



THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE FOURTH QUARTERLY REPORT FOR THE YEAR 2015 COVERING THE PERIOD 1ST OCTOBER TO 31ST DECEMBER, 2015

PREAMBLE

The Ethics and Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions under Section 35 of the Anti-Corruption and Economic Crimes Act, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011.

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
 2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
 3. The Commission shall give a copy of each quarterly report to the Attorney General.
 4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
 5. The Commission shall cause each quarterly report to be published in the Gazette.
- This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the Fourth Quarter of the year 2015, and is for the period commencing 1st October, 2015 to 31st December, 2015.

INVESTIGATION REPORTS COVERING THE PERIOD 1STOCTOBER TO 31ST DECEMBER, 2015

1. EACC/NYR/FI/INQ/02/2015

Inquiry into allegations of abuse of office and failure to follow procurement laws in respect of consultancy services for review of liabilities of coffee farmers

Investigations established that the County Government of Nyeri, Jomo Kenyatta University of Agriculture and Technology (JKUAT) and Jomo Kenyatta University of Agriculture and Technology Enterprises Ltd (JKUATES) prepared an MOU which became the first official document and which was signed on 17/6/2014 a day after the CES-Finance and Economic Planning Officer's advice by Governor and County Secretary for Nyeri County Government, Vice Chancellor JKUAT and the Managing Director of JKUATES. As per the MOU, the agreement was between County Government of Nyeri and JKUATES. It is further alleged that the CES-Agriculture tabled a proposal by JKUATES to the Executive committee chaired by the Governor, to conduct audit/inquiry at the proposed cost of Kshs.5,975,000/= excluding VAT for 40 days.

Investigations established that the County Government single sourced consultancy of audit services for review of liabilities of coffee farmers from Jomo Kenyatta University of Agriculture and Technology Enterprises Ltd (JKUATES) a private Company fully owned by JKUAT without adhering to the applicable provisions of Procurement Act and the Regulations. This was on the basis that the said engagement was exempt from procurement rules being a contract between Government to Government under section 4(2) (c) of the Public Procurement and Disposals Act 2005 (PPDA).

The Executive resolved that the investigative audit be done by JKUATES subject to agreement on fees and that the terms of reference (TORs) for engagement be reviewed to ensure its comprehensive by the CES-Agriculture and Leal Advisor. Further, the relevant Excom sub-committee unanimously approved JKUATES professional fees of Kshs.22,500,000/=, facilitative fees of Kshs.3,982,000/= and VAT of Kshs.3,600,000/= in a meeting. This figure was inflated considering that there was no competitive procurement. Investigations established that the CES-Finance and in-charge of procurement, Acting Chief Officer Finance and Chief Officer – Agriculture as accounting officers authorized the payment of Kshs.3,982,000/= to JKUATES with a balance of Kshs.22,500,000/=. As per contract agreement signed a balance of Kshs.22,500,000/= being professional fees remain outstanding. Investigations established that this approval of the professional fees for the benefit of JKUATES was irregular. This irregular/illegal approval of fees by Executive Secretary-Agriculture and the subsequent contract agreement entered into on behalf of Nyeri County Government occasioned the county government a loss of Kshs.3,982,000/= and may occasion a further loss of

Kshs.22,500,000/= given the inflated pricing and the lack of clear understanding by both parties on alleged government to government contracting.

A Report was compiled and forwarded to the Director of Public Prosecutions on 5th October, 2015 recommending that the Executive Secretary – Agriculture and Chief Officer- Agriculture be charged jointly with the offence of abuse office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

On 26th January, 2016 the DPP resubmitted file with advice for further investigations.

2. EACC/FI/INQ/75/2014

Inquiry into allegations of financial irregularities against former Speaker, Kiambu County Assembly

Investigations established that the Supplementary Estimates I on Recurrent and Development Expenditure for the year 2013/2014 for the County Government of Kiambu had made provision for the Office of the Speaker for Foreign Travel and Subsistence and other transport costs for the sum of Kshs.3,100,000/=. The Speaker of the County Assembly of Kiambu traveled to Brazil on 30th November, 2013 and returned on 4th December, 2013 to participate in the Law Society of Kenya retreat organized for its members. The payment for the out of pocket allowance was calculated and made to cater for the Eight (8) days the he was to be away in Brazil. It was done on the understanding that he would stay for the entire period. However, he only stayed for four (4) days because he returned on 4th December, 2013 instead of 8th December, 2013. He was thus required to surrender out of pocket allowance equivalent to the Four (4) days that he did not stay in Brazil. The out of pocket allowance was given to the Former Speaker of Kiambu County Assembly was for the sum of Kshs.65,816 and the amount which would have been surrendered was Kshs.32,908. Investigations revealed that the Speaker did not refund the amount for the period that he did not stay in Brazil.

The failure to surrender the said imprest issued to him was tantamount to an administrative flaw with the repercussions of a surcharge of the amount owing since it would be considered as a late surrender beyond the stipulated Forty Eight (48) hour period.

A Report was compiled and forwarded to the Director of Public Prosecutions on 10th October, 2015 recommending the closure of the inquiry file and that recovery proceedings commence for the sum of Kshs.32,908 from the former Speaker of the Kiambu County Assembly being the amount of money not surrendered after the trip to Brazil for the LSK annual retreat of 2013

On 5th November, 2015 the DPP accepted recommendation for closure and recovery of the un-surrendered imprest.

3. EACC/MSA/FI/INQ/03/15

Inquiry into a complaint that a Senior Principal Magistrate at the Mombasa Law Courts irregularly gave bond to persons accused of drug trafficking

Investigations established that the Magistrate approved the sureties in a drug related case without the involvement of the Prosecution Counsel. Being a judicial function, it was mandatory that the Magistrate approve the sureties in the presence of both the prosecution and the defence counsel. The Senior Magistrate's conduct in handling the matter raised suspicions that he may have been corrupted and the approval of sureties and issuance of the Release Order was irregular. This action by the Magistrate was however revoked by the High Court which ordered that due process be followed in the approval of the sureties and subsequent issuance of a Release Order. The Magistrate did not exercise the highest standards or professionalism and this led to the credibility of his decisions being put to question. However, investigations did not establish any corrupt conduct on the part of the Magistrate. Nonetheless, he failed to conduct the affairs of his office in a transparent and accountable manner. This was in breach of Article 10(2) (c) of the Constitution, 2010 and Section 10 (b) of the Leadership and Integrity Act, 2012 which requires that state and/or public officers to carry out their duties while ensuring good governance, integrity, transparency and accountability in the performance of those duties.

The Judicial officer was also in breach of Section 11 (a), (b) and (e) of the said Act, requiring him to carry out the duties of his office in a manner that maintains public confidence in the integrity of the office, maintaining of high standards of performance and professionalism within the Judiciary as well all observing and sustaining to the code of conduct of the Judiciary.

A Report was compiled and forwarded to Director of Public Prosecutions on 12th October, 2015 with recommendation that the Judicial Service Commission takes administrative action against a Magistrate in Mombasa Law Courts.

On 3rd November, 2015 the DPP rejected the recommendation for administrative action and instead directed that the inquiry file be closed.

