



OFFICE OF THE DIRECTOR OF  
PUBLIC PROSECUTIONS

# SECOND PROGRESS REPORT 2013/2014







## ***Vision***

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An independent Prosecution Authority providing efficient, effective, fair and just prosecution services for the people of Kenya.

## ***Mission***

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To serve the public by providing quality, impartial and timely prosecution anchored on the values and principles enshrined in the constitution.

## **Core Values**

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- Respect and promotion of Human Rights and the Rule of Law;
- Integrity and Ethics;
- Professionalism;
- Fairness and Impartiality;
- Teamwork.

**OFFICE OF THE DIRECTOR OF  
PUBLIC PROSECUTIONS**

# **SECOND PROGRESS REPORT 2013/2014**

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## ACCOUNTABILITY STATEMENT

This Report is presented pursuant to the Provisions of Articles 10(2) (c), 35, 232 (1) (f) and 254 of the Constitution and Section 7 of the ODPP Act, 2013.

# Highlights

Presence in 47 Counties.  
Overall conviction rate 82%.  
56,214 Matters handled.

**Objective 1:  
Access to Justice**

Prosecution policy framework established.  
Established Five Emerging Crimes Divisions.

**Objective 2:  
Institutional Reforms**

Increase of Prosecutors to 254.  
Taking over Prosecutions.  
Case screening piloted.

**Objective 3:  
Professionalization of  
Prosecution Services**

Process Mapping and Gap Analysis completed.  
Staff to Computer Ratio

**Objective 4:  
Processes Optimization**

2nd Annual Convention held.  
Enhanced Collaboration with Partners

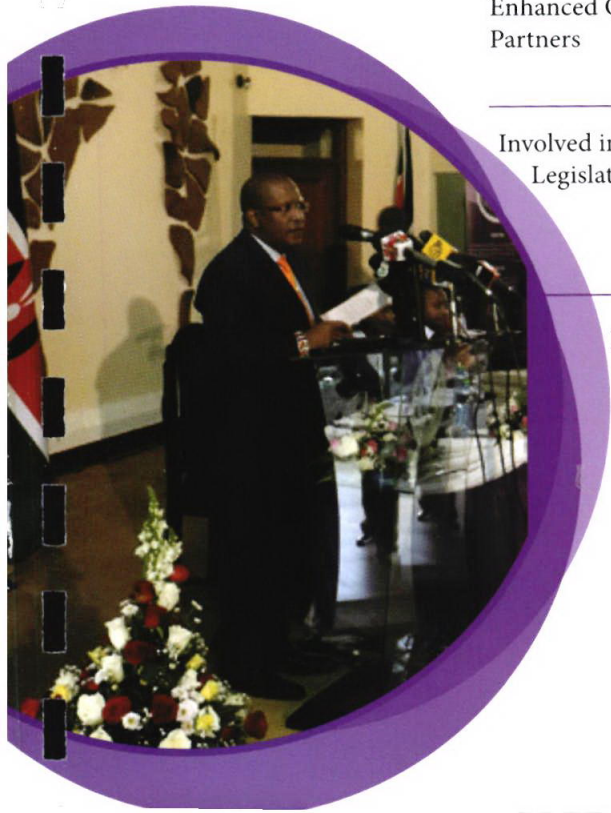
**Objective 5:  
Collaboration and  
Partnerships**

Involved in 8 Policy and Legislative initiatives.

**Objective 6:  
Policy and Legislative  
Framework**

Established Witness and Victim Support Division.

**Objective 7:  
Witness and Victim  
Support**



# List of Acronyms & Abbreviations

ACECA	Anti-Corruption and Economic Crimes Act, 2003
AG	Attorney General
ANAW	Africa Network for Animal Welfare
AP	Administration Police of Kenya
APA	Africa Prosecutors Association
CBM	Cash Based Method
CDF	Constituency Development Fund
CFS	Central Facilitation Services
CID	Criminal Investigations Department, Kenya
CITES	Convention on International Trade in Endangered Species
COA	Court of Appeal
COVAW-K	Coalition on Violence Against Women, Kenya
CPA	Certified Public Accountancy
CUCs	Court Users Committees
DCI	Director of Criminal Investigations
DPP	Director of Public Prosecutions
DPM	Directorate of Personnel Management
EAAP	East African Association of Prosecutors
EACC	Ethics and Anti-Corruption Commission
ESAAMLG EViD	East and Southern African Anti-money Laundering Group Electronic Voter Identification
FGM	Female Genital Mutilation
FIDA-K	Federation of Women Lawyers, Kenya
GAAP	Generally Accepted Accounting Principles
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German Agency for International Cooperation)
HC	High Court of Kenya
HRD	Human Resource Development
HRM	Human Resource Management
IAP	International Association of Prosecutors
IEBC	Independent Electoral and Boundaries Commission, Kenya
ICT	Information Communication Technology
IICFIP	International Institute of Certified Forensic Investigation Professionals
IJM	International Justice Mission
IPOA	Independent Policing Oversight Authority, Kenya
IPSAS	International Public Sector Accounting Standards
IORA	Indian Ocean Rim Association
ISMS	Information Security Management System
ISS	Institute for Security Studies
IVRS	Interactive Voice Response System
JTI	Judiciary Training Institute, Kenya
KES	Kenya Shillings
KRA	Kenya Revenue Authority, Kenya
LAN	Local Area Network
LSK	Law Society of Kenya
MLA	Mutual Legal Assistance
MSPS	Ministry of State for Public Service
NCAJ	National Council on the Administration of Justice
NCIA	National Cohesion and Integration Act, 2008
NHC	National Housing Corporation, Kenya
NHIF	National Hospital Insurance Fund, Kenya
NPS	National Police Service, Kenya
NSSF	National Social Security Fund, Kenya
ODPP	Office of the Director of Public Prosecutions

PSC	Public Service Commission
SC	Senior Counsel
SCOK	Subordinate Courts of Kenya
SG	Solicitor General
SGBV	Sexual and Gender-Based Violence
SLDP	Strategic Leadership Development Programme
SLO	State Law Office, Kenya
SMS	Short Message Service
SOA	Sexual Offences Act, 2006
SPP	Secretary, Public Prosecutions
UK-FCO	United Kingdom's Foreign and Commonwealth Office
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNOHCHR	United Nations Office of the High Commissioner on Human Rights
USAID	<b>United States Agency for International Development</b>
USDOJ	United States Department of Justice
USSD	Unstructured Supplementary Service Data
VoIP	Voice over Internet Protocol
WAN	Wide Area Network
WCMA	Wildlife Conservation and Management Act, 2014
WPA	Witness Protection Agency, Kenya

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# MEMBERS OF THE ODPP ADVISORY BOARD



**Keriako Tobiko CBS, SC**  
*Chairman*



**Alice Ondieki**  
*Director, Witness Protection Agency*



**Kagwiria Mbogori**  
*Chairperson, Kenya National Human Rights Commission*



**Eric Mutua**  
*Chairperson, LSK*



**Muthoni Kimani MBS**  
*Representative of the Attorney General*



**Nimrod Waweru**  
*Representative of PS, The National Treasury*



**Gideon Kimilu OGW, MBS**  
*Representative of IG, National Police Service*



**Simon Angote**  
*Representative, Directorate of Public Service Management*



**Antony Muchigi**  
*Representative of the Chief Registrar of the Judiciary*



**Elijah T. Nduati MBS**  
*Secretary*



**Keriako Tobiko CBS, SC**  
*Director of Public Prosecutions*



**Elijah T. Nduati MBS**  
*Secretary, Public Prosecutions*



**Jacob Ondari**  
*Deputy Director*  
*County Affairs and Regulatory*  
*Prosecutions*



**Dorcas Oduor OGW**  
*Deputy Director*  
*Economic, International and*  
*Emerging Crimes*



**Nicholas Mutuku**  
*Ag. Deputy Director*  
*Offences Against the Person*

# FOREWORD



I am pleased to present the Report of the Office of the Director of Public Prosecutions (ODPP) to the President and Parliament for the period 1<sup>st</sup> July, 2013 to 30<sup>th</sup> June, 2014. This is the second Report since the ODPP became independent. The first Report covered 2 years, that is, 1<sup>st</sup> July, 2011 to 30<sup>th</sup> June, 2013.

In addition to the Constitutional and Statutory obligations, this Report is prepared as a commitment to accountability and transparency to the people of Kenya in the discharge of the high calling bestowed upon my Office.

The period in question has seen the ODPP make great strides in its quest to realize its mission, which is *"To serve the Public by providing quality, impartial and timely prosecution services"*

One of the most notable achievements during the 2013-14 Financial Year was the operationalization of the top management positions within the ODPP structure, namely the position of the Secretary Public Prosecutions, three posts of Deputy Director of Public Prosecutions to head the three technical departments: - Offences against the Person; Economic, International and Emerging Crimes; and County Affairs and Regulatory Prosecutions.

The ODPP also held its Second Annual Convention that brought together all ODPP staff. During the Convention, the Office launched key policy documents, notably, the Strategic Plan 2011-2015, Organizational Structure Manual 2012, Communications Strategy 2012, Career Progression Guidelines 2012, Human Resource Manual 2012 and the ICT Strategy Framework 2013.

During the period under review, the ODPP made significant strides towards ensuring access to justice for all. Indeed, the Office established the outstanding 18 County offices thus ensuring its services are available in all the 47 Counties. In an unprecedented manner, the Office cascaded its services to the magistrates' courts by posting prosecution counsel to those stations.

The Advisory Board played a key role in the recruitment of both legal and non-legal staff. The total number of prosecution counsel by the end of the period in review rose from 169 to 254, an increase of 50%. This number is still way below the optimal level of 927 established through a baseline survey of the workforce/workload analysis conducted in the second half of 2011. The baseline survey indicated a ratio of 2 prosecutors to each judge or magistrate. In the 2014-2015 Financial Year, the Office intends to recruit additional officers in order to bridge this gap.

As the ODPP continues to grow at such a tremendous pace, one issue it has to grapple with is that of inadequate and suitable office space, both at the head office and the county level. The Office is in the process of acquiring office space and equipment to enable effective and efficient discharge of its mandate.

Going forward, we are committed to ensuring that as our numbers increase so will the quality of our services to the public. This will be accomplished through creation of additional specialized units to handle emerging crimes; increased specialized training; establishment of quality assurance teams and mechanisms; and enhanced engagement with the public through the media and other fora. We will continue to engage with stakeholders and development partners so as to harness support and synergies from such cooperation and collaboration.

I wish you pleasant reading and count on your support to ensure that the ODPP is adequately supported and resourced. This will ensure that the ODPP plays its rightful role in the criminal justice system.



**KERIAKO TOBIKO CBS, SC**  
**DIRECTOR OF PUBLIC PROSECUTIONS**

# ACKNOWLEDGEMENTS



First and foremost express my gratitude to the Director of Public Prosecutions Mr. Keriako Tobiko, for his sterling leadership and superintending over a quickly transforming ODPP during the period under review. His visionary leadership is truly positioning the ODPP to become an effective national prosecution authority. In the same breath I recognize and appreciate the important role played by the Advisory Board in supporting the operationalization of the Office.

Secondly, I recognize and commend all the staff of the ODPP for their dedication and hard work that made the Office achieve the documented milestones. In particular, I extend my appreciation to the three Deputy Directors and the Heads of County Offices.

I also take this opportunity to appreciate our development partners who have been readily available to support the development and capacity building of the ODPP. I wish to, in particular, thank United Nations Office on Drugs and Crime (UNODC), United States Department of Justice (USDOJ), United Kingdom Foreign Commonwealth Office (UK-FCO), Deutsche Gesellschaft Fiir Internationale Zusammenarbeit (GIZ), European Union, UN Office of the High Commissioner for Human Rights (OHCHR) Institute for Security Studies (ISS), International Justice Mission (IJM), Africa Network for Animal Welfare (ANAW) and WAYAMO Communications.

Last and by no means the least I wish to thank each and every member of the ODPP Progress Report and Editorial Team, in particular, Paul Ndemo, Rodah Ogoma, Mary Mwenje, Mark Kimutai, Joseph Gitonga, Naylor Mukofu, Gikui Gichuhi, Katto Wambua, James Oundo, George Wambua and Andrew Osundwa who exerted themselves over many man-hours and worked diligently to ensure the production of this excellent Report. In addition, I wish to thank Dr. Arbogast Akidiva for providing dedicated technical expertise, direction and support to the ODPP Progress Report and Editorial Team.

**ELIJAH T. NDUATI MBS**

**SECRETARY, PUBLIC PROSECUTIONS**

# HIGHLIGHTS

During the reporting period the ODPP recorded gains in service delivery in the criminal justice system. The key highlights are discussed here below.

## (i) Access to Justice

The ODPP has ensured that it continues to provide services to the public and stakeholders in an efficient and effective manner. In this regard the ODPP achieved an overall conviction rate of 82% as compared to 75% in the last reporting period. The opening of 18 County Offices bringing the total to 47 County Offices enhanced access to prosecutorial services.

## (ii) Enhancement of Institutional Reform and Restructuring

The Office has finalized the development of foundational policy documents and operationalized top management positions in order to ensure efficient prosecutorial processes and procedures. In order to enhance quality prosecutions, the Office created specialized thematic units focusing on the criminal sector.

A key highlight was the increase of staff complement from 357 to 671. Staff has been deployed to the County levels where they continue to execute and support the prosecution mandate.

## (iii) Professionalization of Prosecution Services

The ODPP has embarked on taking over charging decisions in all courts by ensuring the presence of prosecution counsel at all levels of the Court systems. Further, the Office is piloting the screening of files to ensure only those that meet the threshold of prosecution are filed in court.

The Office continues to organize and

build capacity enhancement programmes for its entire staff in thematized areas. This has seen an increase not only in the quality of prosecutions but also in the overall efficiency of the Office.

## (iv) Automation and Modernization

The ODPP initiated development of the automated and integrated case management system which entails business process audit and gap analysis. The second phase relates to business process optimization and the design/automation of the case management system.

The Office fully operationalized the ICT and communication departments. This resulted in the launching of a new and interactive website as well as a growing social media presence. Then ODPP continues to roll out an intense training programme focused on creating and enhancing ICT skills among staff.

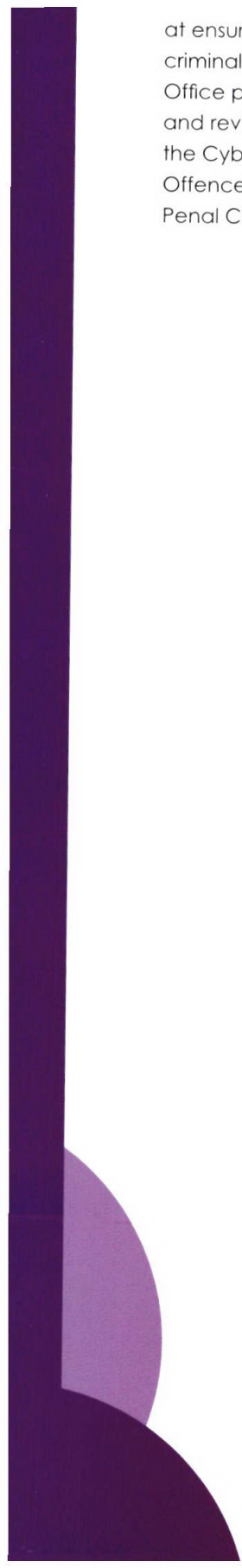
## (v) Strengthening and Promotion Collaboration And Interagency Cooperation

The ODPP held its 2<sup>nd</sup> Annual ODPP Convention at the Kenya School of Government, Nairobi attended by all staff members. The theme of the Convention was **Prosecution Service within a Balanced Working Environment.**

The Office participated in various national and international forums in various thematic areas for instance the 18<sup>th</sup> International Association of Prosecutors (IAP) Annual Conference and General Meeting in Moscow, Russia.

