies in the evidence that required to be covered to strengthen the prosecution case and the file resubmitted for further directions.

STATUS

The DPP returned the file to the DCI on 19th November 2019 directing further investigations.

21. ODPP/CAM/5/019/362 DCI INQUIRY FILE NO. 171/2019

INQUIRY INTO AN ALLEGATION OF OBTAINING MONEY BY FALSE PRETENSES CONTRARY TO SECTION 313 OF THE PENAL CODE

The DCI undertook investigations pursuant to a complaint that the suspect had fraudulently obtained USD 12,830,000 from the complainant by false pretenses i.e. by presenting himself as Queen's Counsel.

The DCI forwarded the inquiry file to the DPP on 30th August 2019 recommending that the suspect be charged with obtaining money by false pretenses contrary to section 313 of the Penal Code. However, the suspect had passed on.

Upon perusal of the file, the DPP found gaps that needed to be covered by way of further investigations and the file resubmitted for further directions.

STATUS

The DPP returned the file to the DCI on 2nd April 2020 directing further investigations.

22. ODPP/CAM/5/019/363 DCI INQUIRY FILE NO. 192/2019

INQUIRY INTO AN ALLEGED CONSPIRACY TO STEAL KSHS 866,818, 480

The DCI undertook investigations pursuant to a complaint that the suspect had conspired to steal Kshs. 866,818, 480 being tax remittance while acting as tax agents.

The investigations revealed that in the course of conducting business, the complainants discovered that some of the suspects had engaged the services of a tax remittance agent for purposes of remitting taxes which in collusion with some directors of the suspect's companies failed to remit the taxes as required.

The DCI forwarded the inquiry file to the DPP on 23rd September 2019 recommending that the suspect be charged with the following offences:

- Conspiracy to defraud contrary to section 317 of the Penal Code,
- Stealing contrary to section 268 as read with section 275 of the Penal Code,
- Stealing by directors contrary to section 282 of the Penal Code,
- Stealing by agent contrary to section 283 of the Penal Code,
- Forgery contrary to section 349 of the Penal Code.

Upon perusal of the file, the DPP found gaps that needed to be covered by way of further investigations and the file resubmitted for further direction before direction was given.

STATUS

The DPP returned the file to the DCI on 30th March 2020 directing further investigations.

23. ODPP/CAM/5/019/373 DCI INQUIRY FILE NO. 227/2019

INQUIRY INTO AN ALLEGED MISAPPROPRIATION OF TECHNICAL UNIVERSITY OF KENYA STAFF PENSION FUNDS

The DCI undertook investigations pursuant to a complaint that the staff pension fund for the Technical University of Kenya was being misappropriated with one of the trustees having withdrawn Kshs. 1,000,000.

The investigations conducted revealed that there was a pension scheme for the staff at the Technical University of Kenya. However, money was illegally transferred from the scheme account and utilised to run the operations of the university when there was a deficit in funding. This was without the consent of the contributors and was contrary to the Retirement Benefits Authority Act.

The DCI forwarded the inquiry file to the DPP on 25th November 2019 recommending that the suspects be charged with abuse of office contrary to section 46 as read with section 48 of ACECA and contravention of the Retirement Benefits Authority Act.

Upon perusal of the file, the DPP found gaps that needed to be covered by further investigations and the file resubmitted for further direction.

STATUS

The DPP returned the file to the DCI on 30th March 2020 directing further investigations.

**24. ODPP/CAM/5/019/384
DCI INQUIRY FILE NO. 187/2019**

INQUIRY INTO ALLEGATIONS THAT KENYA BUREAU OF STANDARDS STAFF FRAUDULENTLY CONSPIRED AND DEPOSITED REVENUE CHEQUES INTO OPERATIONS ACCOUNTS INSTEAD OF REVENUE ACCOUNTS AND MADE FRAUDULENT WITHDRAWALS

The DCI undertook investigations pursuant to an internal audit that revealed that the KEBS Kisumu operations account had a surplus balance of Kshs. 5,000,000.

Upon investigation it was established that KEBS staff fraudulently conspired and deposited revenue cheques into operations accounts instead of revenue accounts and made fraudulent withdrawals.

The DCI forwarded the inquiry file to the DPP on 5th December 2019 recommending that the suspect be charged with the following offences:

- Conspiracy to defraud contrary to section 317 of the Penal Code,
- False accounting by public officers contrary to section 331(2) of the Penal Code,
- Abuse of Office contrary to section 46 as read with section 48 of ACECA,
- Stealing by servant contrary to section 281.

Upon perusal of the file, the DPP found that the evidence revealed criminal culpability against the suspects and directed that prosecution ensue.

STATUS

The DPP returned the file to the DCI on 3rd April 2020 directing prosecution to ensue.

**25. ODPP/CAM/5/019/386
DCI INQUIRY FILE NO. 182/2019**

INQUIRY INTO ALLEGATIONS OF FRAUDULENT PAYMENTS OF KSHS 203,357,206.40 FOR CONSTRUCTION OF SUBSTATIONS FOR KENYA POWER AND LIGHTING COMPANY LIMITED

The DCI undertook investigations pursuant to information relating to fraudulent activities on land acquisition and construction of substations for Kenya Power and Lighting Limited.

Investigations revealed that down payments were irregularly made by KPLC to the suspects and there was no evidence that the down payments had been utilized for the purpose for which it was intended.