4. EACC/FI/INQ/81/2015

Inquiry into allegations that the Secretary to the Cabinet allocated himself and close relatives thirty one (31) Government Vehicles

Investigations established that suspect was the former Permanent Secretary of Provincial Administration and Internal Security, and later became the Secretary to the Cabinet. Investigations established that as he was changing the offices, he moved with some vehicles which were later returned to the Ministry of Internal Security. Further investigations revealed that in the office of the Secretary to the Cabinet the suspect had officially been allocated only 6 vehicles and he would use two vehicles at a time and other vehicles would be parked in the official parking. Investigations also revealed that upon visiting his various homes, there was no evidence of use of the Government vehicles. Investigations did not establish that the Secretary to the Cabinet in abuse of his office allocated himself and his relatives Government vehicles as alleged. No culpability was established on his part.

A Report was compiled and forwarded to the Director of Public Prosecutions on 15th October, 2015 recommending closure of the file.

On 12th November, 2015 the DPP accepted recommendation for closure of the file.

5. EACC/FI/INQ/23/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF RIG MOVE SERVICES AT GEOTHERMAL DEVELOPMENT COMPANY IN THE FINANCIAL YEAR 2012/2013

Investigation revealed that Geothermal Development Company (GDC) a state owned company formed by the Government as a special Purpose Vehicle to fast track the development of geothermal resources in the country; in the financial Year 2010/2011, entered into a contract with a Clearing and Forwarding Company for rig Move Services, at a cost of Kshs.19, 550, 000 per Rig move. Investigations established that in the F/Y 2012/2013, GDC again procured the same services from the same company at a cost of Kshs.42,746,000 per Rig move after a competitive procurement process. This price of Kshs.42,746,000 per rig move offered by GDC in the F/Y 2012/2013 was very high and more than 100% increase from the previous year. In the F/Y 2013/2014 Kenya Generating Company Limited (Kengen) had contracted the same services from the same company at a cost of Kshs.20, 253,660 per Rig Move. Whereas during the evaluation process the issue of the high bid price by the said company as compared with other bidders was raised, the Tender Committee did not take this into consideration. The price offered by the company awarded the contract for the rig move services was not guided by the prevailing market rates and as such the Government never got value for its money.

A report was prepared and forwarded to the Director of Prosecution on 28th October, 2015 recommending prosecution of the Managing Director and members of the Tender Committee with the offences of abuse of office contrary to section 46, willful failure to comply with the law relating to procurement contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the Managing Director be charged with the offence of willful failure to comply with the law relating to management of public funds contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003, and inappropriate influence on evaluation contrary to section 38 (1) (b) as read with section 38 (2) (a) of the Public Procurement and Disposal Act, 2003..

On 12th November, 2015 the Director of Public Prosecution accepted recommendation for prosecution.

6. EACC/NKR/INQ/FI/27/2015

INQUIRY INTO ALLEGATION OF CORRUPTION IN THE PROCUREMENT PROCEDURES AGAINST BOMET COUNTY GOVERNMENT OFFICIALS IN THE LEASING OF AMBULANCE SERVICES FROM KENYA RED CROSS SOCIETY (KRCS) – EMERGENCY PLUS MEDICAL SERVICES LTD.

Investigation established that the County Executive committee, chaired by the Hon. Governor met and approved a proposal from the Executive Committee Member in charge of Health and sanitation to lease ambulance services. This was a deviation from the initial budgetary appropriation for purchasing. Investigations further revealed that without approval of the County Assembly, the process of leasing of the ambulances services was initiated contrary to the appropriation legislation. The Executive committee Member in charge of Heal and Sanitation illegally used direct tendering process which was also endorsed by the Tender committee without sufficient basis as provided in the Public Procurement and Disposal Act.

Investigations also revealed that the Chief Financial Officer who is the Accounting Officer requisitioned from Exchequer Account, Kshs.24 million for the purchase of ambulances and paid a sum of Kshs.12,031,612.61 for the leased ambulance services. Investigations further revealed that out of Kshs.24 million, Kshs.7.545,638 was not accounted for.

A report was prepared and forwarded to the Director of Public prosecution on 28th October, 2015 recommending prosecution of the suspects.

On 12th November, 2015 the DPP accepted recommendation for prosecution.

7. EACC/FI/INQ/59/2015

INQUIRY INTO ALLEGATION OF IRREGULAR PAYMENT OF KSHS.30 MILLION TO REDLINE LIMITED BY KENYA PIPELINE COMPANY THROUGH THEIR ACCOUNT DOMICILED AT COMMERCIAL BANK OF AFRICA FOR THE SUPPLY, INSTALLATION AND COMMISSIONING OF THREE AUTOTRANSFORMERS PROCURED FROM AGECELEC INDUSTRY OF FRANCE

Investigation revealed that Kenya Pipeline Corporation (KPC) procured autotransformers from M/s AGECELEC INDUSTRIE of France (AIF) through the local agent, M/s Redline Limited. Redline Ltd., the agent of AIF entrusted with the duty of performing this contract, only delivered the autotransformers but never installed any autotransformer as per the negotiated agreement. Investigations further revealed the procurement was done through direct procurement. Upon award of the contract, the Managing Director who was the Accounting Officer failed to enter into a written contract with Redline. This was in contravention of Section 75 of the Public Procurement and Disposal Act which required that all contracts arising from direct procurement must be in writing. Investigations further established that whereas the company awarded the contract was required to supply, install and commission the auto transformers, it only supplied the same. This notwithstanding, the company was paid the full contract price. The Company thus received a sum of Euros 8,695.65 for services not rendered. Investigations also established that the company received the full contract price with the full knowledge that it had not rendered the services in full.

A report was compiled and forwarded to Director of Public Prosecution on 28th October 2015 with recommendation to prosecute the Managing Director, KPC, the members of the Tender Committee and Redline Ltd with the offences of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003 Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the ACECA, Redline Ltd to be charged with the offence of fraudulent acquisition of public property contrary to section 45 (2) (a) of the ACECA. The Commission also instituted recovery proceedings against Redline Ltd for receiving payment from KPC for services not fully rendered.

On 13th November, 2015 the DPP accepted recommendation for prosecution.

8. EACC/FI/47/2015

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE PURCHASE OF LAND BY NATIONAL HOUSING CORPORATION FROM BANGAL TRADING COMPANY

Investigation commenced after receipt of an anonymous report that that the National housing Corporation (NHC) stands to lose over Kshs.300 million if a land purchase

transaction entered into with M/s Bangal Trading Company goes through. It was alleged that, whereas the 9.8 acre land in Imara Daima that NHC intended to purchase was valued at Kshs. 493,000,000/= the vendor was disposing it to NHC at an exorbitant price of Kshs. 790,000,000/-=. Investigations further established that the NHC Tender Committee had advertised for the purchase of land. However, when they failed to identify a suitable parcel, a re-advertisement was made.

Investigations established that after re-advertisement the bids submitted were evaluated. At the preliminary evaluation stage, none of interested sellers met all the requirements set out in the Tender. Another evaluation was conducted and an addendum report was submitted to the Tender Committee. The Tender Evaluation Committee recommended that the Tender Committee considers the parcel of land offered by M/s Bangal Trading Company Limited. A due diligence was carried out on 4 companies and a report submitted.