## (vi) Law Reform

The ODPP is dedicated to building policy and legislative frameworks aimed



at ensuring a cohesive and effective criminal justice system. In that regard, the Office participated in the development and review of key legislation such as the Cybercrime and Computer Related Offences Bill, Criminal Procedure Code, Penal Code.

**(vii) Witness and Victim Facilitation**

The Office supports the enhanced protection and facilitation of victims and witness through all the stages of the criminal sectors from reporting to conviction. The office actively contributed in the drafting of the victims and Witness Protection Bill.

# CHAPTER 1

## OPERATIONS AND STRUCTURE OF THE ODPP

### 1.1 Mandate

Article 157 of the Constitution establishes an independent ODPP to discharge the prosecution mandate on behalf of the people of Kenya. In exercising prosecutorial authority, the DPP has due regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process. In doing so, the ODPP strives to provide quality, impartial and timely services in a manner that is professional, efficient and fair.

### 1.2 Powers

The DPP has powers to:

- a) Direct the Inspector- General of the National Police Service (NPS) or any other investigative body to investigate any information or allegation of criminal conduct; and
- b) Institute, take over and continue or discontinue, with the leave of court, criminal proceedings against any person, before any court, other than a court martial, in respect of any offence alleged to have been committed.

In discharging the prosecutorial function, the DPP's role is centred on making the decision on whether or not to charge. Such decision is guided by

the National Prosecution Policy and other prosecution policy documents which allow for review of decisions previously taken.

The DPP prosecutes only criminal matters on behalf of the State. He or she does so either directly, through officers subordinate to him or her or by delegation to officers in agencies with law enforcement powers. Criminal matters are prosecuted at Subordinate and High Court levels, and on appeal, at the High court, Court of Appeal and the Supreme Court for advisory and Constitutional interpretation. The overarching role of the DPP in trials is to ensure that prosecutions are conducted with due regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

The determination of whether or not to charge depends on the application of two main tests. Firstly, the Evidential Test which requires that there is sufficient evidence that supports a high probability of conviction. Secondly, the Public Interest Test that takes into account whether it is in the public interest that a prosecution is initiated.

Pursuant to Article 157 of the Constitution, the enactment of the Office of the Director of Public Prosecutions Act, 2013, provides a clear framework through which the prosecution mandate is discharged.

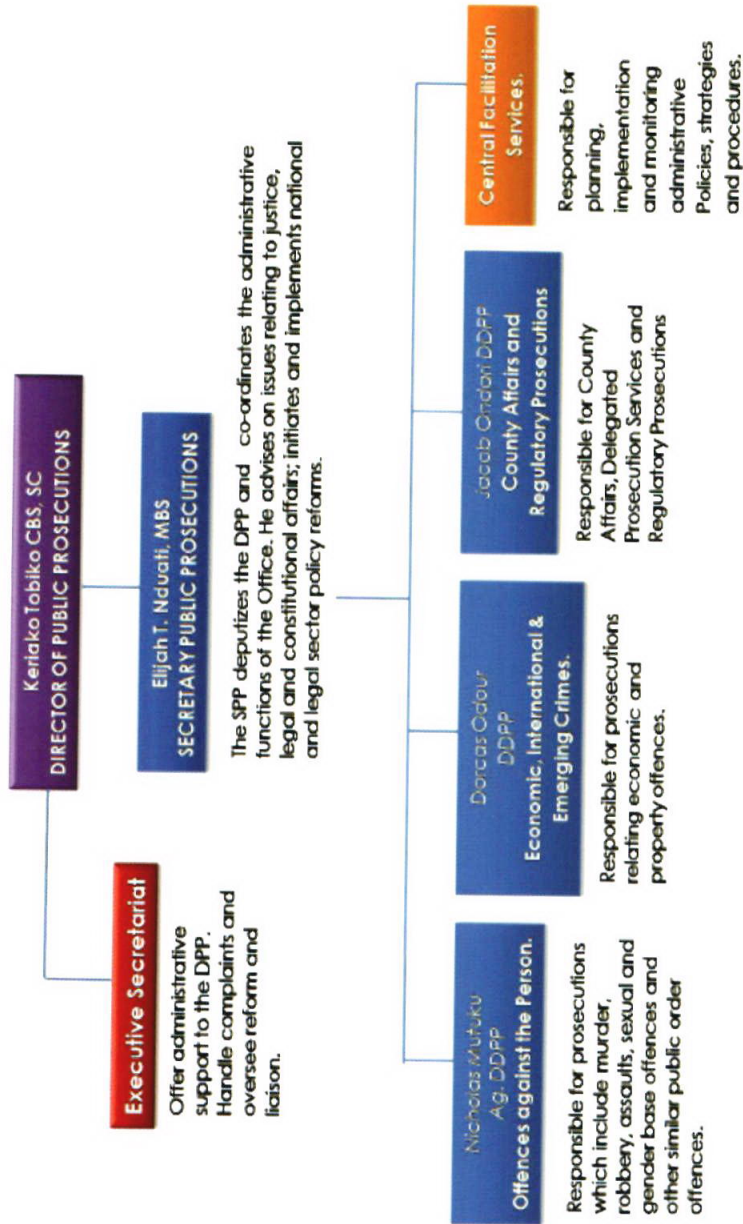
The Act gives the DPP powers to direct and guide investigations. In this regard, Prosecutors perform the following duties:

- provide legal advice to law enforcement agencies, government ministries and departments on all criminal law matters;
- draft and review charges;
- conduct legal research;

- prepare pleadings and court documentation including exhibits;
- hold pre-trial conferences with witnesses and victims of crimes; and
- determine alternative mechanisms for resolution of criminal cases.

1.3 In delivering its mandate and functions, the ODPP uses the following organizational framework:

Figure 1: ODPP Organizational Structure

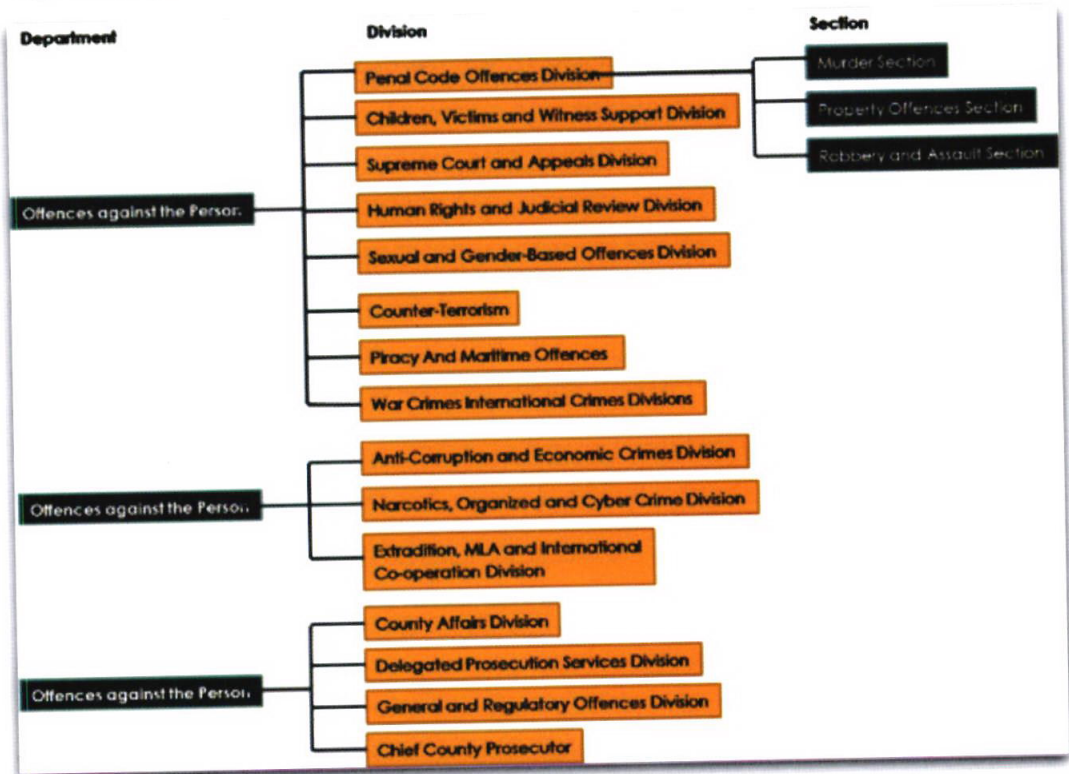


## 1.3 Departmental functions

### 1.3.1 Legal Departments

The departments are further organized into fifteen (15) thematic divisions.

Figure 2: Organization Structure, Technical Departments



The following is a description of the specific functions of the departments:

#### (i) Department of Offences against the Person

- **Penal Code Offences Division:** Prosecutes offences of murder, property offences, robbery and assault and advises the government and other agencies on related issues.
- **Children, Victims and Witness Support Division:** Handles prosecutions in respect of children and provides support for victims

and witnesses.

- **Supreme Court and Appeals Division:** Handles prosecutions in respect to criminal appeals before the appellate courts.
- **Human Rights and Judicial Review Division:** Prosecutes in respect to human rights matters and judicial review applications.
- **Sexual and Gender-Based Offences Division:** Handles prosecutions in respect of **Sexual and Gender-based Violence (SGBV)**.
- **Counter-Terrorism:** Handles prosecutions in respect of terrorism crimes

- **Piracy and Maritime Offences Division:** Prosecutes matters relating to international cooperation on piracy and maritime legal matters.
- **War Crimes International Crimes Divisions:** Handles matters relating to War Crimes, Genocide and Crimes against Humanity.

**(ii) Department of Economic International and Emerging Crimes**

- **Anti-Corruption Division:** Conducts prosecution matters related corruption.
- **Narcotics, Organized and Cyber Crime Division:**
- **Extradition, MLA and International Co-operation Division:** Handles matters on international cooperation, Extradition and Mutual Legal Assistance.

**(iii) County Affairs and Regulatory Affairs Division**

- **County Affairs Division:** Supervises

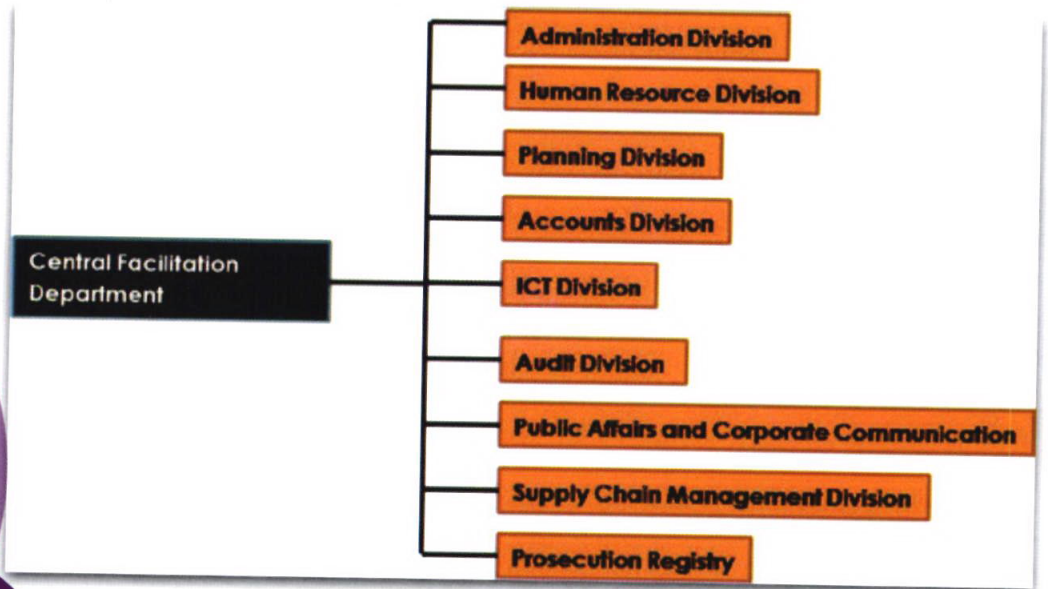
the ODPP County Offices.

- **Delegated Prosecution Services Division:** supervises agencies exercising delegated powers of the DPP, including ensuring the agencies adhere to approved policies and guidelines and submit to annual returns.
- **General and Regulatory Offences Division:** Handles prosecutions in respect of general and regulatory offences such as elections, environment, natural resources, social security, transportation and other statutory offences.

**1.3.2 The Central Facilitation Department**

The department supports the prosecution thematic departments through 10 divisions as shown below.

**Figure 3: Organization Structure, Central Facilitation**



The following is a description of the specific functions of the department:

- **Administration Division:** Provides telephony, registry, office space, and transport services.
- **Human Resource Management/ Development Division:** Develops and implements human resource and administrative policies and strategies.
- **Planning Division:** Undertakes strategic planning, performance contracting, budgeting, monitoring and evaluation of programmes.
- **Finance Division:** Develops and implements financial management policies, systems and procedures aimed at improving financial reports and accounting;
- **Accounts Division:** Provides accurate and proper accountability of all monies received and expended.
- **ICT Division:** Responsible for modernising network infrastructure, upgrading and maintaining the standard operating environment for information technology services.
- **Audit Division:** Conducts audit of systems, processes and procedures and advises the DPP on compliance with government financial regulations.
- **Public Affairs and Corporate Communications:** Develops and implements the ODPP Communication Strategy.
- **Supply Chain Management Division:** Prepares and implements the Procurement Plan.
- **Prosecution Registry:** Responsible for documentation and records management.

# CHAPTER 2

## STRATEGIC OBJECTIVES

### 2.0 Strategic Focus

The Kenya Vision 2030 envisions a country that is run on adherence to the rule of law and the protection of fundamental rights and freedoms guaranteed in the Constitution. It requires an increase in service delivery and access to justice as one of the ways to implement it.

Access to justice is therefore an important aspect of the implementation of the Vision and serves as the ODPP's rubric for the fulfilment of its mandate. Consequently, the ODPP developed a Strategic Plan 2011-2015 which outlined the strategic focus of the Office and identified the following strategic objectives to achieve excellence in delivery of prosecution services to:

- i. enhance access to justice;
- ii. enhance institutional reform and restructuring;
- iii. professionalization of prosecution services;
- iv. automate and modernize ODPP processes and procedures;
- v. strengthen and promote inter and intra-agency co-operation and collaboration;
- vi. contribute to strengthening legislative and policy framework;
- vii. facilitate witnesses and victims of crime.

*SPP, Elijah Nduati hands over a county vehicle to Prosecuting Counsel Moses Omirera during a flagging off ceremony to eight counties in December, 2013.*



## ENHANCE ACCESS TO JUSTICE

### 2.1 Role of the ODPP in relation to Access to Justice

During the FY 2013-2014, the ODPP undertook and implemented the following activities as part of its role in enhancing access to justice.

#### 2.1.1 Decentralisation of prosecutions services

ODPP opened 18 new County Offices which have enhanced provision of prosecution services to a larger population in line with Section 14 of the ODPP Act which provides that the Office shall ensure reasonable access to its services in all parts of the Republic.

The newly opened County Offices are in the following Counties:

- Baringo
- Samburu
- Vihiga
- Migori
- Nyamira
- Siaya
- Nandi
- Kwale
- Makueni
- West Pokot
- Kitui
- Tharaka Nithi
- Lamu
- Tana River
- Mandera
- Isiolo
- Laikipia
- Elgeyo Marakwet

Through this decentralization programme, prosecution counsel were posted to serve Magistrates' Courts in all the counties thereby ensuring greater access

to justice. The decentralization programme will further result in cascading services down to sub-county level.

#### 2.1.2 Infrastructural revamping of existing County Offices

The decentralization was spearheaded by the County Affairs and Regulatory Prosecutions Department.

The exercise involved identification of office space, leasing, refurbishment, equipping and deployment of staff to the offices.