The DCI forwarded the inquiry file to the DPP on 7th November 2019 recommending that the suspect be charged with conspiracy to defraud contrary to section 317 of the Penal Code and abuse of Office contrary to section 46 as read with section 48 of ACECA.

Upon perusal of the file, the DPP found gaps that needed to be covered by way of further investigations and the file resubmitted for further direction.

STATUS

The DPP returned the file to the DCI on 31st March 2020 directing further investigations.

**26. ODPP/CAM/2/962
DCI INQUIRY FILE NO. 315 (D)
OF 2016**

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE, STEALING AND CONSPIRACY TO DEFRAUD THE NATIONAL BANK OF KENYA

The DCI undertook investigations that revealed irregular restructuring of loans, irregular procurement, and fraudulent payments made to four firms by the National Bank of Kenya (NBK) leading to loss of one billion shillings.

The DCI report forwarded to the DPP on 12th April 2017 with recommendations that the suspects be charged with the following offences under the Penal Code:

- Conspiracy to defraud contrary to section 317,
- Stealing contrary to section 268 as read with section 275
- Abuse of office contrary to section 101 (1).

Upon review of the file, the DPP found sufficient evidence to support the recommended charges, however, gaps were identified in the evidence that required to be covered to strengthen the prosecution case.

Further, the Capital Markets Authority (CMA) expressed interest in finalizing its own investigations

over the conduct of NBK and its officials, as it was a listed company in the Nairobi Securities exchange.

In this regard, the Capital Markets Authority (CMA) in April 2018 forwarded its report to the DPP recommending that criminal prosecution ensue against additional suspects.

Upon further review of the inquiry file forwarded by DCI and CMA, the DPP found sufficient evidence to support the recommended charges by the Directorate of Criminal Investigation and the Capital Markets Authority (CMA).

STATUS

The DPP returned the file to the DCI on 14th February 2020 directing that prosecution ensues.



5

**CHALLENGES IN FIGHTING
CORRUPTION 2019**

CHAPTER FIVE

CHALLENGES IN FIGHTING CORRUPTION 2019

1. Politicization of Corruption Cases

Politicization of the fight against corruption remains a major challenge and in recent times. There have been blatant misguided attempts to intimidate, threaten and malign investigating officers and agencies. However, the Office remains committed to ensuring that such incidences are properly investigated and prosecuted where necessary.

2. Slow Judicial Process

The Kenya judicial system is manual in nature with magistrates and judges handwriting proceedings. This increases the number of days for trial, as the testimony of witnesses has to be recorded manually

3. Tampering and Destruction of Evidence

There has been an increase of fire incidents involving the financial offices within the counties leading to destruction of crucial documents relating to financial operation of these counties. This ultimately affects the quality of evidence brought to court as original documents are among those destroyed posing a challenge in producing photocopies which is often opposed by the defense.

4. Witness Intimidation and Compromising

Some witnesses face the challenge of testifying against their bosses or supervisors. Due to fear of losing their jobs or being victimized in the workplace, they often change their testimony to favour the accused persons or fail to turn up altogether.

5. Disclosure Challenges

In complex cases, the defense is served with many documents running into thousands of pages. This brings about the challenge of resources to ensure all copies are properly prepared, enumerated, and identified for the defense. The timeline given by the courts for disclosure

is standard regardless of the bulk of material to be served leading to further delay on beginning of trial.

6. Multiple Court Applications

The accused persons in corruption and economic crime cases file several applications in an effort to stop prosecution or further investigations against them leading to inordinate delay of the main trial. In the event the High Court fails to grant them interim orders, the parties approach the Court of Appeal and even the Supreme Court, curtailing progress of the cases before the trial court, as the physical court file may be required for perusal and analysis.

7. Bottleneck in International Mutual Legal Assistance

Some suspects or witnesses are found to be outside the jurisdiction of the court leading to initiation of requests for Mutual Legal Assistance and Extradition from the other country. This formal process requires intervention and involvement of different agencies and government offices leading to delay in conclusion of corruption cases. Some suspects use tax havens, which are difficult to extradite from.

8. Lack of Case Management System for Corruption Cases

The Office heavily relies on manual input of data on ongoing corruption cases. This is tedious and time consuming. There is need for a digital platform to enable easy access to information, automatic update on records and improve file organization.

9. Over Reliance on Criminal Prosecution to Resolve Criminal Cases

The Constitution of Kenya under Article 159 seeks to promote expeditious disposition of justice to the people of Kenya. One such method is through adoption of alternative dispute resolution mechanisms. The Office has published several policies and guidelines to streamline the application of these mechanisms including ODPP diversion policy, ODPP plea-bargaining guidelines among others. However, few corruption related cases have been dispensed with through alternatives to prosecution.

10. Lack of DPP Involvement in Asset Recovery

The process of asset recovery is one that can be initiated through civil or criminal procedure and often undertaken by the investigative agency or the asset recovery agency. The two entities are empowered under their respective statutes to approach the High Court directly leaving out the role of the DPP in the same.



Contact us:

Office of the Director of Public Prosecution
ODPP House, Ragati Road, Upper Hill, Nairobi
P.O Box 30701- 00100

Tel: +254 2732090 / 2732240 | **Mobile:** 0723202880 / 0787880580

Fax: +254 2 224 3524 / 225 1808 | **Email:** info@odpp.go.ke



ODPPKenya



ODPP_KE

www.odpp.go.ke