The Tender Committee directed that due diligence on M/s Bangal Trading Company Limited be subject to 9 specific areas. A further evaluation by the Evaluation Committee titled "resubmission of the third addendum report" recommended that the Tender Committee considers and approves procurement of the parcel offered by M/s Bangal Trading Company. Investigations revealed that after due diligence was again sought and after it was established that there were court proceedings relating to the identified parcel of land, there was an exchange of several communication between the lawyers for the seller and NHC. Ultimately, the seller pulled out of the deal and thus NHC did not buy and pay for the parcel of land in question

A report was prepared and forwarded to the Director of Public Prosecution recommending closure of the inquiry file since there was no sufficient evidence to warrant a prosecution.

On 16th December, 2015 the DPP recommended further investigation.

9. EACC/MLD/FI/INQ/06/15

INQUIRY INTO ALLEGATIONS THAT THE TANA RIVER COUNTY ASSEMBLY DEPUTY CLERK INFLUENCED THE PROCUREMENT PROCESS IN THE AWARD OF A TENDER TO GALECHA CONSTRUCTION COMPANY BY THE TANA RIVER COUNTY GOVERNMENT

Investigations established that County Assembly Deputy Clerk was a Director of the said company at its registration but ceased directorship upon his appointment by the County Government. It was alleged that the Deputy Clerk, Tana River County Assembly had influenced the tender committee to award tender for spot improvement of DC's office road to a company associated with him.

Investigation revealed that contrary to the allegations made against the Deputy Clerk, Tana River County Assembly, he did not influence the award of the tender, neither was there any conflict of interest on his part to warrant any action against him.

A report was prepared and forwarded to the Director of Public Prosecution on 5th November, 2015 with recommendation for closure of the file.

On 12th January, 2016, the DPP accepted the recommendation for closure.

10. EACC/NYR/FI/INQ/05/2014

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF WORKS ON REHABILITATION OF BARAZA PARK BY ISIOLO COUNTY GOVERNMENT

Investigation revealed that the Isiolo County Government made a Tender Notice for prequalification for supply and delivery of goods, works, consultancies and services for the Baraza Park. The Park was to act as a recreation facility, generate revenue for the County and also act as a Citizen Service Centre.

Investigation established that the public Procurement and Disposal Act was not followed and the whole process was marred with irregularities from the prequalification stage to the signing of the contract for the rehabilitation of the Baraza Park. The various committees established pursuant to the Public Procurement and Disposal Regulations, 2006 did not follow the laid down procedures in the various procurement stages.

A report was prepared and forwarded to the Director of Public Prosecution on 3rd December, 2015 with recommendation to prosecute the Head of Supply Chain Management and the County Secretary with the offence of willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, abuse of office contrary to section 46 of the same Act against the Head of Supply Chain Management, conspiracy to commit an economic crime contrary to section 47A (3) of the ACECA against the Head of Treasury, the County Works Officer, the Head of Supply Chain Management and the directors of the company awarded the contract and fraudulent acquisition of property contrary to section 45 (1) (a) of the Anti-Corruption and Economic Crimes Act, 2003 against the directors of the company.

On 13th January, 2016 the DPP accepted our recommendation for prosecution.

11. CF.MSA ACC/15/2015

An Inquiry into allegations of corruption against the Member of County Assembly (MCA) for Shanzu Ward and County Executive Committee (CEC) in charge of lands Planning and Housing in Mombasa County Government

The investigation established that the suspects solicited for a benefit of Kshs.500,000/- from the complainant as an inducement so as to solve the matter with the County Government regarding her plot which was alleged to have encroached on a road reserve. Investigations established that the suspect received a benefit, but the same was not recovered since she concealed it. The MCA and another also obstructed the Commission officers in the course of duty.

A Report was compiled and forwarded to the Director of Public Prosecutions on 14th October, 2015, recommending that the suspects be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, and obstruction contrary to section 66(1) (a) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. It was further recommended that the Member of County Assembly, Mombasa County, Shanzu ward be charged separately with the offence of concealing evidence under section 66(1) (c) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

On 25th November, 2015 the DPP accepted recommendation for prosecution.

12. EACC/FI/INQ. 45/2014

INQUIRY INTO ALLEGATIONS OF CORRUPTION AND ABUSE OF OFFICE AGAINST AN AG. DIRECTOR, ASSISTANT DIRECTOR AND AG. IN CHARGE PERMITS, IMMIGRATION SERVICES

Investigation established that the Assistant Director and the Acting Officer in charge of permits, issued 52 notifications allegedly at the instructions of the Ag. Director of Immigration contrary to section 40 of the Kenya Citizenship and Immigration Act 2011 and Section 7 of the Kenya Citizens and Foreign Nationals Management Act.

Investigations further established that the Assistant Director under the instructions of the Ag. Director of Immigration, instructed officers who were not members of the Permit Vetting Committee to work on the said applications. These officers were not authorized to deal with vetting of applications for work permits.

Investigation revealed that Section 40 (2) and (3) of the Kenya citizenship and Immigration Act, provides that an application for a permit shall be made to the Director and the Director shall issue a permit to the applicant who has satisfied the Committee

that he has met the requirements of a particular class of permits. Investigations established that the two suspects were culpable for the unlawful issuance of the 52 work permits contrary to the Immigration Act.

A report was compiled and forwarded to the Director of Public Prosecution on 18th November, 2015 recommending that the two suspects be charged with the offence of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

On 16th December, 2015 the DPP rejected recommendation for prosecution and directed that the inquiry file be closed.

13. EACC/FI/INQ/26/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY a MEMBER OF PARLIAMENT IN RESPECT OF DOUBLE PAYMENT OF SALARY TO AN OFFICER WORKING AT THE RUARAKA CONSTITUENCY OFFICE

Investigations revealed that the Member of Parliament for Ruaraka Constituency knowingly facilitated the employment of a Research Assistant at Ruaraka Constituency Office while he had knowledge that the said officer had already been employed as his Personal Assistant by the Parliamentary Service Commission. The MP being a Member of the Speaker's Panel of the National Assembly was entitled to a Personal Assistant. Investigations established that as a result of these two parallel appointments, the officer was drawing two salaries. The investigations established that the MP was culpable for facilitating the officer to be on two salaried employments. The officer being a public officer was also culpable for receiving two salaries

A report was compiled and forwarded to the Director of Public Prosecution on 10th December, 2015 recommending the prosecution of the MP with the offence of abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003, and the officer with the offence of unlawful acquisition of public property contrary to section 45 (2) (a) of the Anti- Corruption and Economic Crimes Act, 2003

On 13th January, 2016 the DPP rejected the recommendation for prosecution and in lieu advised that the file be closed.