During the said period the Office procured 6 vehicles for County Offices and undertook refurbishment of the following existing offices:-

- Head-Office (Nairobi)
- Voi
- Kajiado
- Narok
- Nyeri
- Mombasa
- Machakos
- Homa Bay
- Embu
- Bungoma



The new ODPP Offices

### 2.1.3 Public Complaints Handling Mechanism

The ODPP has a dedicated Complaints and Compliments Section which undertakes registration, follow up and resolution of public complaints. The Section allows complainants to officially register their complaints with the Office. In a bid to improve on its services, the Section is testing an Automated Public Complaints Management System. This promotes accountability and transparency not only in the discharge of our prosecution mandate but also in the general administration of justice. Indeed, it is worth noting that the ODPP distinguished itself as a responsive public entity in the 2012/2013 Annual Report of the Commission on Administration of Justice which marked a big milestone in enhancing access to justice. There are plans to integrate the system with similar systems used or being developed by the Judiciary, Commission on Administrative Justice, Kenya National Commission on Human Rights and the National Police Service.

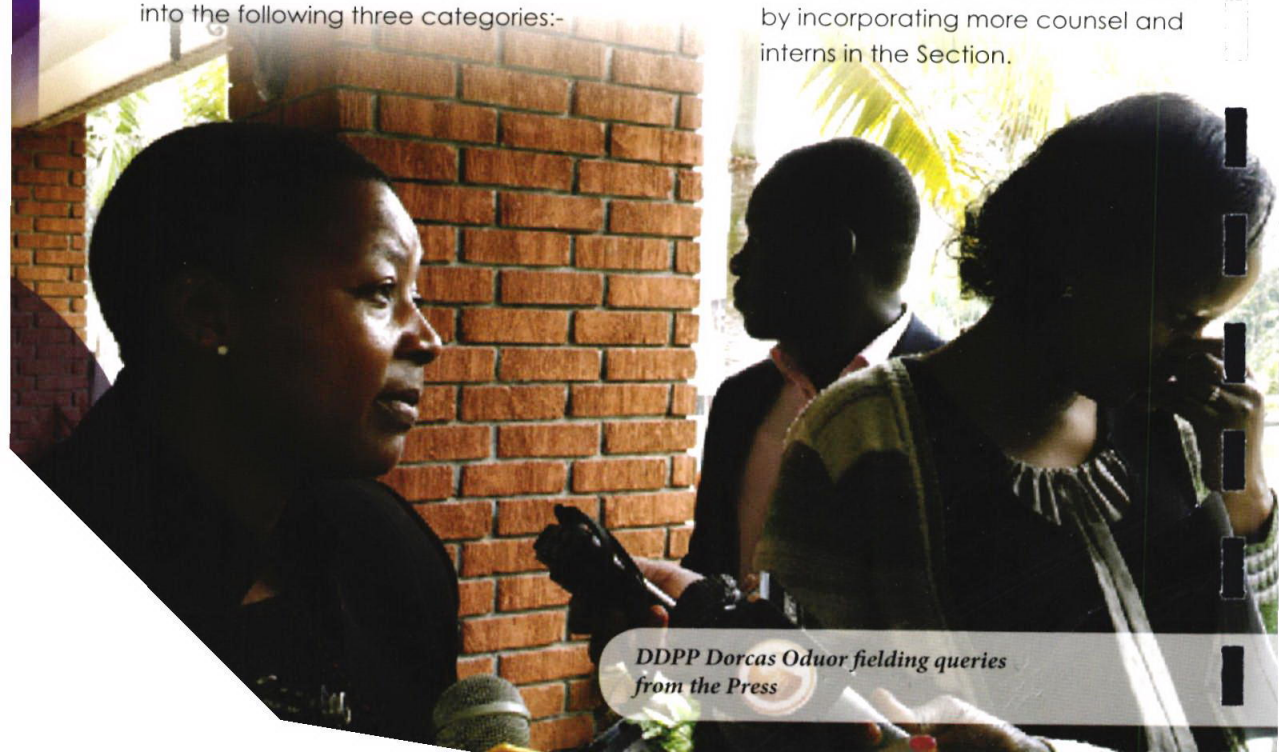
The section received complaints that fell into the following three categories:-

- I. an expression of dissatisfaction by one or more members of the public about an action or omission by the ODPP,
- II. Action or inaction by public institutions resulting in complaint to ODPP,
- III. Complainants requiring referrals to another institution for action

The ODPP has achieved effective decentralization of its services to the counties, as is evidenced by the number of complaints forwarded to County Offices. The trickledown effect of this is that complaints are handled within the County they emanate from.

Some key highlights of the complaints section were:-

- development of the clients handling protocol,
- active membership of the court users committees through which improved complaints handling mechanisms are shared.
- initiation of the ODPP complaints service charter
- boosting the capacity of the section by incorporating more counsel and interns in the Section.



*DDPP Dorcas Oduor fielding queries from the Press*

### INSTITUTIONAL REFORM AND RESTRUCTURING

The transition from Department of Public Prosecutions under the State Law Office to an independent ODPP following the promulgation of the Constitution necessitated massive structural adjustments. Another factor that made it critical to embark on restructuring was increased sophistication in criminal activity. In addressing these emergent realities, the Office developed the ODPP Organizational/ Establishment Manual to spell out the structure within which the ODPP would operate. This was alongside other policy and governance instruments which were launched during the year under review. The ODPP Strategic Plan makes provision for the formulation of internal policies and frameworks including the organization structure and staff establishment. For instance, in the course of implementation of the plan, the ODPP structure was adjusted to cater for emergent crimes by establishing additional specialized divisions, among others.

#### 2.2 Specialized Divisions

During the reporting period, there was a marked increase in the incidences of Female Genital Mutilation, Cybercrime, Wildlife Crimes and Human Trafficking prompting the establishment of specialized units. The DPP operationalized the International Crimes, the Anti-Money Laundering, Counter-terrorism, Mutual Legal Assistance and the Children, Victims and Witnesses Divisions.

#### 2.3 Staff Complement

An important aspect of the Office's human resource management function is to maintain a high calibre staff complement. The ODPP needs the best people with the right skills who are motivated to deliver on our strategic objectives taking note of our core values. To build on this foundation and grow even further, we have to attract and retain dedicated and hardworking professionals in all sectors to ensure the success and service delivery by the ODPP. The Office identifies and recruits the most diverse pool of qualified candidates through a competitive process, reflecting local labour markets and taking into consideration evolving needs in our sector.

The Office implements a career progression programme through which both prosecutors and Central Facilitation Services staff undertake continuous professional training. Our capacity building programme is designed to develop a critical mass of knowledgeable and skilled members of staff.

We are grateful to the Government for its tremendous support to the ODPP in the last three years especially with regard to staff recruitment. During the year under review the office recruited 324 officers. Of those recruited 153 were female and 171 were male. This brings the staff establishment to 671 officers.

**Table 1. Staff Complement**

Current staffing levels	2011/2012	2012/2013	2013/2014
Total No. of staff	185	357	671
Growth		93%	88%

The table above indicates that the office experienced a 93% increase in staffing levels in the Financial Year 2012/2013. In the reporting period the office's staffing nearly doubled from 357 to 671 staff an increase of 88%. The staff complement increase will enable the office to embark on decentralizing its services beyond the county to sub-county levels. In order to achieve this objective, the office needs to reach its optimal level of 1,300 staff.

Findings from a joint study on the workload/ work force analysis conducted by the ODPP and the Directorate of Personnel Management indicated that the standard staffing norm for the ODPP should be two prosecutors to one judicial officer.

### **2.3 Professional Skills Development**

The ODPP is dedicated to staff professional skills improvement and progression through training. It recognizes the need for continuous training of all staff in their current duties while preparing staff for greater responsibility in their chosen career paths. In this regard, the Office

developed and implements the Career Progression Guidelines in its capacity building programme.

Emerging and complex forms of criminality make it imperative for the Office to equip its staff to ensure that they have the requisite knowledge, skills and aptitude to effectively discharge the prosecution mandate under specialized thematic areas. This is in line with the Office's focus on institutional reforms and restructuring programming.

### **2.4 Group Training**

Prosecutors participated in a range of legal seminars, workshops, conferences and law related training programmes as a way of keeping abreast with the latest legal developments. Central Facilitation Services Department staff were also trained in various areas in order to improve the corporate governance of the ODPP. A total of 548 officers were trained during the reporting period. The Human Resource Development Department, with necessary support from key stakeholders and partners, conducted a range of training activities during the reporting period. The training activities are presented below indicating the area of specialization and the number of staff who benefitted from the training.

**Table 2: Group Training**

	TRAINING PROGRAMME	NO. OF OFFICERS
1	Trial Advocacy	70
2	Counter Terrorism	30
3	Wildlife Crimes	40
4	International Crimes	21
5	Cyber Crime	25
6	SGBV	60
7	Human Trafficking	30
8	Induction	167
9	Computer Applications	7
	customer care	23
11	Fraud Investigation & Prevention	5
12	Electronic Records Management	4
13	International Institute of Certified Forensic Investigation Professionals (IICFIP) Global forensic Conference	5
14	Records Management	5
15	Refresher course for drivers	9
16	SLDP 22/10- 29/11/2013	12
17	Senior Management Course	6
18	Supervisory skills	5
19	Tailor made course for Heads of departments 3/2-7/2/2014	21
20	Trial Advocacy – electronic evidence and financial analysis	3
	<b>Total</b>	<b>548</b>

### 2.5 Individual Training

During the reporting period 15 individuals took part in advanced courses. These training activities were externally and internally funded as indicated in the table below:-

**Table 3. of Individual Training 2013/2014 Courses**

S/NO	Course		Course area	Sponsor	Status
	Masters	5	Leadership, governance, criminology, information science	ODPP	Ongoing
	Masters	1	Criminal law	UK-Chevening Scholarships	Ongoing
		2	Criminology, diplomacy	SELF	Ongoing
	Diploma	5	Records, secretarial, purchasing supplies	ODPP	Ongoing
	Certificate,	2	CPA	ODPP	Ongoing
	Certificate	1	Arbitration	Self	complete

We appreciate efforts made in enhancing the competencies and capacities of our staff during the reporting period. However, increased sophistication and incidences of trans-national crime call for specialized training that will enable our staff to keep pace with emerging developments. The Office plans to provide staff with a multitude of courses through a centralized learning management system. Courses will be delivered through face to face instructor-led, e-learning, online, and Web-Based platforms. In order to comprehensively address these complexities, it is time to begin preparing for the establishment of a Prosecutors Training Academy.

### PROFESSIONALIZATION OF PROSECUTION SERVICES

**D**rawing from its vision and values, the ODPP seeks to provide quality prosecution services that are underpinned by professionalism.

#### 3.1 Streamlining of Prosecution Policy Framework

In order to provide a sound legal and policy framework for the conduct of prosecutions, the Office reviewed the National Prosecution Policy, and the Code of Conduct and Ethics for Prosecutors. These documents succinctly outline the professional and ethical conduct, knowledge and disposition expected of legal staff. The Office developed General Prosecution Guidelines and thematic prosecution guidelines for various types of offences. These documents provide specific direction on the conduct of cases.

#### 3.2 Quality Assurance of Prosecutions

Section 23 of the ODPP Act provides the statutory framework for the control of the decision to charge and anything incidental thereto. The ODPP has therefore developed policy documents that guide prosecutors on analysis of evidence and matters to be considered in every charging decision. This has ensured a standardization of charging decisions and referring back of incomplete matters to the police for further investigations.

##### 3.2.1 Screening of Cases

The Independent Policing Oversight Authority<sup>1</sup> conducted a study which

<sup>1</sup> *IPOA baseline survey on policing standards and gaps in Kenya 2013 available at [www.ipoa.go.ke/images/downloads/ipoa%20baseline%20survey%20report\\_06.09.2013\\_sevized2.pdf](http://www.ipoa.go.ke/images/downloads/ipoa%20baseline%20survey%20report_06.09.2013_sevized2.pdf)*

indicated that 64% of felony cases did not meet the evidentiary material to make a decision to charge. In a bid to professionalize and improve chances of success of cases taken to court, the ODPP is piloting a system of screening of cases before plea is taken. This involves applying the two stage test by prosecution counsel. This process is being pioneered in Nairobi and Meru Counties and will be rolled out to the entire country.

##### 3.2.2 Taking Over of Prosecutions in Magistrates' Courts

In what is historically unprecedented in Kenya's legal history, Prosecution Counsel were deployed during the reporting period to serve in Magistrates' Court stations across the country, notably in Nairobi, Baringo, Samburu, Vihiga, Migori, Nyamira, Siaya, Nandi, Kwale, Makueni, West Pokot, Kitui, Tharaka Nithi, Wajir, Lodwar, Narok, Kajiado, Voi, Marsabit, Bomet, Homabay, Kerugoya, Murang'a, Isiolo, Nyahururu, Thika, Meru, Embu, Machakos, Malindi, Nyeri, Meru, Kakamega, Busia, Bungoma, Eldoret, Kitale, Kisii, Kisumu, Kericho, Garissa, and Nakuru Counties. This has enabled the ODPP to significantly contribute to the efficiency and quality of cases at the grassroots level.

##### 3.3 Control of delegated prosecutions

The Department of County Affairs and Regulatory Prosecutions superintends over regulatory bodies in respect of their delegated prosecutorial authority. The Office has gazetted 254 prosecutors from 13 regulatory agencies and maintains

a database in this regard. To ensure uniformity of prosecutions, the Office is developing a Training Curriculum for prosecutors.

### 3.4 Training and Facilitation of Police Prosecutors

The Office facilitated Police prosecutors in all Magistrates Court stations by providing:

- equipment: 143 computers, 143 Printers, and
- prosecution allowance totalling Kshs 48 million.

During the review period, the Office, in conjunction with the International Justice Mission organised an induction course on trial advocacy for 70 Police Prosecutors. This exercise was undertaken to improve performance in the magistrates' courts.

employed the prosecution-guided investigation model. This model has proved very useful in ensuring that there is not only timeous conclusion of investigations but also the efficient gathering of all the requisite evidence.

This model is supported by the ODPP Act, which states in Section 5(3) that the DPP "may assign any officer subordinate to him to assist or guide in the investigation of a crime and every investigative agency shall give effect to that direction".

During the period under review, the ODPP continued to employ this new model particularly in complex and high public interest cases such as those indicated below:

#### 3.5.1 IEBC Electronic Voter Identification Device Case<sup>2</sup>

This case involves allegations of irregular awarding of tenders for the supply of Electronic Voter Identification (EViD) devices case and accessories by the Independent Electoral and Boundaries Commission (IEBC) for the 2013 general elections. In order to ensure effective and speedy conclusion of investigations, the DPP assigned prosecution counsel to the investigation team. The case is part heard.

#### 3.5.2 Westgate Mall terrorist attack case<sup>3</sup>

This is the infamous terrorist attack by an Al Shabaab affiliated terror gang that occurred in a leading shopping mall in Nairobi on 21<sup>st</sup> September, 2013 leading to

2 *R Vs. James Owago & Wilson Shollei CMC Nairobi, ACC NO. 169/2013*


3 *CMC Cr. Case No.1750of 2013 R. V Mohammed Ahmed Abdi and 3 Others*

*DDPP Jacob Ondari making a presentation during the training of Police Prosecutors*

### 3.5 Prosecution-Guided Investigation Model

To improve the quality of investigations, which has a direct impact on prosecutions, the Office has increasingly





Head of ODPP's Anti-FGM Unit, Christine Nanjala sensitising members of the Elgeyo Marakwet community on the Anti-FGM law.

the loss of lives and injury of many Kenyans and internationals alike. Owing to the nature and complexity of the matter, the DPP assigned prosecution counsel to be embedded within the investigation team in order to provide guidance. Four individuals have been charged and the case is ongoing, with 40 witnesses having testified so far.