14. EACC/AT/INQ/21/2015

INQUIRY INTO ALLEGATION THAT A BUILDING (INTEGRITY CENTRE) BELONGING TO TRUST BANK LIMITED WAS IRREGULARLY TRANSFERRED TO PRIVATE ENTITIES TO THE DETRIMENT OF THE INTEREST OF DEPOSITORS OF TRUST BANK LIMITED

Investigation revealed that a Limited Liability Company took a loan of Kshs.152.2 million from Trust Finance Bank Ltd. The Company used the loan to buy the building and used it as a security for the loan, in addition to some 2,500 shares held by Samir Trustees in trust for Trust Finance Ltd. Trust Finance Ltd (TFL) was a wholly owned subsidiary of Trust Bank Ltd (TBL).

Investigation established that the Central Bank of Kenya (CBK) placed TBL under statutory management in 1998 and under liquidation of Depository Protection Fund Board (DPFB). Before then the TBL had acquired all liabilities and assets of the TFL including the liabilities and assets of company. Investigation further established that when the CBK took over the management of TBL there was no proper securitization of the loan advanced to company. TFL had just registered a caveat "claiming a chargee's interest absolutely". In the circumstances the statutory manager through the court process managed to perfect the charge over that property in favour of the TFL for the sum of Kshs.152,500,000.00. CBK thereafter appointed a receiver manager in order to collect rent from the building and remit the rent to TBL Account held at CBK towards settlement of the debt. The Receivers opened an account at Commercial Bank of Africa (CBA) in the name of company under receivership for purposes of managing the rent collections and disbursements to CBK.

It was established that DPFB tried to sell this property to a number of interested parties to no avail since the property was charged to TFL and not TBL hence the uncertainty as to the legitimacy of the DPFB as the liquidator of TBL in dealing in the subject property and the remaining lease period was too short.

Investigation showed that the DPFB and the company entered into negotiations and finally reached settlement on the loan whereupon the TBL was allowed to pay back Kshs. 115 million as full and final settlement. The investigation did not establish culpability on the part of the officials of the DPFB in the aforesaid settlement to warrant any action against them.

A report was prepared and forwarded to Director of Public Prosecution on 11th December, 2015 recommending closure of the file with no further action.

On 13th January, 2016 the DPP returned file recommending further investigations.

15. EACC/FI/INQ/87/2014

INQUIRY INTO ALLEGATION THAT THE COUNTY GOVERNMENT OF TURKANA AWARDED A CONTRACT TO REHABILITATE LODWAR-NAPEIKAR-MORUESE ROAD AT KSHS.11,160,000/= WHEREAS KENYA RURAL ROADS AUTHORITY (KERRA) HAD DONE SIMILAR WORK ON THE SAME ROAD FOR KSHS.1,190,160.00

Investigation revealed that in the financial year 2013/2014 Turkana County Government allocated a huge portion of its budget for the rehabilitation of several roads within the County. One of the roads which was identified for rehabilitation and the contract awarded to a contractor was the 28km Lodwar-Napeikar-Moruese Road. Since it was alleged that the said contractor charged kshs.11,160,000.00 compared to Kshs.1,190,160.00 the Kenya Rural Roads Authority spent in the Financial Year 2011/2012 on the same road, the investigations sought to establish the veracity of the said allegation.

Investigations established that there was need for the grading and gravelling of the subject road and the budgetary allocation of kshs.11,160,000.00 for the project was included in the budgetary estimates of the Ministry of Transport, Road, Housing and Public works for the Financial Year 2013-2014.

Investigation further established that the procuring entity commenced the procurement process by putting up a tender Notice inviting bidders for purposes of pre-qualification for the construction works. Several contractors were pre-qualified in the said category of construction works.

Investigation established that the procuring entity awarded the contract for the construction of the aforementioned road to a contractor through restricted tendering. However, the approval of the Tender Committee was not obtained when this was done. This was in contravention of the Public Procurement and Disposal Act, 2005. Investigations further established that upon completion of the works, no Inspection and Acceptance Committee was constituted to inspect the road works to ascertain that they were done to the required specifications. Instead completion certificates were issued by two officers contrary to the PPDR. It was further established that the officer supervising the works was an employee of KERRA and did not have the authority to supervise the works. In addition, whereas he was a public officer he received a sum of kshs.106,604/= from the County as supervision fees for the road project.

A report was prepared and forwarded to Director of Public Prosecution on 28th December, 2015 with recommendation that the CEC Roads, and the County Superintendent of works be charged with the offences of abuse of office, Unlawful acquisition of public property contrary to section 45 (2) (a) and the members of the Tender Committee be charged with the offence of willful failure to comply with the law relating to procurement contrary

to section 45 (2) (b) of the Anti- Corruption and Economic Crimes Act, 2003. The Commission will also institute recovery proceedings for the sum of kshs.106,604/=.

On 4th February, 2016, the DPP accepted recommendation for prosecution.

16. EACC/MSA/INQ/FI/2/2015

INQUIRY INTO ALLEGATION OF BRIBERY OF KSHS.1 MILLION AGAINST KRA OFFICERS

The Commission commenced investigation after intelligence reports indicated that two Kenya Revenue Authority employees had received a bribe of Kshs. 1 million to allow unaccustomed sugar into the local market. Investigations established that indeed the sugar consignment was stored at a go down along the Mombasa-Malindi highway within the VOK area. Since it was alleged that the suspects had received the bribe and were going to bank it, the Commission investigators pursued them to the bank and arrested them. Investigation however revealed that the suspects were able to explain that the source of the money in their custody and which they were going to deposit in the bank was in regard to a land transaction. Investigations did not establish that the two suspects solicited for and received a benefit as reported.

A report was prepared and forwarded to the Director of Public Prosecution on 24th December, 2015 recommending closure of the file.

On 10th February, 2016 the DPP accepted recommendation for closure.

17. EACC/FI/INQ/61/2013

INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF 116 MILLION FOR PURCHASE OF HOUSES FOR PRISON OFFICERS FROM THE MINISTRY OF HOUSING

The Commission commenced investigations following an anonymous complaint against a Permanent Secretary (PS) in the Office of the former Vice President and Ministry of Home Affairs, that among other things, that during his tenure funds amounting to Kshs.116 million meant for the construction of One Hundred and Twenty (120) housing units to house Prison Officers were embezzled and or misappropriated. Investigations established that in deed the said sum was allocated for construction of residential houses for warders at the Langata Prison. The houses were constructed, but were not occupied by the Prison Warders. Instead, they were taken over by the Ministry of Housing. At the time the former PS was appointed to the said docket the project had already been initiated and completed.

Investigation established that the then Permanent Secretary made several attempts to have the Ministry of Housing refund the money that the Ministry of Home Affairs had paid towards the housing the project but he did not succeed. By the time he left the Ministry, the money had not been received back.

The investigations did not establish that the PS had misappropriated and or embezzled the funds set aside for the purchase of the housing units as alleged. No culpability was established on his part to warrant any action against him.

A report was prepared and forwarded to the Director of Public Prosecution on 15th December, 2015 recommending closure of the file for lack of evidence.

On 13th January, 2016 the DPP declined the recommendation for closure and instead recommended further investigation.

18. EACC/OPS/INQ/43/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT IN THE RENOVATION AND REFURBISHMENT OF COUNTY EXECUTIVE COMMITTEE MEMBERS OFFICES BY THE COUNTY GOVERNMENT OF MACHAKOS

Investigations established that the Transition Authority published in the Nation Newspaper facilities identified to serve as Interim County Government offices and requested that the respective departments ensure that offices are vacated to facilitate renovation and refurbishment. Following the General elections that were held in 2013, the Governor of the Machakos County Government of Machakos, appointed County Ministers who in order to carry out their duties required office space.

Investigations established that several offices previously occupied by officials of the County Council of Machakos were earmarked for renovation for use by the County Executives. Investigations established that restrictive tendering method was used to identify the various contractors to carry out the renovations. It was however established that during the identification of the office space and areas that required refurbishment, one of the contractors who was subsequently awarded almost all the renovation contracts was present which was contrary to Procurement Regulations. It emerged therefore that the subsequent purported procurement process was a sham since this particular bidder already had information with regard to the requirements of the County Government. It was further established that some of the contractors invited to bid were not pre-qualified contractors.

Investigations further established that some of the County officials involved in the procurement process and subsequent payment of the successful contractor received money from the contractor via Mpesa which was deemed to be a benefit and or reward for awarding the contractor to the said contractor to the exclusion of others.

Investigations established several infractions of the Public procurement and Disposal Act in the award of the tenders for the renovation of the offices.

A report was prepared and forwarded to Director of Public Prosecution on 19th November, 2015 recommending prosecution of the Interim County Secretary, Chief Officer, Transport and Roads, Interim Head of Supply Chain Management and the Governor's Personal Assistant with several counts of wilful failure to comply with the law or applicable procedures and guidelines relating to procurement contrary to section 45(2) (b), abuse of office contrary to section 46 and corruptly receiving a benefit contrary to section 39 (3)(a) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003. It was further recommended that the said suspects jointly with the contractor awarded the contracts for refurbishment be charged with conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 15th December, 2015, the DPP accepted recommendation for prosecution.

19. CR.032/26/2014

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A QUANTITY SURVEYOR FROM THE MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

The investigation established that the suspect solicited for a benefit of Kshs.350,000/- from the complainant as an inducement to release the final Valuation Certificate for the construction of a School Clinic and Laboratory in Kisumu Polytechnic. Investigations further established that the suspect received a benefit.

A Report was compiled and forwarded to the Director of Public Prosecutions on 19th October, 2015 recommending that the suspect be charged with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with Section 48 (1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

On 19th November, 2015, the DPP accepted the recommendation for prosecution.

20. EACC/MKS/OPS/3/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST TRAFFIC POLICE OFFICERS ALONG NAIROBI-MOMBASA ROAD

Investigations established following numerous reports from members of the public that traffic police officers along Mombasa-Nairobi Road were engaging in corruption. It was alleged that traffic police officers along that road were demanding and receiving bribes

from Public Service Vehicles (PSV) operators and private motorists. EACC organized a surveillance operation in the months of December, 2014, March, July and August, 2015 and took video recording of traffic Police Officers receiving bribes. Consequently a sting operation was carried out.

During the sting operation some of the traffic officers were nabbed having received bribes. However, they escaped from lawful custody of Ethics and Anti-Corruption Commission Officers.

A Report was compiled and forwarded to the Director of Public Prosecutions on 22nd October, 2015 recommending prosecution of the suspect.

On 30th November, 2015, the DPP returned file recommending further investigations.

21. EACC FILE NO. CR.021/32/2015 CF.MSA.ACC.NO. 9/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A PROBATION OFFICER AT KWALE PROBATION OFFICE

Investigations revealed that the accused, who is a Probation Officer at Kwale Probation Office corruptly solicited for and received a benefit of Kshs.5,000/- as an inducement to submit an unfavourable Community Service Order report concerning a criminal case where the complaint's nephew was charged with the offence of creating disturbance.

A report was prepared and forwarded to Director of Public Prosecution on 22nd October, 2015 with recommendation to prosecute the accused for offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes.

On 4th December, 2015 the Director of Public Prosecution accepted the recommendation for prosecution.

22. EACC CR.741/218/2015 NAKURU ACC. NO.5/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A RESIDENT MAGISTRATE AND A COURT INTERPRETER, KERICHO LAW COURTS

Investigations established that the suspects who were employees of the Judiciary corruptly solicited for and received a benefit of Kshs.20,000/= as an inducement to acquit the accused in a case pending in Kericho Law court in which he was accused of operating a bar without a license and failure to display signs contrary to read Alcoholic Drinks control Act No. 4 of 2010.

A report was prepared and forwarded to Director of Public Prosecution on 28th October, 2015, recommending prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

On 30th November, 2015 the DPP accepted recommendation for prosecution.

23. CR.44D/54/2015 MACHAKOS ACC.CF 13/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION OFFENCES AGAINST TWO TRAFFIC POLICE OFFICERS ALONG NAIROBI-MACHAKOS ROAD

Investigations revealed that the accused are Traffic Police Officers attached to Machakos. They were accused of harassment of motorists, soliciting and receiving bribes along Nairobi-Machakos road and along Nairobi-Mombasa road. During a trap operation by the Ethics and Anti-Corruption Commission, the officers were found in possession of Kshs.4,850 and Kshs.2,600. Some of this money was marked money by the Commission which had been given to undercover operatives for onward transmission to the officers.

A report was prepared and forwarded to the Director of Public Prosecution on 2nd November, 2015 recommending prosecution of the suspects with the offence of dealing with suspect property contrary to section 47(1) of the Anti- Corruption and Economic Crimes Act, 2003.

On 27th November, 2015 the DPP accepted recommendation for prosecution.

24. EACC/NRK/1/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST TWO (2) POLICE OFFICERS ATTACHED TO BAHATI POLICE STATION, NAKURU

The investigations revealed that the suspects all Police Officers, were employees of the National Police Service (NPS) based at Bahati Police Station, Nakuru. Investigations established that on diverse dates between 15th and 18th January 2015, at Bahati Police Station, in Nakuru Town, within Nakuru County, the accused, an OCS and an Inspector of Police respectively, jointly detained suspects for more than 24 hours and failed to release them on bond or bail, as they were bound by law to do. Investigation also revealed that one of the suspect's was soliciting for a benefit of Kshs.30,000 as an inducement to facilitate the release of one of the persons who was arrested. Investigations also established that the two suspects and others failed to book those they had detained in the Occurrence Book. When EACC investigators went to the Bahati Police

station to make enquiries, the suspects gave false information to them by indicating that they had no detainees a fact they knew to be false.

A report was prepared and forwarded to the Director of Public Prosecution on 5th November, 2015 with recommendation for the prosecution of the OCS Bahati with the offence of deceiving principal contrary to section 41 of the Anti- Corruption and Economic Crimes Act, 2003; and the OCS jointly with other police officers be charged with the offence of willful neglect to perform official duties contrary to section 128 of the Penal Code.

On 11th December, 2015 the DPP accepted recommendation for prosecution.

25. CR/832/80/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRAFFIC POLICE OFFICERS ALONG ELDORET-KITALE ROAD

Investigations commenced after EACC received reports that Traffic Police Officers along Eldoret-Kitale road were harassing motorists, soliciting and receiving bribes. Investigations carried out by the commission revealed that the officers had abdicated their core traffic duties and engaged in daily collection of bribes from public service vehicles. This was established during surveillance by EACC. During a sting operation by EACC investigators, the Traffic Police officers were arrested and money suspected to have been obtained through corruption was recovered from them.