### 3.5.3 Busia Gang rape "Liz" Case<sup>4</sup>

This is a sexual offence case involving a teenage girl from Busia which the DPP is prosecuting in conjunction with other stakeholders in the civil society. In a bid to ensure that the evidence gathered meets the necessary threshold for prosecution, the DPP appointed a team of prosecution counsel to work hand in hand with the investigators and guide the investigation process. The case is ongoing.

### 3.6 Specialization of the Prosecution Function

The ODPP has continued to establish Specialized Prosecution Divisions and Units to handle complex and emerging forms of criminality both at the national and international levels. Prosecution counsel assigned to these specialized divisions and units are continuously undergoing basic specialized training. The Specialized Prosecution areas established during the reporting period are Anti-FGM Prosecution Section, Cybercrime Section, and the Anti-Narcotics Section.

#### (i) Anti-Female Genital Mutilation (FGM) Prosecution Section

In recognition of the unique challenge posed by culture, the Anti FGM Section was established to carry out sensitization campaigns as well as prosecute perpetrators. During the review period, the Section conducted sensitization meetings in all the 16

<sup>4</sup> Busia CMC Cr. Case No. 1924 of 2013

counties where the practice is prevalent.

### **(ii) Cybercrime Section**

The prevalence and steady rise of cyber related crimes necessitated the formation of the Cybercrime Division which developed a draft Bill to address cybercrime and computer related offences. During the review period, the Division conducted capacity building programmes for prosecutors as well as key stakeholders notably, the Ministry of Information, Communication and Technology, the Communication Authority of Kenya, Central Bank of Kenya, the National Police Service and the ICT Authority.

### **(iii) Anti-Narcotics Section**

Drug abuse and illegal trafficking of narcotics and psychotropic substances continues to be a great challenge facing Kenya and the world at large. In light of this the DPP established the Anti-Narcotics Section. The newly established Section met with key stakeholders, notably the Kenya Revenue Authority, Kenya Ports Authority, Kenya Maritime Authority, Government Chemist, the Police Anti-Narcotics Unit, Kenya Forest Service, and the Poisons Board to discuss a collaborative approach in dealing with the drugs and narcotics problem.

### **(iv) Wildlife Crime Prosecution Section**

Poaching and wildlife crimes have become endemic in Kenya resulting in the country being declared a

major source and transit point for illegal wildlife trophies. Consequently, Kenya has been listed by CITES as one of the "gang of eight" responsible for the illegal global trade in wildlife trophies.

The Wildlife Crimes Prosecution Section was operationalized during the year under review as part of the efforts to contribute meaningfully to the fight against the poaching menace. The Unit prosecuted 59 cases and resulting in a conviction rate of 96%.

During the year under review the Section:-

- contributed to the proposed amendments of the newly enacted Wildlife Conservation and Management Act, 2013.
- participated in an International Wildlife forum in London and National Judicial Dialogues on Wildlife Crimes.
- developed a wildlife curriculum,
- developed Standard Operation Procedures on wildlife crimes
- developed a rapid reference guide on wildlife crimes
- organised two major multi-agency wildlife crimes training activates

### **3.7 Public engagement and Media use**

As a public body, the ODPP is obligated to ensure transparency in its operations. The ODPP's Public Communication Division has during the period under review robustly engaged with members of the public both in print and electronic media.

The Office has established a significant

growth in its social media presence with a Facebook page (**Office of the Director of Public Prosecutions**) and a Twitter handle (@ODPP\_KE) whose following continues to grow. The Office has used the platform to create awareness on its programmes and activities. This platform provides members of the public with a critical link to raise concerns about violations of rights, and make enquires about on-going cases.

## STRATEGIC OBJECTIVE 4

### AUTOMATE AND MODERNIZE ODPP PROCESES AND PROCEDURES

**A**s a strategic objective, the ODPP seeks to harness ICT to improve efficiency in its processes and procedures. The systems in the ODPP are by and large manual, resulting in cumbersome and lengthy processes leading to delays in service delivery. To address this situation, the Office is implementing activities in the focus areas discussed below.

#### 4.1 Institutional Strategy and Vision

The Office developed the institutional ICT Strategy Framework in the 2012/2013 Financial Year. The framework is a detailed roadmap the Office intends to take in utilizing ICT to deliver on its core mandate. It is estimated that the implementation of the strategy will require KES 629.4 million. Of the amount, KES 385 million is needed in the 2014/2015 Financial Year. Planned activities include development and implementation of connectivity and technology infrastructure, consumer and business optimization, development of a conducive ICT adoption socio-cultural and legal environments, and maintenance. The Office is seeking funding for the implementation of the strategy.

The Office is in the process of implementing its adoption and operationalization of e-Government standards. In light of its growing capacity needs, the ODPP is continuously recruiting qualified ICT staff. The staff to computer ratio for legal and central facilitation staff was raised to 1:1 and 1:5 respectively. However, the ICT budget allocation remains way below the recommended 10%.

#### 4.2 Connectivity and Technology Infrastructure

Recognizing the urgent need to modernize the systems and processes at the ODPP in order to enhance service delivery, the Office initiated the development of a key enterprise-wide system, namely a three-phased Automated and Integrated Case Management System.

Phase One of the project, "As-Is mapping and analysis of the existing case management processes and procedures" has been completed. The Office has plans in place for the implementation of Phase Two of the development of case management system and automation of

business processes. The Office continues to invest in LAN installation in all its County Office and ensuring their connectivity with the Head Office.

This will include development of centralized user authentication system, office automation of business processes, electronic document management system for digitization of case files and records, installation of WAN, development of data warehouses, adoption of VoIP and ICT security measures such use of data back-ups, anti-virus and biometric security features.

### **4.3 Consumer and Business Adoption and Optimization**

During the reporting period the Office's website was redesigned to ensure user and social media interactivity. The same was done by ensuring that web design standards were adhered to in terms of accessibility, usability, interoperability, graphical look and feel and related standards and policies. The revamped website will be unveiled in the 2014/2015 financial year.

The ICT infrastructure the Office is developing ensures that services will be hosted in common government infrastructure as required. The Office will utilize various service delivery channels such as SMS, portal service, unstructured supplementary service data (USSD) and interactive voice response system (IVRS).

The Office has completed the adoption of the government's e-payments, e-procurement and e-human resource management systems which have improved its productivity and the range of internal business processes it has automated.

The Office also has an automated

integrated public complaints system which employs both portal and SMS service delivery channels. The system will be launched in the 2014/2015 financial year once its testing phase is completed.

### **4.4 Socio-Cultural and Legal ICT Environments**

The Office continues to improve ICT literacy staff levels by requiring computer literacy for all new employees, as well as undertaking ICT training. The Office however requires additional funding to ensure it implements relevant ICT training programs a required by its ICT strategy. This includes ensuring training of access to ICT staff with disabilities. The Office is also planning to develop a range of service delivery options for clients with disabilities.

In the 2014/2015 financial year and beyond, plans are underway to develop and implement policy guidelines for e-services, internet and mail use, e-waste management, protection of privacy of citizens' data and ensure that staff sign and comply with an institutional ICT security compliance agreement. The Office will also develop comprehensive information security management system (ISMS) to ensure access to information and build safeguards to accuracy and completeness of information and processing methods.

## STRATEGIC OBJECTIVE 5

### PROMOTE INTER AND INTRA-AGENCY COOPERATION AND COLLABORATION

The ODPP collaborates with government agencies, development partners and non-state actors in the criminal justice sector. This collaboration aims to enhance service delivery, information sharing, mutual legal assistance, and capacity building.

#### 5.1 Inter Agency Collaborations

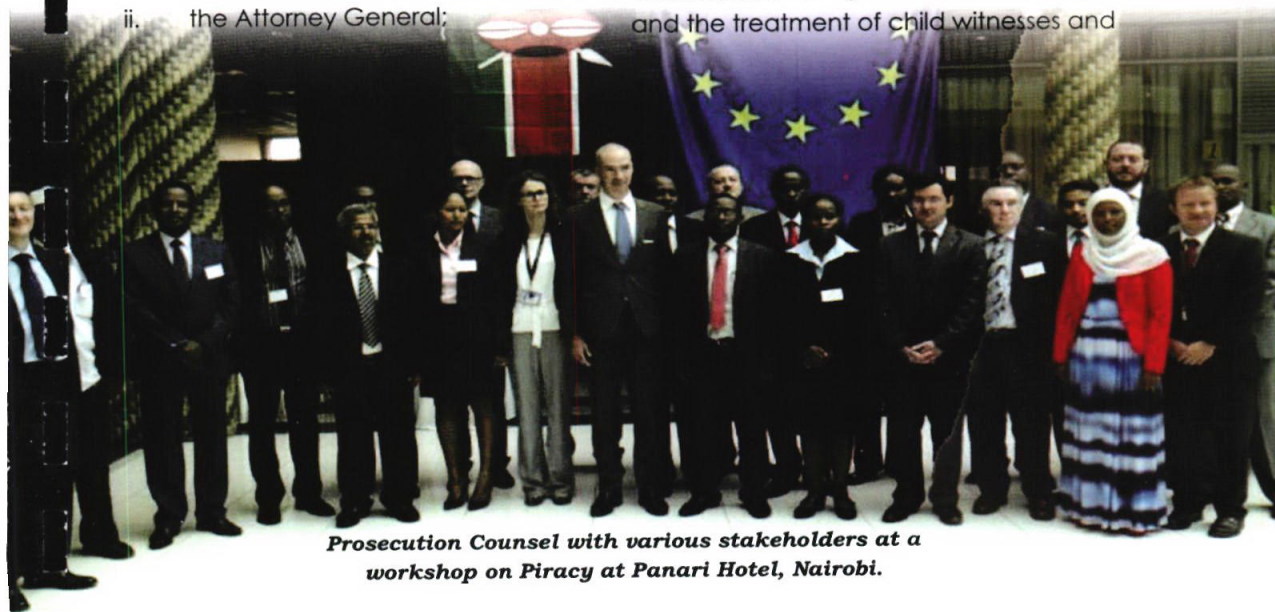
The period under review has seen the Office engage its stakeholders in various areas in order to support not only the core mandate of the ODPP but the wider criminal justice system. Such engagement has assisted the Office in the development of key documents such as the Draft Cybercrime Legislation, Draft Terrorism Guidelines, Plea Bargaining Rules, and Wildlife Draft Amendments, Draft Anti-Doping Legislation, among others.

Additionally, the DPP is a member of the NCAJ whose aim is to ensure enhanced coordination of players within the justice sector. The Council is chaired by the Chief Justice and is composed of, among others:

- i. the Cabinet Secretary responsible for matters of the Judiciary;
- ii. the Attorney General;

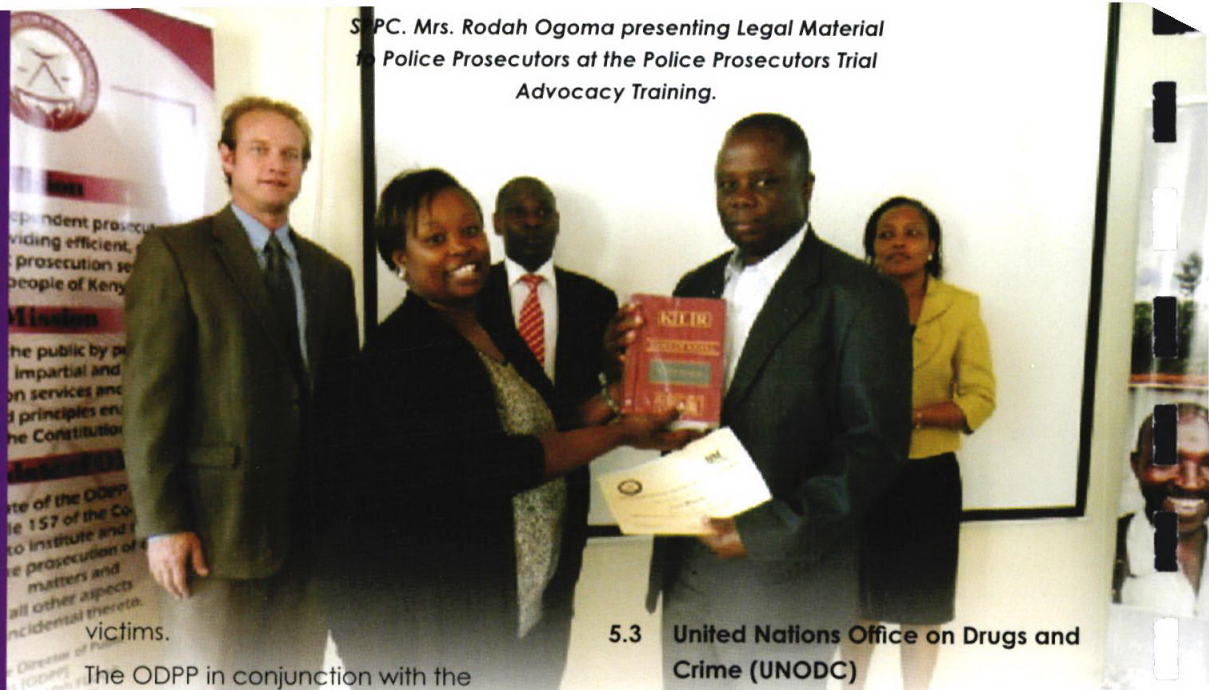
- iii. the DPP;
- iv. the Inspector General of the National Police Service;
- v. the Commissioner General of the Kenya Prisons Service;
- vi. the Director of the Witness Protection Agency ;
- vii. Chairperson of the Law Society of Kenya;
- viii. the Principal Secretary responsible for cabinet and public service affairs;
- ix. the Principal Secretary responsible for gender, women and children's affairs;
- x. the Principal Secretary responsible for Labour;
- xi. the Principal Secretary responsible for environment;
- xii. the Principal Secretary responsible for land;

The ODPP plays an instrumental role in the Court Users Committees (CUCs) in engaging stakeholders and formulating solutions to common place issues in the sector. CUCs discuss issues affecting the general administration of justice including witness preparation and availability; provision and care of exhibits; prison conditions; availing of remandees for trial; and the treatment of child witnesses and



*Prosecution Counsel with various stakeholders at a workshop on Piracy at Panari Hotel, Nairobi.*

**SPC. Mrs. Rodah Ogoma presenting Legal Material  
to Police Prosecutors at the Police Prosecutors Trial  
Advocacy Training.**



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viding efficient,  
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incidental thereto.  
Director of Public  
Prosecution  
Kenya, Nairobi

victims.

The ODPP in conjunction with the Judiciary Training Institute (JTI) developed a wildlife crimes curriculum and engaged in three national dialogues on wildlife crimes. In addition, the Office partnered with key entities such as the Independent Policing Oversight Authority (IPOA) to develop an MOU to promote collaborative case work between prosecutors and investigators on Police accountability cases.

### **5.2 Non-Governmental Partnerships**

The ODPP partners with key organizations in capacity development within the Office as well as sharing of information to enhance the quality of prosecutions. In the reporting period, the ODPP partnered with a number of organizations to train prosecutors on emerging criminal areas such as Terrorism Financing, Trade in Illicit Wildlife Products, Cybercrime Detection and Prosecutions, Proceeds of Crime and Asset Recovery among Others. The partnerships have also led to the development of a case management system, and training manuals for prosecutors.

### **5.3 United Nations Office on Drugs and Crime (UNODC)**

UNODC has supported the Office by facilitating several capacity building programmes focused on organized crime such as cybercrime and trafficking in persons.

### **5.4 International Justice Mission (IJM)**

During the reporting period IJM sponsored the training of 70 police prosecutors by organizing a two week course on trial advocacy.