On 5th November, 2015 a report was prepared and forwarded to Director of Public Prosecution with the recommendation to prosecute the suspects with the offence of dealing with suspect property contrary to section 47 and abuse of office contrary to section 46 of the Anti- Corruption and Economic Crimes Act, 2003.

On 30th December, 2015, the Director of Public Prosecution accepted recommendation for prosecution.

26. CR/421/113/2015 MERU ACC. NO. 4/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DCIO TIGANIA WEST

Investigation established that the accused who is an employee of National Police Services as a DCIO corruptly solicited for and received a benefit of Kshs.35,000/= as an inducement not to recommend the interdiction of the complainant's son who had been charged in court with the offence of attempted rape and also accused of wrongful possession of Police documents.

A report was prepared and forwarded to Director of Public Prosecution on 5th November, 2015 recommending prosecution of the suspect for the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003..

On 1st December, 2015, the DPP accepted the recommendation for prosecution.

27. EACC/OPS/INQ.49/2015 CR.814/109/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER WHO WAS OFFERING A BRIBE TO PUBLIC OFFICERS

Investigations established that the accused was a driver of a truck an employee Sino Truck, engaged in among other duties transporting ballast. He was arrested along Eldoret-Kitale Road within Moi's Bridge, by officers of Ethics and Anti-Corruption Commission jointly with Kenya Highways Authority (KenHa), National Police Service (NPS) and Society General Surveillance (SGS) who were targeting overloaded trucks. When the truck was weighed, it has a load of 36,920 Kgs. instead of the legal load limit of 26,000 Kgs. which translated to an excess of 10,920 Kgs.

Investigation revealed that when the driver was arrested, he offered a benefit of Kshs.35,000 to the officers carrying out the operation as an inducement not to be fined the sum of Kshs.400,000/- due to driving an overloaded truck.

A report was prepared and forwarded to Director of Public Prosecution on 6th November, 2015 recommending the prosecution of the suspect The driver was charged with the offence of corruptly offering a benefit contrary to section 39(3) (b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 11th January, 2016 the DPP accepted recommendation for prosecution.

28. CR.494/155/2015 ACC. MACHAKOS CF. ACC. NO. 15/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO NGOMENI POLICE POST, KYUSO DIVISION AND KITUI COUNTY

Investigation revealed that the accused who is a Police Officer attached to Ngomeni Police Post, Kitui County, had corruptly solicited for a benefit of Kshs.2000 from the complainant's wife as an inducement to facilitate the processing of photographs taken at a scene of house breaking, stealing and malicious damage to property belonging to the complainant.

Investigation further established that during a trap operation organized by the

Commission, the accused received Kshs.2000.00 sent to him through an Mpesa account.

A report was prepared and forwarded to the Director of Public Prosecution on 9th November, 2015 with recommendation for prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 11th January, 2016 the DPP accepted recommendation for prosecution.

29. CR.511/193/15 GARISSA ACC. NO. 14/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ASSISTANT COUNTY COMMISSIONER OF CENTRAL DIVISION OF GARISSA SUB-COUNTY OF GARISSA COUNTY

Investigations revealed that the suspect, who is the Assistant County Commissioner of Central Division of Garissa Sub-County Ministry of Interior and Coordination of National Government corruptly solicited for and received a benefit of Kshs.20,000 as an inducement to facilitate the re-opening of a bar owned by the complainant's wife.

A report was prepared and forwarded to the Director of Public Prosecution on 9th November, 2015 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 11th January, 2016, the DPP accepted the recommendation for prosecution.

30. CR.021/8/2015 CF: 147/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST A JUDICIAL OFFICER AT THE MOMBASA LAW COURTS AND A BUSINESS MAN IN MOMBASA COUNTY

Investigations established that the suspects were an Assistant Archivist at the Civil Registry in Mombasa Law courts and a business man in Mombasa County respectively. They corruptly solicited for a benefit from the complainant of Kshs.50, 000.00 as an inducement so as to destroy a warrant of arrest that had been issued against him in a civil case. During the trap operation, the suspects received a benefit of Kshs. 20,000.

A report was prepared and forwarded to Director of Prosecution on 9th November, 2015 recommending prosecution of the Court official with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 30th December, 2015, the DPP accepted the recommendation for prosecution.

31. CR.145/17/2015 MILIMANI CF ACC. NO.16/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE NAIROBI CITY COUNTY GOVERNMENT

Investigations revealed that the suspect is an employee of the Nairobi County Government in charge of the Kariokor/Ziwani Ward. The suspect solicited for a benefit of Kshs.5000 from the complainant as protection fees so that the complainants businesses which are located in Kariokor will not be interfered with.

Investigations established that during the trap operation, the suspect received a benefit of Kshs.4,000.00 from the complainant.

A report was prepared and forwarded to Director of Public Prosecution on 10th November, 2015 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti- Corruption and Economic Crimes Act, 2003.

On 26th January 2016, the DPP accepted recommendation for prosecution.

32. CR.313/216/2015

INQUIRY INTO ALLEGATIONS OF DEALING WITH SUSPECT PROPERTY BY TWO (2) POLICE OFFICERS ATTACHED TO KILIFI POLICE STATION

Investigations revealed that two Police Officers were on duty on 15th June, 2015, when they were arrested by the EACC officers who were on other duties within Kilifi. The EACC officers witnessed as a one hundred shilling note was thrown at the police officer by a moving bus which is the new trend of giving bribes to traffic officers. Investigations further established that while interviewing the police officers, one of them lifted his official cap and threw to the ground a bunch of money and which the EACC officers recovered a sum of Kshs.800.00 plus the Kshs.100.00 note thrown to the police officer. A search was conducted at the scene of incident later and Kshs.2000 was recovered in a black polythene bag hidden under a rock.

Since the Kshs. 2,000 was recovered much later when the suspects had already been taken to the Police Station, there was no sufficient evidence to prove that they had collected the money and hidden it from where it was recovered. Therefore charges based on the said recovery would not be sustained.

A report was prepared and forwarded to Director of Public Prosecution on 10th November, 2015 recommending administrative action to the suspects.

On 30th November, 2015, the DPP accepted the recommendation for prosecution and administrative action on the suspects.

33. EACC/MSA/RP/INQ/17/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CLERICAL OFFICER WITH THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

Investigation established that the suspect is a Clerical Officer in the Ministry of Interior and Coordination of National Government based in Chief's office, Likoni. The suspect solicited for a benefit of Kshs. 2,000 from the complainant as an inducement so as to process an application for his wife's identity card.

During the trap operation, the suspect received from the complainant a benefit of Kshs. 1,000.

A report was prepared and forwarded to the Director of Public Prosecution on 10th November, 2016 recommending prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 14th January, 2016 the DPP accepted the recommendation for prosecution.

34. CR. /2014 CF. NAKURU ACC./2014

INQUIRY INTO ALLEGATIONS THAT TRAFFIC POLICE OFFICERS ATTACHED TO THE CENTRAL POLICE STATION NAKURU, CORRUPTLY DEALT WITH SUSPECT PROPERTY

Investigation established that Traffic Police Officers along Nairobi-Nakuru Highway, between Free-Area and Nakuru town including Nakuru-Kisumu Highway were demanding and receiving bribes of between Kshs.50 and Kshs.100 from the motorists using the said route. EACC carried out surveillance and ultimately a sting operation. Some of the traffic Police officers were arrested while in possession of money which was suspected to have been obtained in the course of corrupt conduct.

A Report was compiled and forwarded to the Director of Public Prosecutions on 20th November, 2015 recommending that the suspects be charged with the offences of dealing with suspect property contrary to section 47 (2) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 20th November, 2015, the DPP accepted the recommendation for prosecution.

35. CR.760/544/2015 CF.NAKURU ACC.6/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICERS OF KENYA POWER AND LIGHTING OFFICERS IN NAKURU

Investigation established that the suspects who were employees of Kenya Power and Lighting Company, Nakuru corruptly solicited for a benefit of Kshs.500,000 from the complainant as an inducement so as to cover up an alleged illegal power connection.

The investigation confirmed that the suspects received a benefit of Kshs. 130,000 through Mpesa.

A Report was compiled and forwarded to the Director of Public Prosecutions on 27th November, 2015 recommending the prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 12th January, 2016 the DPP accepted recommendation for prosecution.

36. CR.313/256/2015 MALINDI ACC.NO.11 2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE MALINDI TOWN CHIEF

Investigations established that the suspect was soliciting for a bribe of Kshs.4000 as an inducement to influence the Malindi County Assistant Commissioner to reverse a decision made by his predecessor in regard to the complainant's two acres parcel of land in the Malindi High school area.

During the trap operation organized by EACC, the suspect received Kshs.4000. A report was prepared and forwarded to the Director of Public Prosecution on 24th November, 2015 recommending the prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

On 11th January, 2016 the DPP accepted recommendation for prosecution.

37. CR.314/71/2015

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

Investigation established that the suspect who was a Police Officer, attached to Watamu Police Station solicited for a benefit of Kshs.25,000 as an inducement to assist the complainant to deal with an alleged counter complaint against her by her neighbour whom she had complained of causing unbearable noise coming from his hotel premises. The suspect received a benefit.

A Report was prepared and forwarded to the Director of Public Prosecutions on 27th November, 2015 recommending the prosecution of the suspect with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13th January, 2016 the DPP accepted the recommendation for prosecution.

38. CR.313/308/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A TRAFFIC POLICE OFFICER ATTACHED TO KILIFI TRAFFIC BASE FOR DEALING WITH SUSPECT PROPERTY, CONCEALING EVIDENCE AND RESISTING ARREST

Investigations by EACC commenced upon receipt of numerous complaints from the public that Traffic Police officers along the Kilifi road were habitually soliciting for and receiving bribes from motorists. The Commission carried out surveillance to ascertain the allegations which they confirmed to be true. As a result a sting operation was carried and the traffic officers were arrested while in possession of EACC marked money in denomination of Kshs.50 and Kshs.100. Investigations further established that the suspects had in their possession money whose source they could not satisfactorily account for, and which one of them tried to conceal upon being confronted by EACC Investigators.

A Report was compiled and forwarded to the Director of Public Prosecutions on 27th November, 2015 recommending that the suspects be charged with the offence of dealing with suspect property contrary to section 47 of the Anti- Corruption and Economic Crimes Act, 2003.

On 12th January, 2016 the DPP accepted the recommendation for prosecution.

39. EACC.CR.421/114/2015 MERU ACC. NO.5/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO POLICE OFFICERS ATTACHED TO ISIOLO POLICE STATION

Investigations established that the suspects who were attached to Isiolo Police station solicited for a bribe of Kshs.100,000.00 from the complainant as an inducement to release a motor vehicle belonging to the complainant who had been arrested for an undisclosed offence and his motor vehicle impounded.

Investigation revealed that one of the suspects received a benefit of Kshs. 30,000 out of which she shared Kshs. 15,000 with her co-suspect who escaped and another. Upon being searched the suspect was found in possession of Kshs. 25,400 which was suspect property. Her co-suspect who had received the trap money, Kshs. 15,000 concealed it and thus it was not recovered.

However, at the time of arrest, one of the suspect was charged with dealing with suspect property of Kshs.25,400/= which was recovered from the handbag and the other one was charged for concealing evidence of Kshs.15,000/= of the treated money.

A Report was compiled and forwarded to the Director of Public Prosecutions on 1st December, 2015 recommending the prosecution of the suspects with the offences of corruptly soliciting for and receiving a benefit, concealing evidence contrary to section 66(1) (c) and dealing with suspect property contrary to section 47 of the Anti- Corruption and Economic crimes Act, 2003. However, a further recommendation was made to withdraw the charges of dealing with suspect property since the evidence obtained was not sufficient to prove the said charge.

On 26th January, 2016 the DPP accepted recommendation for prosecution.

40. CR.148/19/2015 CF.MACHAKOS ACC.645/2015

INQUIRY INTO ALLEGATIONS OF OBSTRUCTION CONTRARY TO SECTION 66(1)(a) AS READ WITH SECTION 66(2) OF THE ANTI-CORRUPTION AND ECONOMICS CRIMES ACT NO. 3 OF 2003 AND AIDING AN ESCAPE AGAINST POLICE OFFICERS ATTACHED TO ATHI RIVER POLICE STATION

The Commission commenced investigations following anonymous reports from members of the public and motorists alleging that traffic police officers along Nairobi-Mombasa highway solicited and received bribes from motorists, so as not to charge them for various traffic offences.

A sting operation by the Commission established that indeed the traffic officers were receiving bribes. In the course of the operation Kshs. 21,700 stashed in the police vehicle the officers were using was recovered. The money included marked EACC money which had been given to undercover agents to give to the suspects upon demand. However, after the arrest of the Traffic officers involved, other officers from Athi River went to the scene and aided the suspects to escape.

A report was prepared and forwarded to Director of Public Prosecutions on 3rd December, 2015 recommending the prosecutions of the suspects with the offences of obstruction contrary to section 66 (1) (a) of Anti- Corruption and Economic Crimes Act, 2003, and aiding and abetting an escape contrary to section 124(a) of the Penal Code.

On 12th January, 2016 the DPP accepted recommendation for prosecution.

41. EACC/INQ/OPS/44/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO EMPLOYEES OF VIWANDANI WARD, NAIROBI COUNTY

Investigations commenced after the Commission received a report that employees of the Nairobi city County assigned duties of collecting parking fees within Industrial Area were collecting money from motorists without issuing receipts.

One of the complainant's who agreed to participate in the sting operation was given Kshs. 100 by the EACC investigators. Investigations further revealed that one of the suspect's received the Kshs. 100 which was recovered from her upon her arrest. However, the evidence obtained did not meet the threshold to prove the case against her. This notwithstanding, her conduct was in breach of the Public Officer Ethics Act and the Leadership and Integrity Act. In regard to her co-suspect, there was no evidence to connect her with the solicitation and receipt of bribes.