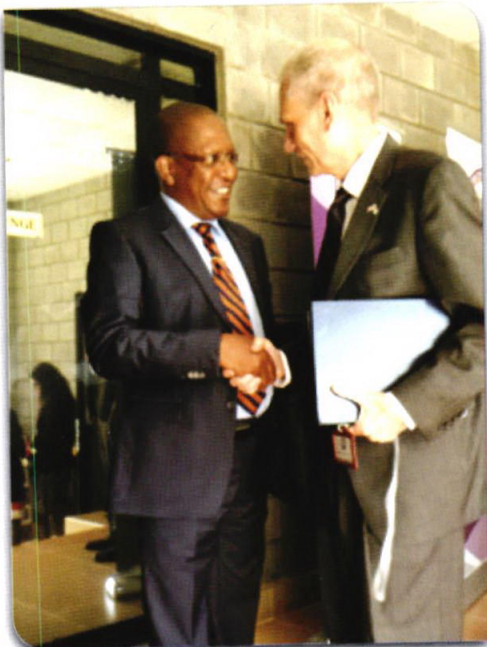
### **5.5 GIZ**

GIZ supported the Office in mapping out of the As-Is processes to inform the establishment of an automated case management system. GIZ also provided assistance towards the completion of the prosecution policy documents.

### **5.6 The United States Department of Justice (USDOJ)**

The USDOJ supported the Office in building capacity in the prosecution of terrorism related cases by organizing forums for training and providing practical

and technical support in court. It also supported capacity building for new counsel in trial advocacy. In addition, the US government provided some support towards the Second Annual National Prosecution Service Convention.



**DPP and H.E. Robert Godec US Ambassador to Kenya during the Second National Prosecution Service Convention**

### **5.7 United Kingdom Foreign Commonwealth Office (UK-FCO)**

The UK-FCO supported the Office in matters relating to wildlife crimes where they facilitated the First ODPP/KWS wildlife crime workshops that brought together key agencies involved in detection, investigation and prosecution of poaching and illicit trade in wildlife products.

### **5.8 Institute for Security Studies (ISS)**

The ISS supported the Office by facilitating a scoping mission to the Uganda to visit the international crimes court to bench mark on setting up an

international crimes division. They also supported capacity building in counter terrorism and international criminal justice

### **5.9 Africa Network for Animal Welfare (ANAW)**

**ANAW**, a Non-Government Organization assisted the Office in supporting the development and piloting of a wildlife crimes curriculum as well as supporting a Multi-Agency Training Workshop on Wildlife Crime. In addition, it provided support for the review of the Wildlife Conservation and Management Act 2013.



**Former DDPP Mr. Kioko Kamula and Executive Director ANAW Mr. Josephat Ngonyo at the 2nd Inter-agency Wildlife Crimes Training Workshop, Naivasha**

### **5.10 WAYAMO Communication Foundation**

WAYAMO, a Non-Governmental Organization, supported the Office by facilitating a scoping visit to Nuremburg, Germany to benchmark on the setting up an international crimes division.

## 5.10 Networks

The ODPP takes pride in building both formal and informal linkages between its officers and those of different institution both locally and internationally. In regard to regional and international engagement, the ODPP is not only a member of several organizations, but also participated in several workshops and conferences during the review period.

### 5.10.1 Memberships

The ODPP is a member of the following international organizations:

- ❖ International Association of Prosecutors (IAP)
- ❖ Africa Prosecutors Association (APA)
- ❖ East African Association of Prosecutors (EAAP)

### 5.10.2 International Conferences/ Meetings Attended

During the period under review, the ODPP took part in numerous international conferences and workshops as highlighted below:

- i. A Training workshop on Effective Cybercrime Legislation in Eastern Africa, Dar es Salaam, 22-24 August, 2013;
- ii. East and Southern African Anti-money Laundering Group (ESAAMLG) 26<sup>th</sup> Task Force of Senior Officials and 13<sup>th</sup> Council of Ministers Meeting, Namibia, 2-6 September, 2013;
- iii. Commonwealth Senior Officials Meeting, London, 9-12 September, 2013
- iv. International Association of

Prosecutors Conference, Moscow, Russia, September, 2013;

- v. 8<sup>th</sup> Annual Africa Prosecutors' Association, Praia, Cape Verde, 8-10<sup>th</sup> October, 2013;
- vi. Workshop on Responding to Terrorism, International and Transnational Crimes, Dar es Salaam, Tanzania, 20-21<sup>st</sup> October, 2013;
- vii. International Criminal Investigations Training and Conference; 'Building a Legacy: Lessons Learnt from the Offices of the Prosecutors of International Criminal Tribunals and Hybrid Courts,' Nuremburg, Germany, 4-8 November, 2013;
- viii. East African Association of Prosecutors 2<sup>nd</sup> Training Workshop on 'Responding to Terrorism, International Crimes and Transnational Crimes: Towards Prosecution Led Investigations,' Dar es Salaam, Tanzania, 18-22 November, 2013;
- ix. Conference of States Parties to the United Nations Convention Against Corruption 5<sup>th</sup> Session, Panama City, Panama, 25-29<sup>th</sup> November, 2013
- x. Third IAP African and Indian Ocean Regional Conference to discuss " Getting a Fair Bargain for Africa and the Developing World: The Role of the Prosecutor in Combating Corporate Financial Crime Including Tax Evasion and Environmental Degradation in the Extractive and Other Significant Industries, Lusaka, Zambia, 2-6 March, 2014;
- xi. Third Joint Investigations Team Meeting, Port Louis, Mauritius, 18-

- 22<sup>nd</sup> March, 2014;
- xii. ESAAMLG 27<sup>th</sup> Task Force of Senior Officials Meeting, Arusha, Tanzania, 31<sup>st</sup> March- 4<sup>th</sup> April, 2014;
  - xiii. Commonwealth Meeting of Directors of Public Prosecutions of Eastern and Southern Africa, Gaborone, Botswana, 28<sup>th</sup> April-1<sup>st</sup> May, 2014;
  - xiv. Commonwealth Law Ministers Meeting in Gaborone, Botswana, 5-8<sup>th</sup> May, 2014;
  - xv. 23<sup>rd</sup> Session of the United Nations Commission on Crime Prevention and Criminal Justice, Vienna , Austria, 12-16<sup>th</sup> May, 2014;
  - xvi. Conference on Combating Transnational Organized Crime and Illicit Flows, Brussels, Belgium, 18-24<sup>th</sup> May, 2014;
  - xvii. Implementation review group of the UNCAC 5<sup>th</sup> Session, Vienna, Austria, 2-6 June, 2014;
  - xviii. The Fifth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, New York, USA, 16-20<sup>th</sup> June, 2014;
  - xix. Maritime Security, Regulation and Enforcement in the IORA Region, University of Wollongong, Australia, 2-13<sup>th</sup> June, 2014;
  - xx. Training course on Crime Prevention and Criminal Justice, South Korea, 2-23<sup>rd</sup> June, 2014.

### 5.11 Second Annual ODPP Convention

Section 51 of the ODPP Act requires the Office to convene an Annual National Prosecution Service Convention to discuss strategic issues to improve

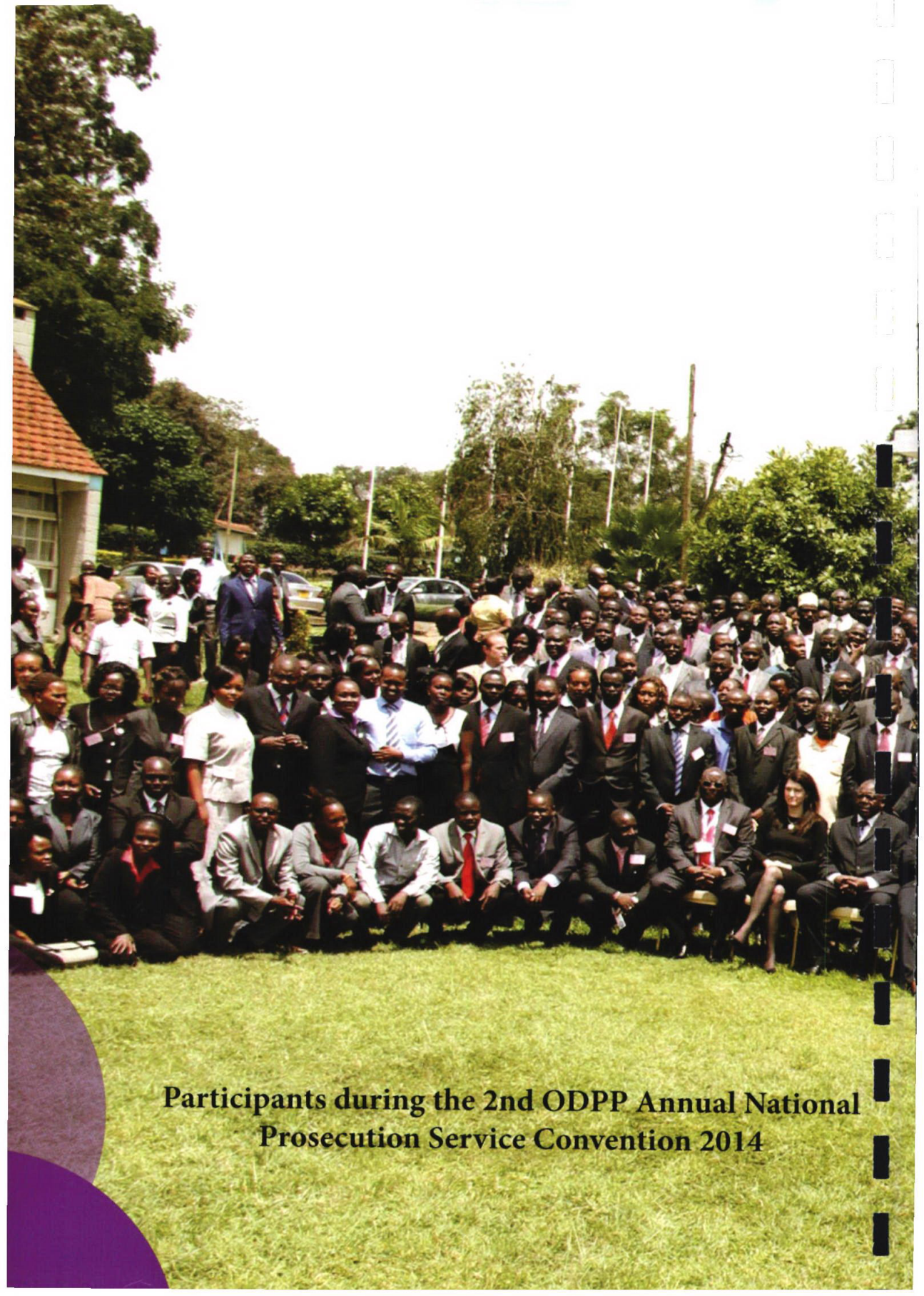
the performance and delivery of prosecution services.

The ODPP held its Second Annual Convention between 14-16<sup>th</sup> April, 2014. For the first time since its inception, the ODPP brought together the legal and central facilitation services staff to deliberate on the Convention's theme '**Prosecution Services in a Balanced Working Environment**'. This convention served as an opportunity to demonstrate the ODPP's growing presence as well as the achievement of its statutory mandate. The convention was attended by over 400 staff from all counties, invited stakeholders, and honoured guests. The convention was funded by the ODPP with targeted support from the US Government.

The convention focused on the following topics:-

- Employee Welfare and Health
- Enhanced Delivery of Prosecution Services through Institutional Partnerships
- Prosecution in the Modern World

In his address the DPP highlighted the growth of the Office to a staff complement of 603 officers and the establishment and operationalization of 41 county offices to enhance access to justice. The DPP further emphasized the significance of and extolled the need for coordination and collaboration of agencies within the justice system both nationally and regionally. As part of its public sensitization programme the DPP stated that the office had operationalized social media accounts allowing the office to give public updates of major cases and policy direction. It was however noted that the office had experienced various challenges relating to inadequate budgetary allocation,



**Participants during the 2nd ODPP Annual National  
Prosecution Service Convention 2014**



terms and conditions of service and infrastructure.

The Hon. Dr. Willy Mutunga, the Chief Justice of the Republic of Kenya, delivered the keynote speech which focused on interagency collaboration. He emphasised the interdependence of stakeholders in the justice system and the need to adopt a common approach towards planning, budgeting, and implementation of their respective mandates

Other speakers included:-

- Dr. Eliezer Mbuki Feleshi - the Director of Public Prosecutions- Republic of Tanzania
- Hon. Justice Mike Chibita - the Director of Public Prosecutions – Republic of Uganda
- Ms. Muthoni Kimani on behalf of the Hon. Attorney General
- Mr. Eric Mutua the Chairperson of

the Law Society of Kenya & Member of the ODPP Advisory Board

- Mr Phillip Murgor former Director of Public Prosecutions Kenya

In addition to various presentations, the following key ODPP policy documents were launched:-

- a) Strategic Plan 2011-2015
- b) Organizational Structure Manual 2012
- c) Communications Strategy 2012
- d) Career Progression Guidelines 2012
- e) Human Resource Manual 2012
- f) ICT Strategy Framework 2013

The convention closed with brief remarks from the US Ambassador to Kenya, H.E. Robert Godec.

*Chief Justice Dr. Willy Mutunga, DPP Mike Chibita (Uganda) DPP, Keriako Tobiko (Kenya) and DPP, Eliezer Feleshi (Tanzania) unveiling key policy documents during the Second Annual National Prosecution Service Convention.*





*A segment of participants during the 2nd National Prosecution Service Convention.*

## STRATEGIC OBJECTIVE 6

### STRENGTHEN POLICY AND LEGISLATIVE FRAMEWORK

#### 6.1 Criminal Justice Policy Formulation

Criminal activity has become complex and of a transnational nature. Global trends have given rise to crimes such as piracy, cybercrime, trafficking in humans, drugs and cultural property, poaching, money laundering, and terrorism, among others. The operations of perpetrators of these crimes transcend national borders. The complexity and transnational nature of criminal activity call for policy and legislative review and adjustments in the law to militate against the rising incidences of emerging crimes. This underscores the need for collaborative efforts in criminal justice policy and legislative formulation.

To this end, the Judicial Service Act (2011) established the National Council on the

Administration of Justice charged with the responsibility of policy and legislative formulation within the justice sector. The DPP is a member of the Council. To address these emerging realities, the ODPP has (i) a Standing Committee on Criminal Law Reform and (ii) a Reforms and Liaison section.

#### 6.2 Law Reform

In the fulfilment of its role as an advisor to the government and other state agencies on criminal matters, the ODPP contributes regularly in the development of new legislation developed by government.

In the reporting period, the ODPP Standing Committee on Criminal Law Reform and thematic prosecutorial Divisions continued

to initiate Bills and make recommendations on draft legislation received from other agencies. In this regard, the ODPP has drafted the:

- Computer and Computer Related Offences Bill and
- Plea Negotiations Rules and Guidelines.

The Office participated in other law reform initiatives such as the

- Wildlife Conservation and Management (Amendment) Bill 2014 and
- Victims' Protection Bill, 2013
- Anti-Doping Bill

The Office was a member of the following taskforces:

- Bail Bond Policy Taskforce
- Sentencing Policy Taskforce
- Anti-Doping Taskforce

### 6.3 Prosecutorial and Institutional Policy Formulation

Additionally, to ensure the Office has the requisite policy framework to discharge its mandate, it finalized the review, revision and harmonization of the following prosecutorial policy documents:

- a) National Prosecution Policy;
- b) Code of Conduct and Ethics for Prosecutors;
- c) General Prosecution Guidelines; and
- d) Corruption and Economic Crimes Prosecution Guidelines

These policy instruments are designed to guide and equip prosecutors in the exercise of the prosecution mandate.

## STRATEGIC OBJECTIVE 7

### FACILITATION OF WITNESSES AND VICTIMS OF CRIME

A number of international and regional treaties and treaty bodies have recognized the need for and made provisions for the protection and facilitation of witnesses, these include, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption which oblige States Parties to take appropriate measures to provide protection for witnesses testifying with respect to offences covered by the Conventions. The obligation to facilitate and protect prosecution witnesses is both a practical necessity and an obligation of the State.

In recognition of the need to provide support to vulnerable persons in the criminal justice system the ODPP has

established specialized division and created linkages with other agencies. In addition, the ODPP has developed draft guidelines for witnesses and victim support to ensure expedient prosecution of matters.

#### 7.1 Children, Witness and Victim Facilitation Division

In the reporting period, the ODPP operationalized the Children, Witness and Victim Support Division. The Division:-

- is developing a draft Witness and Victims' Support Policy, and Juvenile Justice Policy;
- is working out modalities for the roll-out of a national pre-trial witness and victims' facilitation programme in line with the mandate; and
- Reviewed the Victim Protection Bill,

2013.

The ODPP continues to recognise the key role played by victims and witnesses in the criminal justice process and campaigns for the adequate facilitation and provision of supportive mechanisms for such individuals. In addition the Office has collaborated with key agencies in the development of children and witness sensitive policy and legislation. Further, the ODPP has signed an MOU with the Witnesses Protection Agency (WPA) as well as assigning liaison officers to facilitate identification of vulnerable witnesses and victims who are in need of protection.

# CHAPTER 3

## PROSECUTION PERFORMANCE

**D**uring the reporting period, the ODPP discharged its core mandate of prosecution as highlighted in the statistical analysis and notable cases below.

### 3.1 STATISTICAL HIGHLIGHTS

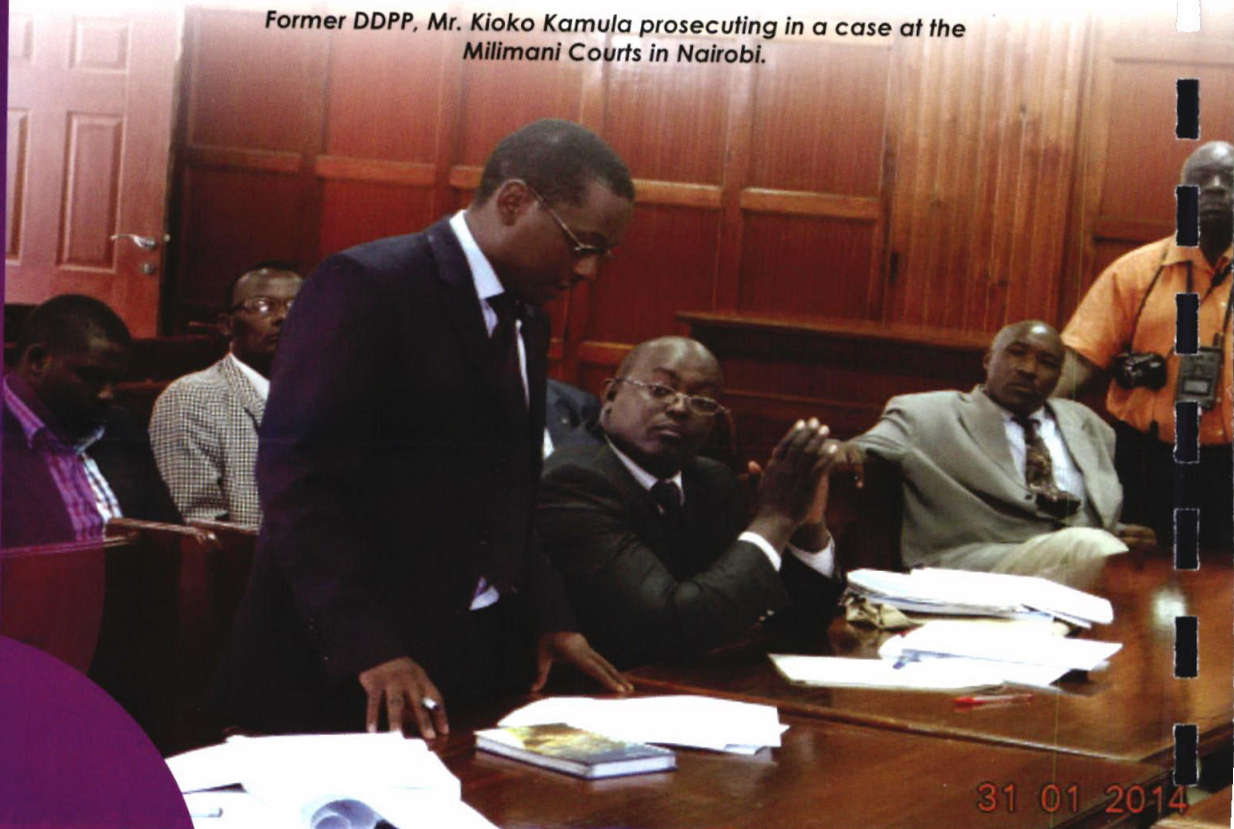
A new data collection tool was formulated to accommodate various variables and parameters for assessment of performance of prosecutors. The tool enhanced the collection and collation of casework data.

During the period under review the ODPP received and registered a total of **111,566** matters which comprised criminal trials in

the High Court and Subordinate Courts, appeals, revisions, applications, MLA and Extradition requests, advice files and complaints. The overall conviction rate stood at **82%** up from **75%** in the previous reporting period.

The proportion of each category of matters processed is further illustrated by the chart below.

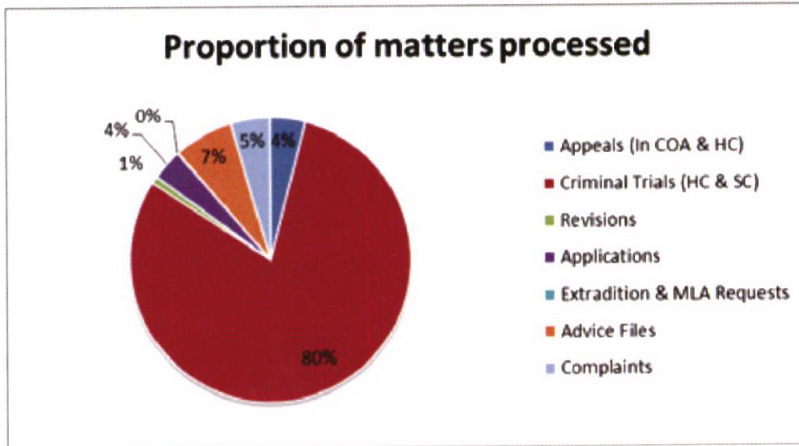
*Former DDPP, Mr. Kioko Kamula prosecuting in a case at the Milimani Courts in Nairobi.*



**Table 4: Matters processed in by the ODPP**

Matter	Registered	% proportion
Appeals (In Supreme Court, COA & HC)	4,574	4.1
Criminal Trials (HC & SCoK)	89,332	80.1
Revisions	916	0.8
Applications	3,974	3.6
Extradition & MLA Requests	91	0.1
Advice Files	7,627	6.8
Complaints	5,052	4.5
<b>Total</b>	<b>111,566</b>	<b>100</b>

**Figure 1: Proportion of matters registered**



**Categories of matters handled**

• **Appeals and Applications in the Supreme Court, Court of Appeal and High Court**

During the period under review, the ODPP registered a total of 9,464 appeals, applications, and revisions. This represents an increase of **7.6%** compared to the previous year. The appeals represent the highest proportion of matters registered in this category at **48%**.

The **7.6%** increase is attributable to the rigorous judicial week that saw a huge number of appeals processed. This was a collaborative effort between the Judiciary and the ODPP, and other criminal justice agencies under the auspices of the NCAJ.

Further illustration of the statistics is shown below.

• **Appeals and Applications registered by category**

**Table 5: Proportion of matters registered**

	<b>Case type</b>	<b>2011/12</b>	<b>%</b>		<b>%</b>	<b>2013/14</b>	<b>%</b>
High court	Supreme Court, Court of Appeal & High Court	4,727	58%	5803	66%	4,574	48%
		291	4%	474	5%	1,370	14%
	Judicial Review	444	5%	160	2%	1,682	18%
	Revisions	1,069	13%	738	8%	916	10%
	Other	1,628	20%	1,621	18%	922	10%
	<b>Total</b>	<b>8,159</b>	<b>100%</b>	<b>8,796</b>	<b>100%</b>	<b>9,464</b>	<b>100%</b>

- **Case Outcomes: Appeals and Application**

**Table 6: Outcome of Appeals**

<b>Case type</b>	<b>Outcome</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>
Appeals	No. pending	4,494	6,268	7,405
	Dismissed	445	1,599	500
	Allowed	388	601	351
	Withdrawn	243	193	159
	<b>TOTAL</b>	<b>5,570</b>	<b>8,661</b>	<b>8,415</b>

Matters handled during the reporting period were less than those done in 2012/13. This is attributed to the rigorous handling of appeals during the judicial service week in that year.

**Applications**

Various applications are made during the criminal trial process both by the ODPP, Accused Persons, Interested Parties, other State agencies and individuals.

ODPP therefore makes or opposes these applications, which largely consist of

constitutional applications, judicial reviews, Bail applications, and ancillary orders among others.

Below is a table indicating various classes of applications registered during the reporting period. Constitutional and Judicial review applications accounted for the highest at 28% and 34% respectively during the reporting period up from 16% and 5% respectively in 2012/13. This is attributable to increased public awareness and utility of the expanded Constitutional space.

**Table 7: Applications registered**

Class	2011/12	%	2012/13	%	2013/14	%
Constitutional Applications	291	9%	474	16%	1,370	28%
Judicial Review	444	13%	160	5%	1,682	34%
Revisions	1,069	31%	738	25%	916	19%
Other Applications	1,628	47%	1,621	54%	922	19%
<b>Total</b>	<b>3,432</b>	<b>100%</b>	<b>2,993</b>	<b>100%</b>	<b>4,890</b>	<b>100%</b>

Table 8 shows a trend analysis of outcomes of applications and outcomes thereof.

**Table 8: Outcomes of Applications**

Class	Outcomes	2011/12	2012/13	2013/14
Constitutional Applications	No. pending	109	278	614
	Dismissed	41	39	639
	Allowed	22	137	344
	Withdrawn	0	8	19
	<b>TOTAL</b>	<b>172</b>	<b>462</b>	<b>1,616</b>
Judicial Review	No. pending	134	139	1,158
	Dismissed	99	26	499
	Allowed	3	3	578
	Withdrawn	12	3	106
	<b>TOTAL</b>	<b>248</b>	<b>171</b>	<b>2,375</b>
Revisions	No. pending	572	168	792
	Dismissed	141	380	67
	Allowed	100	44	230

There was remarkable increase in the resolution rate of application during the reporting period as compared with previous years. The ODPP achieved a high success rate in constitutional application and revisions. This is attributable to the enhanced numerical and technical capacity of the Human Rights and Judicial Review Division.

### Criminal Trials

Criminal trials are undertaken both at the

High Court and Subordinate Courts across the country.

### Criminal Trials in the High Court

During the year under review, ODPP filed **1,226** murder cases. This represents a decrease of **9%** compared to the previous year. The decrease is attributed to increased rigors in the screening of matters before charging in court by the ODPP which has

been enabled by the increased capacity of the Office.

For the same reason above, the conviction rate increased from **53%** in the previous year to **78%** during the review period.

Below are tables on number of cases registered since ODPP's inception and outcomes thereof.

**Table 9: Murder Cases Registered**

Case	2011/12	2012/13	2013/14
Murder	1,625	1,344	1,226
% Decrease	-	17%	9%

**Table 10: Murder Cases: Outcomes**

Case	Period	No. pending	No. Concluded			
			Withdrawal	Conviction	Acquittal	Conviction rate %
Murder	2011/12	1,750	131	63	65	49
	2012/13	2,285	168	68	60	53
	2013/14	3,090	79	158	44	78

The ODPP filed an appeal in the Supreme Court against the holding of the Court of Appeal in **Joseph Njuguna Mwaura & 2 Others v Republic [Criminal Appeal No. 5 of 2008, Nairobi]** in which the Court of Appeal upheld the constitutionality of the death penalty. The matter is pending before the Supreme Court.

#### **Criminal Trials in the Subordinate Courts**

In addition to criminal cases filed in the High Court, the ODPP handles a considerable criminal case load in the Subordinate

Courts consisting of a wide range of criminal activities, including manslaughter, sexual and gender-based violence cases, corruption and other economic crimes, robbery (including robbery with violence), theft, forgery, fraud, traffic offences, and assaults among others.

The ODPP registered **88,038** cases in the Subordinate Courts and achieved a conviction rate of **82%** thereof during the period under review. This is attributed to the greater involvement in charging decisions by the ODPP. Table 9 below, illustrates the caseload distribution and conviction rates in Subordinate Courts across the Counties.

**Table 11: Distribution of Caseload in the Subordinate**

**Courts and conviction rate per County**

COUNTY	NO. OF CASES	CONVICTIONS	ACQUITALS	WITHDRAWALS	PENDING	case load distribution	conviction rate
NAIROBI	11,249	1,281	493	1,439	8036	13%	72%
NYANDARUA	1,551	333	61	298	859	2%	85%
NYERI	1,334	333	89	314	598	2%	79%
KIRINYAGA	1,693	363	52	503	775	2%	87%
MURANG'A	2,975	925	167	486	1,397	3%	85%
KIAMBU	4,613	1,267	219	926	2,201	5%	85%
MOMBASA	2,790	945	90	445	1,310	3%	91%
KILIFI	2,294	546	123	367	1,258	3%	82%
KWALE	982	323	35	144	480	1%	90%
LAMU	587	228	79	16	264	1%	74%
TAITA TAVETA	1,313	330	48	548	387	1%	87%
TANA RIVER	595	125	30	60	380	1%	81%
ISIOLO	332	57	35	65	175	0%	62%
EMBU	1384	630	102	233	419	2%	86%
MARSABIT	447	172	40	131	104	1%	81%
MERU	6,142	1,441	310	758	3633	7%	82%
THARAKA NITHI	861	233	62	227	339	1%	79%
KITUI	2,309	937	120	327	925	3%	89%
MACHAKOS	2,692	817	168	558	1,149	3%	83%
MAKUENI	2,143	885	58	250	950	2%	94%
GARISSA	558	271	22	144	121	1%	92%
WAJIR	203	40	4	71	88	0%	91%
MANDERA	345	106	27	49	163	0%	80%
SIAYA	1,432	338	90	267	737	2%	79%
KISUMU	2,374	426	84	487	1,377	3%	84%
HOMABAY	1,467	330	94	354	689	2%	78%
MIGORI	988	134	105	248	501	1%	56%
KISII	2,032	332	142	436	1,122	2%	70%
NYAMIRA	917	197	28	264	428	1%	88%
BARINGO	832	305	54	185	288	1%	85%
BOMET	1,763	428	64	462	809	2%	87%
UASIN GISHU	2,025	510	75	277	1,163	2%	87%
KAJIADO	966	125	48	166	627	1%	72%
ELGEYO MARAKWET	653	185	16	147	305	1%	92%
KERICHO	1,761	508	89	445	719	2%	85%
TRANZOIA	1,837	557	103	261	916	2%	84%

NAKURU	5,162	1234	380	895	2653	6%	76%
LAIKIPIA	814	144	34	155	481	1%	81%
NANDI	1,366	349	286	327	404	2%	55%
NAROK	1,649	478	101	410	660	2%	83%
SAMBURU	265	135	32	80	18	0%	81%
TURKANA	757	401	57	93	206	1%	88%
WESTPOKOT	1,370	621	195	214	340	2%	76%
KAKAMEGA	2,513	591	117	513	1,292	3%	83%
VIHIGA	1,526	475	80	204	767	2%	86%
BUNGOMA	2,950	576	83	366	1,925	3%	87%
BUSIA	1,227	196	71	237	723	1%	73%
	88,038	22,163	4,862	15,852	45,161	100%	82%

### Prosecution of Emerging Crimes

During the reporting period, the ODPP responded to changing national priorities and emerging crimes, such as terrorism, wildlife crimes, hate-speech, human trafficking, cybercrime, FGM, use and trafficking of narcotics, among others.