A report was prepared and forwarded to the Director of Public Prosecutions on 3rd December, 2015 recommending administrative action against one of the suspects and the termination of the inquiry against her co-suspect.

On 11th January, 2016 the DPP accepted recommendation for prosecution.

42. CR.511/237/2015 GARISSA ACC. NO. 15/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A KENYA POWER METER READER WITHIN GARISSA TOWNSHIP

Investigations established that the suspect who was an employee of KPLC, Garissa Township had solicited from the complainant a benefit of kshs.50,000.00 as an inducement so as to reconnect electricity to his residence. This was after the suspect alleged that the complainant had an outstanding bill of Kshs.17,000.

Investigations established that the suspect received a benefit of Kshs.30,000 in order to reconnect the electricity in the complainant's residence.

A report was prepared and forwarded to the Director of Public Prosecution on 4th December, 2015 recommending the prosecution of the suspect with the offence of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) of the Anti-Corruption and Economic Crimes Act, 2003.

On 11th January, 2016 the DPP accepted recommendation for prosecution.

43. EACC/INQ/OPS/48/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A DRIVER WITH A CONSTRUCTION COMPANY

Investigations established that the suspect who was employed as a truck driver of a construction company corruptly offered and gave a benefit of Kshs.3,000 to a Computer Operator working with Society General Surveillance (SGS), who was on surveillance duties along the Nyeri-Nairobi Highway, within Kirinyaga County. The suspect offered the benefit as an inducement so as to influence the SGS officer to forbear charging him with an offence of carrying excess load axle.

A report was prepared and forwarded to the Director of Public Prosecution on 10th December, 2015 recommending the prosecution of the suspect with the offence of corruptly offering and giving a benefit contrary to section 39 (3) (c) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13th January, 2016 the DPP accepted the recommendation for prosecution.

44. CR.032/14/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST PROSECUTION COUNSELS IN THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS KISUMU OFFICE

The Commission received a complaint alleging that a Prosecution Counsel was demanding a benefit of Kshs.15,000/= as an inducement to facilitate the continued prosecution of a criminal case which the Directorate of Criminal Investigations, Kisumu County had written a letter seeking advice from the Office of the Director of Public Prosecution's Kisumu about withdrawing the said case since the complainant had refused to hand over exhibits to them.

Investigation established that the suspects corruptly jointly demanded for benefit of Kshs.15,000/= as an inducement to facilitate the continued prosecution of Criminal case before the Office of the Public Prosecutions Kisumu.

A report was prepared and forwarded to the Director of Public Prosecution on 24th December, 2015 recommending prosecution of the suspects.

On 15th February, 2016 the DPP accepted recommendation for prosecution.

45. CR.021/52/2015 CF: NO. ACC.12/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST A POLICE CONSTABLE ATTACHED TO KWALE COUNTY COMMANDER OF POLICE AS A DRIVER

Investigation established that a Police Constable an employee of National Police Services attached to the County Commander of Police, Kwale as a driver corruptly solicited and received a bribe of Kshs. 2000.00 from the complainant as an inducement to release driving licence and charcoal permit that the Police Constable had confiscated. Under Section 39(3 (a) of the Anti-Corruption and Economic Crimes Act a person is guilty of an offence if the person receives or solicits, or corruptly agrees to receive or solicit a benefit.

A report was prepared and forwarded to the Director of Public Prosecution on 23rd December, 2015 recommending prosecution of the suspect.

On 9th February, 2016 the DPP accepted recommendation for prosecution.

46. CR.148/22/2015 CF: ACC./17/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST THE VICE CHAIRMAN OF A SACCO

Investigations revealed that when the National Transport Safety Authority (NTSA) was conducting surveillance along the Southern Bypass at Kikuyu town, they flagged down a motorist driving a motor vehicle branded with Lira Line Sacco Limited Trademark. The motorist refused to stop and the vehicle registration number was recorded and circulated. Investigations established that the Vice Chairman of the Sacco attempted to intervene by contacting the officers of the NTSA and offered a bribe in order to conclude the matter.

Investigation established that the Vice Chairman of the Sacco corruptly offered and gave a benefit of Kshs.10,000 to the NTSA officer as an inducement so as to forbear charging the driver of motor vehicle for speeding and failing to stop.

A report was prepared and forwarded to the Director of Public Prosecution on 22nd December, 2015 recommending prosecution of the suspect with the offences of corruptly offering and giving a benefit contrary to section 39(3) (b) of the Anti- Corruption and Economic Crimes Act, 2003.

On 14th January, 2016 the DPP accepted recommendation for prosecution.

47. CR.032/12/2015 CF NO. 3/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST A DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER AT THE KISUMU DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICE

Investigation revealed that a District Land Adjudication and Settlement Officer demanded for a benefit of Kshs.3,000 as an inducement to facilitate the issuance of the Land Adjudication records for the complainant who is a farmer at Nyalunya in Kisumu East within Winam Division in Kisumu County.

Investigation further established that the suspect corruptly received a benefit of kshs.2,000 during the trap operation.

A report was prepared and forwarded to Director of Public Prosecution on 18th December, 2015 recommending prosecution of the suspect.

On 13th January, 2016 the DPP accepted recommendation for prosecution.

48. CR.222/34/2015 EMBU ACC.NO.1A/2015

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST AN ADMINISTRATION POLICE OFFICER STATIONED AT THE KIBURU ADMINISTRATION POLICE POST WITHIN THE COUNTY OF KIRINYAGA

Investigations revealed that the Administration Police Officer attached to the Kiburu Administration Police Post had confiscated a National Identification Card and the mobile telephone belonging to the complainant and demanded a bribe of Kshs.5,000 for the release of the same.

Investigation established that the suspect also corruptly received a benefit of kshs.4,000.00 from the complainant as an inducement so as to release National Identification Card and a Techno mobile phone.

A report was prepared and forwarded to the Director of Public Prosecution on 22nd December, 2015 recommending prosecution of the suspect with the offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) and concealing evidence contrary to section 66(1) (c) of the Anti- Corruption and Economic Crimes Act, 2003.

On 7th March, 2016 the DPP accepted recommendation for prosecution.

**STATISTICAL SUMMARY OF FILES FORWARDED TO
THE DIRECTOR OF PUBLIC PROSECUTIONS**

Total No. of files forwarded to the Director of Public Prosecutions	48
No. of files recommended for prosecution	40
No. of files recommended for administrative or other action	7
No. of files recommended for closure	1
No. of files recommended for prosecution and the cases are already lodged before Court	31
No. of files where recommendation to prosecute accepted	36
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	4
No. of files returned for further investigations	4
No. of files where recommendation to prosecute not accepted	2
No. of files where recommendation for administrative or other action not accepted	1
No. of files where closure not accepted	1
No. of files awaiting Director of Public Prosecution's action	0

DATED AT NAIROBI THIS *5th* DAY OF *May* 2016



**PHILIP K. B. KINISU
CHAIRMAN**



**HALAKHE D. WAQO, ACIArb
SECRETARY/CHIEF EXECUTIVE OFFICER**