The ODPP established new thematic prosecution Divisions, Sections and Units; namely *Counter-terrorism Unit, Wildlife Crimes Unit, Hate-speech and Incitement to violence Unit, Human Trafficking Unit, Cybercrime Section, Anti-Narcotics Section, and the Anti-FGM Unit.*

To track prosecutorial performance and inform policy direction in these critical areas, the ODPP begun to collect and collate data on emerging crimes in Kenya. In this regard, the Office recorded significant gains in combating these crimes

and particularly contributed to national efforts to reduce terrorism, wildlife crimes, human trafficking, use and trafficking of narcotics, FGM, and cyber-crimes. ODPP attained a conviction rate of **100%** in human trafficking cases, **96%** in wildlife crimes, **93%** in use and trafficking of narcotics, **86%** in FGM cases, and **70%** in cyber-crime cases.

The ODPP prosecuted terrorism and hate-speech cases. There were **16** terrorism cases out of which **2** were concluded. One resulted in a conviction, while the other was an acquittal. The other **14** cases are pending. With regard to hate-speech cases, the ODPP filed **10** cases which are pending.

### Corruption and Economic Crimes Cases

The ODPP advised and prosecuted corruption cases forwarded by EACC as indicated below:

**Table 12: Cases from EACC**

Action on files/cases	By Who	2011/12	2012/13	2013/14
Forwarded	EACC	87	55	68
Recommended for prosecution	EACC	71	32	40
	DPP	63	26	40
Not Accepted to prosecute	DPP	3	2	0
Recommended for closure	EACC	13	15	12
	DPP	10	13	12
Not Accepted for closure	DPP	3	3	0
Recommended for Administrative Action	EACC	3	8	9
	DPP	3	5	9
Not accepted for Administrative Action	DPP	0	2	0
Recommended for further investigation	DPP	2	8	7

The DPP accepted all the corruption cases recommended for prosecution by the EACC. This represents a 100% concurrence rate with EACC's recommendations.

The table below indicates a 50% conviction rate during the year under review. It is noteworthy that the high number of pending cases is attributed to a plethora of applications filed by accused persons, and the unavailability of defence counsel who cite engagement in the superior courts.

**Table 13: Status of EACC Matters in Court**

No. registered	No. pending	No. concluded			Conviction rate %
		Conviction	Acquittal	Withdrawal	
40	213	2	2	1	50%

### Extradition and Mutual Legal Assistance Requests

The Extradition, MLA and International Cooperation Division processed 27 extradition and 64 MLA requests. Considering that extraditions and MLA proceedings are complex and lengthy, it is remarkable that the Division concluded 8 extradition requests, a rise of 100% from the previous two years.

The tables below are an account of the requests received, made and processed.

**Table 14: Extradition Requests**

<b>Extradition requests made to Kenya by Foreign States</b>	<b>2011/2013</b>	<b>2013/14</b>
Requests received from other countries	20	16
Requests filed in court	18	10
Requests declined	2	0
Requests concluded before courts	4	8
Requests pending before court	14	6
Requests currently with the Directorate of Criminal Investigations pending arrest of fugitives	10	7
<b>Extradition requests made By Kenya to Foreign States</b>		
Requests sent by Kenya to foreign countries	10	11
Requests responded to by foreign countries	3	0
Extradition requests made by Kenya pending before foreign countries	10	11

**Table 15: MLA Requests**

<b>Requests made to Kenya by Foreign States</b>	<b>2011/2013</b>	<b>2013/14</b>
Requests received	244	50
Forwarded to other agencies for action	140	36
Where no action taken	Nil	Nil
Requests being processed at various stages	104	14
<b>Requests made by Kenya to Foreign States</b>		
Requests made by Kenya	12	14
Requests responded to	6	2
Requests pending	6	13
Requests completed	6	8

**Advice Files**

As an integral part of prosecution function, the ODPP consistently engages with the Police and other investigative agencies to provide advice and direction on ongoing matters. This is part of its prosecution-

guided investigation role that the ODPP has adopted to ensure quality of cases brought to court.

During the year under review the DPP advised on the following number of cases:

**Table 16: Advice files handled/processed**

Advice Files	2012/13	2013/14
No. received	3775	7,627
No. of Files advised on	2471	6,333
No. pending	118	714

The ODPP in the year 2013-2014 received a higher number of advice files as compared to the previous year due to the deployment of ODPP Prosecution Counsel to Counties. Inter-agency collaboration with the police and other investigative agencies enabled effective processing of cases received.

### Complaints

During the year under review the ODPP received and processed **5052** public complaints country-wide.

The Complaints and Compliments Section at the Head Quarters received and processed **1087** public complaints. Among the complaints, there are those that did not fall within the mandate of the ODPP and were consequently dealt with by advising the complainants accordingly or forwarding to the relevant agencies for their necessary action.

A summary of the complaints processed is shown below:

**Table 17: Categorization of Complaints handled**

Total Files Opened 2013/2014 (1 <sup>st</sup> July, 2013 to 30 <sup>th</sup> June, 2014)	1,087
Files Opened and Resolved	114
Files Forwarded To DCI For Further Action	379
Files Forwarded To Other Agencies For Action ( IPOA, NCAJ, IG,EACC,JUDICIARY, MINISTRIES)	135
Files Forwarded To ODPP County Offices For Action	430
Unresolved Files	29

The complaints processing system in use in the Head Quarters will be rolled out and implemented at the County level.

### UNRESOLVED MATTERS

Despite the above mentioned successes, the ODPP recognizes that there is a disconcertingly high proportion of unresolved matters in the criminal justice system. This does not augur well for access to justice, as well as ensuring that crime does not hamper Kenya's business competitiveness which is important in spurring national economic and

social growth.

To address this problem, the ODPP is playing its role both at the NCAJ and institutional level. At the NCAJ, the ODPP has contributed to policy and legislative reform initiatives relating to:

- Review of Kenya's sentencing framework,
- Establishment of a Bail and Information framework,
- Victim Protection Mechanisms,
- Review of the Wildlife Conservation and Management Act,

- Establishment of the International and Transnational Crimes Division of the High Court,
- Developing High Court Administration Bill,

In addition, the Office is a member in the Court Users Committees established throughout the Country.

At an institutional level, the ODPP has rapidly expanded its presence to ensure total coverage of all Counties and has been taking over prosecution in the Subordinate Courts. The Office continues to demonstrate its long-standing commitment to the annual judicial service week geared towards fast-tracking of pending cases. The ODPP has also spearheaded the development of the Plea Negotiation Rules and Guidelines.

### 3.2 NOTABLE CASES

The following are highlights of the major cases taken to court and major outcomes based on their jurisprudential or public interest value.

#### Major Cases Taken To Court in FY: 2013/2014

Major cases taken to court are discussed in the following categories notably corruption, hate speech, SGBV, wildlife, cybercrime, Appeals, criminal procedure.

##### 3.2.1 Corruption

###### (i) **Republic v Amos Kimunya & 3 Others [ACC No. 4 of 2014 CMC Nairobi]**

Amos Kimunya, a former Minister in charge of Ministry of Lands and Housing was charged with abuse of office contrary to Section 46 as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003, failure to disclose a

private interest to one's principal and fraudulent disposal of public property and breach of trust following irregular allocation of public land in Nyandarua County. The matter is ongoing in court.

###### (ii) **Republic v Richard Kerich & Meridian Medical Services [ACC. NO.2/2013 CMC Nairobi] and Republic v Richard Kerich & Clinix Health Services [ACC.NO.1/2013 CMC Nairobi]**

The allegations in these cases relate to irregular procurement of a private medical Centre by the National Hospital Insurance Fund (NHIF) for the provision of outpatient medical cover under the Civil Servants and Disciplined Services Medical Scheme leading to irregular payment of KES. 202, 161, 187.50 for services not rendered or not adequately rendered.

The former Chief Executive Officer and the Managers of NHIF were charged with the offence of willful failure to comply with the law relating to procurement of services contrary to section 45 (2) (b) of the Anti-Corruption and Economic Crimes Act (ACECA) and offence of abuse of office contrary to section 46 of ACECA. In addition the NHIF managers and the Directors of the service providers were charged with conspiracy to defraud contrary to section 317 of the Penal Code. The Directors of the service providers were further charged with obtaining money by false pretence. Upon being charged the accused persons made an application for judicial review which was heard and dismissed. The case was referred back to the trial court for hearing

which is yet to commence.

**(iii) Republic v James Oswago & Wilson Shollei [ACC No. 16 of 2013, CMC Nairobi]**

The allegations in this matter are that the Independent Electoral and Boundaries Commission (IEBC) irregularly awarded the tender for the supply of Electronic Voter Identification Device (EViD) and accessories to a private company. The IEBC officers were charged with the offences of:

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

The case is part heard.

**(iv) R v. Richard Onyonka & Another [ACC. No. 1/2014 CMC Kisumu]**

The first accused who is the member of the National Assembly for Kitutu Chache Constituency was charged with various charges of conspiracy to defraud and abuse of office. He applied for and got a withholding tax certificate from KRA for the Constituency's CDF to buy sugar for the benefit of 2007-2008 Post-election violence internally displaced persons in his constituency, Kisii, and Cherangani. He then conspired with the second accused to use the certificate to buy sugar from Chemilil Sugar Company which was sold to sugar merchants rather than IDPs, occasioning the loss of taxes amounting to KES. 21 million.

The case in part heard.

**(v) Republic v Thuita Mwangi & 2 Others [ACC NO. 2 of 2013 CMC Nairobi]**

Former Foreign Affairs Permanent Secretary Thuita Mwangi and Anthony Muchiri who was Foreign Affairs Deputy Director of Administration and Allan Mburu who was the Charge d'Affaires at the Kenyan Embassy in Tokyo were charged with several counts of abuse of office relating to the Tokyo Embassy land scandal which occasioned a loss of almost KES 1 Billion to Kenya.

The matter is part heard.

**(vi) Republic v Dickson Wekesa [ACC. NO.10/2013 Milimani Nairobi]**

This case involves allegations of corruption against an Assistant Commissioner, Domestic Tax Department at the Kenya Revenue Authority (KRA). The suspect was charged with the offences of corruptly soliciting for and receiving a benefit of 57, 000 USD (KES. 5 million) contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

The case is pending hearing.

**(vii) Republic v John Njoroge Chege [CR.141/297/2013 Milimani Nairobi]**

This case resulted from allegations of corruption against the Member of Parliament for Kasarani Constituency. The suspect was charged with corruptly soliciting a benefit of KES 100,000/= as an inducement to facilitate payment of KES 3,342,716.77 to the

complainant for a CDF project which the complaint's company had been awarded. The suspect was charged with the offence of corruptly soliciting for and receiving a benefit under section 39 (3) (a) as read with Section 48 (1) of ACECA.

The case is part- heard in court.

**(viii) Republic v James Ruita & 5 Others [ACC. No. 14/2013 CMC Nairobi]**

This case arises from allegations of conflict of interest and abuse of office against the top management of the National Housing Corporation (NHC) by way of allocating themselves and relatives several housing units from Schemes developed by the Corporation. The above named suspects were charged with charged with the offences of Abuse of Office contrary to section 46 of and Conflict of Interest contrary to section 42 of ACECA.

The case is part heard.

**(ix) R Vs Njuguna Ndung'u [High Court Milimani Petition 73 Of 2014]**

The Central Bank governor is due for prosecution over a tender for security software which was allegedly lead to the loss of KES 400 million in public funds. He made an application challenging the intended prosecution. The matter is due for judgement on 22nd October 2014.

### 3.2.2 Hate Speech

**(i) REPUBLIC vs. MOSES KURIA [904/2014 CMCC Milimani Nairobi]**

Hate speech charges were instituted against the MP for

Gatundu South after he posted his Facebook wall on May 16<sup>th</sup> 2014 that **I think it's just a matter of time before Kenyans start violence against perceived terrorists, their sympathizers, their financiers and those issuing travel advisories without sharing intelligence. I am not sure I will not be one of those Kenyans. When you touch Gikomba the nerve centre of our economic enterprise, you really cross the line. Brace yourself. Choices have consequences"**

Accused further posted "**kofia we will kill both**" in response to a Facebook posting by one KOFIA MBAYA that "**it's not Somalis throwing grenades its odhiambos**".

He is facing charges of;

- Incitement to Violence and Disobedience of Law Contrary to Sec 96(a) of the Penal Code
- Hate Speech and Ethnic Contempt contrary to Sec 13(1)(a)(b)(d) and Sec 62 (1) of the National Cohesion and Integration Act, 2008 (NCIA) respectively.

The matter is scheduled for hearing.

**(ii) REPUBLIC vs. MISHI MBOKO [1145 OF 2014 MOMBASA]**

Charges were instituted against the Women Representative for Mombasa County following utterances she made at Mombasa County Stadium that "**Kenyans are going to bring revolution for this country.**

**Enough is enough. We are tired as Kenyans! Revolution is with the people! Sovereignty is with the people! Revolution is with the people! People`s power! People`s power! People`s power! "and "There are two tribes that think they own this country and we want to tell them 'chuma wanacho.'**

She was charged with Incitement to Violence and Disobedience of Law Contrary to Sec 96(c) of the Penal Code and Incitement to Ethnic Hatred Contrary to Sec 62 (1) of the National Cohesion and Integration Act, 2008 (NCIA).

The matter is scheduled for hearing.

### 3.2.3 Sexual Gender Based Violence

#### (i) **Busia 'Liz' Case [CMC CR.1924/2013 Busia]**

The complainant who is a minor and anonymized as 'Liz' I was defiled by a gang as she returned home from a family function. The matter was reported at Police but no concrete action was taken leading to public outcry.

The DPP ordered for prosecution-guided investigations to be conducted, which led to the case commencing with only one accused person. Another suspect was arrested in August 2014.

On 18th October 2013, the DPP also directed a separate inquiry into the conduct of the Administration Police at Tingolo AP Camp be instituted.

The DPP set out a multi-agency team consisting of two prosecution counsel and two gazetted SGBV prosecutors nominated by COVAW and FIDA (K) to prosecute the matter.

The Prosecution preferred to charge the accused persons with gang rape contrary to Section 10 of the Sexual Offences Act (SOA) and an alternative charge of committing an indecent act with a child contrary to Section 11 (1) of SOA. The second count is causing grievous harm contrary to section 234 of the Penal Code. The matter is ongoing.

#### (ii) **Republic v Harrison Kariuki Mwangi and 5 others [CMC 5087/2009 Kibera, Nairobi]**

This matter involved a robbery with violence and gang rape of the complainant. The case resulted in a conviction, although it had to be re-started 7 times due to transfers of Magistrates. This calls for either relooking into criminal procedure on starting *de novo* or the administrative provisions on transfer of magistrates which often occasion delays and backlogs in disposal of cases.

### 3.2.4 Terrorism

#### (i) **Westgate Mall Attack Case - Republic v Mohamed Ahmed Abdi and 3 others [CR. 1750/2013 CMC-Nairobi]**

On Saturday, 21st day of September 2013 at approximately 12.30 hrs four armed gunmen affiliated to a terrorist organization namely Al Shabaab opened fire using

AK-47 rifles and threw grenades at innocent civilians shopping at Westgate Shopping Mall in Nairobi. Witnesses reported that the gunmen said that they were carrying out the attack on behalf of Al Shabaab to avenge the Kenyan Government's military offensive in Somalia. When the attack ended, the attackers had killed at least 67 people and seriously injured over 200 others. The Al Shabaab, a Somali-based terrorist organization, publicly claimed responsibility for the attack.

Following investigations by Kenyan investigators assisted by foreign investigators from friendly countries such as the USA and UK, the afore-mentioned accused persons were arrested and charged with the following offences:

- Commission of a terrorist act contrary to Section 4(2) of the Prevention of Terrorism Act, 2012.
- Giving of support to terrorist group contrary to section 9(1) of the Prevention of Terrorism Act, 2012.
- Harboring of persons committing terrorist act contrary to section 10(a) of the Prevention of Terrorism Act, 2012.
- Obtaining Registration by false pretense contrary to section 320 of the Penal Code.
- Being unlawfully present in Kenya contrary to section 53 (10) (j) as read together

with section 53(2) of The Kenyan Citizenship and Immigration Act, No. 12 of 2011.

The case has been going on well and so far forty witnesses have testified.

**(ii) Republic v Ahmed Dugal Ali [CR. 676/2014 Nairobi]**

This case arose from the Pangani Police station blast caused by terrorists who exploded a motor vehicle at the entrance the station. The accused is the owner of the motor vehicle.

The matter is ongoing.

### 3.2.5 Wildlife Crimes Cases

**(i) R VS ADBUL HALIM SADIQ OMAR AND 5 OTHERS [CMC 1098/ 2014 Mombasa]**

The Police recovered 314 pieces of elephant tusks weighing 2 tonnes Fuji Motors E.A Limited situated in Tudor. 5 persons and a company were charged possession and dealing in wildlife trophies contrary to section 84, and 95 as read with section 92 of the WMCA respectively. There is an outstanding arrest warrant against the 6<sup>th</sup> accused one Feisal Mohammed Ali Alias Feisal Shahbal who escaped lawful arrest by the police. The prosecution applied and received temporary orders to restrain, preserve and seizure the property and any vehicles found on that property for purposes of the case.

This matter is ongoing.

**(ii) R VS KENNETH KAMAU MAINA  
AND NFALY DOUKOURE [CR.  
1673/2014 CMC KIBERA]**

The Police conducted a search of premises of Langata road at a garage in Nairobi west. While searching the premises they discovered ivory that had been concealed in a water tanker on the premises. The ivory was found to weigh 783 kgs with an estimated value of KES. 78,400,000/-. Two persons were arrested and charged with possession and dealing in wildlife trophies contrary to section 84, and 95 as read with section 92 of the WMCA respectively.

This matter is ongoing.

### **3.2.6 Female Genital Mutilation**

One of the initiatives of the ODPP during the reporting period is the operationalization of the Prohibition of Female Genital Mutilation Act, 2011 whose criminal provisions had not been put to test since its enactment. A number of cases which are on-going have been registered in different courts across the country with charges such as:

- a) Murder (where the victims have died following the illegal practice)
- b) Aid and abetting FGM contrary to section 20 of the Act
- c) Use of premises to perform FGM contrary to section 22 of the Act
- d) Performing FGM contrary to section 19 of the Act
- e) Being in possession of tools

and equipment used in performing FGM

This initiative is intended to deter FGM incidents and raise awareness on the need to respect the rights of victims and dangers of FGM. The Anti-FGM Unit has also undertaken extensive public awareness outreach in affected Counties and set up a hotline [+254770610505] for reporting of FGM incidents.

The following are some of the notable FGM cases taken to court during the reporting period:-

**(i) Republic v. Eunice Sintama Lesale and Jackson Lesale Lanoi [HCCR: 24/14 Machakos]**

The accused persons were charged with murder following their involvement in conducting FGM which led to death of the victim.

The matter is ongoing.

**(ii) Republic v. Leah Makai Ketukei [CR. 539/14 PMC Kajiado].**

The accused in this matter is a circumciser. The circumciser was charged with performing FGM contrary to Section 19 (1) of the Act, possession of tools or equipment used in performance of FGM, grievous harm contrary to Section 234 of the Penal Code, and subjecting a child to harmful cultural practices contrary to section 14 as read with section 20 of the Children's Act.

The matter is ongoing.

**(iii) Republic v Rapaine Ole Mopel, Simanta Rapaine & Agnes Tito Rapaine [CR. 538/14 PMC Kajiado]**

The accused persons are

the parents of a girl who was circumcised. They were charged with aiding and abetting FGM contrary to Section 20 of the Act, subjecting a child to harmful cultural practices contrary to section 14 as read with section 20 of the Children's Act and use of premises to perform FGM contrary to section 21 of the Act.

The matter is ongoing.

**(iv) Republic v Moses Nkabani [CR. 1186/2014 Loitoktok]**

The accused is a chief charged with failure to report commission of an FGM incident which is an offence under Section 24 as read with Section 26 of the Act.

The matter is ongoing.

### 3.2.7 Cybercrime

**(i) Republic v John Kimingi Njuguna CR. 3572/2010 CMC Eldoret**

On diverse dates in May 2010 in Eldoret, with intent to procure an advantage for himself fraudulently obtained the services of [www.safaricom.co.ke](http://www.safaricom.co.ke) through phishing the property of Safaricom Limited through his website [www.kazi.biz](http://www.kazi.biz). The accused advertised for intern jobs and published the advertisement in the local daily Nation Newspaper dated 26th May 2010. The website required that members of public should apply for jobs at a fee of KES. 800/=. Indeed a number of victims applied for the jobs and made the payments. They are witnesses in the case.

The accused in the case is charged with the offence of Electronic Fraud Contrary to

Section 84 B (a) of the Kenya Communication Amendment Act No.1 of 2009. The accused is also charged with 4 other counts of impersonation contrary to section 382(1) of the Penal Code particulars being that he falsely represented himself as the Chief Human Resource Manager of Safaricom Limited to the victims.

The case is ongoing.

### 3.2.8 MAJOR CASE OUTCOMES AND JURISPRUDENTIAL DEVELOPMENTS IN FY: 2013/2014

Major case outcomes are discussed below in relation to the independence of the DPP, constitutionalism of the death penalty, wildlife crimes, money laundering, international cooperation among others.

**(i) Tokyo Embassy Petition.**

The Government of Kenya adopted a policy in 2006 for acquisition of embassy premises for all Kenyan Missions abroad. The policy's main aim was to cut down on costs associated with rental premises. The case involves the purchase of Kenya Embassy premises in Tokyo, Japan in 2008. The then Ambassador of Kenya to Japan forwarded to the Ministry of Foreign Affairs a proposal by the Government of Japan recommending the purchase of a parcel of land identified at a cost of ¥900m. In the intervening period the Government of Kenya sent an inspection team led by the Ambassador to evaluate similar premises. The team entered into negotiations with one provider for

the purchase of potential premises valued at KES. 1.75billion.

Upon receipt of the proposal, the Permanent Secretary Ministry of Foreign Affairs sought the authority of the PS Treasury for the purchase of the premises. The PS Treasury granted authority to purchase the premises at KES. 1,524,425,000. The Kenyan Ambassador informed the Government of Japan that the Government of Kenya was no longer interested in purchasing the parcel of land offered by the Government of Japanese. Subsequently, an agreement for the purchase of the premises was signed between the owners of the identified premises and the Government of Kenya through the Ambassador. The Government of Kenya paid a sum of ¥1,477,634,381 being 80% of the purchase price.

Following the purchase, the Parliamentary Departmental Committee on Defence and Foreign Relations inspected the property acquired and tabled a report which indicated that the Government of Kenya had lost close to Kenya Shillings 1 billion in the procurement of the embassy premises. The Committee recommended investigations into the matter.

Upon investigation by the KACC, the DPP preferred charges against Thuita Mwangi (formers PS Foreign Affairs), Anthony Mwaniki Muchiri (Head of Kenya Mission in Japan) and Allan Waweru Mburu (the charge d' Affairs) as the first, second and third

accused respectively for the following offences under the Anti-corruption and Economic Crimes Act:

Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 (1);

- Abuse of Office contrary to section 46 as read with section 48 (1);
- Willful failure to comply with the law and applicable procedures relating to procurement contrary to section 45(2) (b) as read with section 48(1); and
- False assumption of authority contrary to section 104(b) as read with section 34 of the Penal code.

Pending the hearing of the criminal case, the parties filed a constitutional petition in the High Court for determination of the following issues:

- Whether the DPP acted independently in exercise of his powers to prosecute criminal offences;
- Whether there was inordinate delay in investigation and prosecution on the part of the DPP;
- Whether the DPP failed to inform the petitioners of the charges with sufficient details.

Judge D.S. Majanja clarified the issue of the DPP's independence, timeliness in instituting charges

and duty to disclose. In his ruling, he stated that:

- The decision to institute criminal proceedings by the DPP is discretionary. Such exercise is not subject to the direction or control of any person or authority. Upon receipt of recommendations from the EACC, the DPP makes an independent decision whether or not to prosecute. He observed that the court may intervene where it is shown that the impugned criminal proceedings were instituted for other means other than the honest enforcement of criminal law, or otherwise an abuse of the court process.
- What constitutes unreasonable delay is not a matter capable of mathematical definition but one dependent on the facts and circumstances of a particular case. He noted that the matter was complex and involved investigations within and outside jurisdiction. The petitioners failed to discharge the burden of proving that there was unreasonable delay.
- The right to be provided with material that the prosecution wished to rely on is not a one-off event but is a process that continues throughout the trial period dependent on the length of investigation and availability of any additional material. When fresh material is

availed the accused is entitled to have the time and opportunity to prepare their defence.

This petition affirmed the independence of the DPP in arriving at a decision whether or not to charge, irrespective of the recommendations from investigative agencies. Such a decision is dependent on the circumstances of the case and the party alleging undue delay has the onus of proof. Consequently, the duty to disclose ends with the closure of the prosecution's case. The trial of the substantive criminal case is on-going.

## **(ii) Constitutionality of the Death Penalty**

The appellants in this matter were convicted of the offence of Robbery with Violence contrary to section 296(2) of the Penal Code. Their conviction and sentence was upheld during the first appeal before the High Court. On second appeal, the appellants sought to challenge the constitutionality of the death penalty on the following grounds that:

- The death penalty is outlawed under the Constitution of Kenya, 2010 as it provides for the protection of the right to life under the Bill of Rights.
- The death sentence is outlawed under the Universal declaration of Human Rights and other subsequent international instruments by virtue of section 2(5) and (6)

of the Constitution.

- The death penalty is abhorrent as it amounts to degrading and inhuman treatment.
- The death penalty is not proportional to the offence of Robbery with Violence

In determining this matter, a Five-Judge-Bench of the Court of Appeal dismissed the appeal holding that the right to life was not absolute as it may be curtailed by established provisions of the Constitution and the law. The people of Kenya endorsed the death penalty through the referendum and by the fact that it continues to exist in our statute books with constitutional underpinning hence its legality. The Court further observed that death is a penalty for what is considered the most serious of crimes. It is a proportionate punishment for the offences committed, which in many cases result in the loss of life and the loss of dignity for the victims.

This case affirmed the fact that the DPP has and continues to act in accordance with constitutional provisions.

### **(iii) Extra-Judicial Killings**

Kenya continues to grapple with endeavors to improve its human rights performance. One major challenge remains the unresolved concerns relating to torture, cruel, inhumane and degrading treatment of people in the hands of law enforcement

officers. These concerns manifest themselves as instances of extra-judicial killing and mistreatment of persons in lawful custody. One of the major concerns by the Human Rights Committee against Torture is the awarding of compensation to victims of torture, cruel, inhuman and degrading treatment.

The DPP has established a human rights section within the Office that works closely with the Independent Policing Oversight Authority to investigate cases of gross misconduct by law enforcement officers. The Prosecution Guided Investigation Model enables prosecutors to advise investigative agencies in the conduct of investigations. Further, the Judiciary has been cognizant of the international Human Rights instruments and has not shied away from ordering compensation in cases where torture has been committed.

In one such case, an incident was reported at Kariobangi Police Station around 21st August 2009 in which five Administration Police Officers were alleged to have shot at, and killed two youth. Mburu Njuguna petitioned the High Court on behalf of the estate of one of the deceased, the late John Macharia Mburu vide Petition No 83 of 2011 for determination whether:

- The acts of the Administration Police officers amounted to assault, torture and extra judicial killings of the deceased resulting

to a violation of the deceased fundamental rights and freedoms;

- The petitioner is entitled to an award of damages;
- An order of Mandamus is tenable as against the DPP to compel him or her to investigate and prosecute the allegation of killing by the Administration Police Officers.

The Hon. Judge found that the 2nd Respondent had violated the petitioner's rights with respect to life and freedom from torture. He thus awarded the petitioners KES. 2,000,000/= as against the 2nd Respondent, the Ministry of State for Provincial Administration and Internal Security, for the said violations. The Judge however declined to grant an order of mandamus against the DPP as the investigations are on-going.

### **3.2.9 Wildlife Crimes**

#### **(i) Republic Vs Zhang Chungsheng**

This is a case prosecuted under the new Wildlife Conservation and Management Act, 2013. A Chinese ivory smuggler pleaded guilty to all charges but was only convicted on one of the three charges and sentenced to a fine of KES. 1 Million or in default to serve a term of 5 years on 30th January 2014. The DPP immediately filed a review before the High Court which granted the interim orders as sought by the DPP and barred the accused from leaving Kenya until the determination of the application. Upon review of the judgment, Hon. Justice Mbogoli noted that the current Wildlife Conservation and Management Act 2013, although a step in the

right direction as compared to the lenient provisions in the old act, still required legislative review particularly, the ambiguous provisions in Section 92 and the incorrectly labeled schedules.

### **3.2.10 International Crimes Cooperation**

In the Barasa case the Government of Kenya was served with a warrant of arrest and surrender for Mr. Barasa a former intermediary during the 2007/2008 Post-Election Investigations. Mr. Barasa challenged the order in Court seeking orders of prohibition against the government from conducting extradition proceedings. The ODPP successfully opposed his application and the matter is currently on appeal.

### **3.2.11 Money Laundering**

#### **(i) Republic v Heinz Andreas Schaller and Kornelia Kerstin Schaller**

On 18<sup>th</sup> March 2014 the DPP directed the DCI to investigate allegations of money laundering against the respondents following a request for mutual legal assistance to the Republic of Kenya from the Embassy of the Federal Republic of Germany in Kenya. The first respondent, a German national was employed as an accountant by a company named GO in Germany. During his employment, the first respondent made a number of money transfers from his employer's company accounts to an account held jointly with his wife, the second respondent. The first respondent also raised fictitious invoices

from suppliers and couriers of the companies and had the payments made into his bank accounts. The transfers of money were done through online banking.

As a result of the suspect's activities, the company incurred losses of at least 3,860,507.14 Euros. Investigations by German authorities revealed that approximately 250,000 Euros were transferred to bank accounts held at Imperial Bank and Barclays Bank in Kenya. Following investigations, the ODPP applied and got temporary seizure and freezing

orders for the Kenyan bank accounts pursuant to provisions of the Proceeds of Crime and Anti- Money Laundering Act 2009.

The application is scheduled for hearing.

### **3.2.12 Piracy**

#### **(i) Republic v Abdul Asis & 23 Others [CR. 2006/2011CMC Mombasa]**

Twenty four pirates from Somalia were sentenced to serve five years in prison after being convicted for committing acts of piracy on the high seas of the Indian Ocean in March 2009.

# CHAPTER 4

## Challenges and Recommendations

**D**espite registering noteworthy progress in improvement of service delivery, the Office continues to face a number of challenges, which include:-

**I. Lack of infrastructural capacities at county levels**

While the ODPP has now a presence in all counties in Kenya, there is need for infrastructural development of those county offices. In addition some counties are vast and have courts in numerous locations making it difficult for the limited number of prosecution counsel to attend court.

**II. Limited Capacity to Handle Emergent Crimes**

The ODPP has limited capacity to handle new and emerging forms of crime such as money laundering, cybercrime among others which require specialized knowledge and skills.

**III. Automation of Case Management System**

The use of manual case management processes results in ineffective service delivery. Moreover, this makes it difficult to measure performance.

**IV. Witness and Victim support pre-trial stage**

The ODPP faces challenges in conducting pre-trial sessions due

to lack of a witnesses and victim facilitation mechanism within the criminal justice system. This results in the ineffective delivery of justice.

**V. Archaic and unresponsive laws**

The current laws are inadequate to effectively address new and emerging crimes such as money laundering, drug and human trafficking, cybercrime, terrorism, wildlife crimes and maritime offences. Lack of legislative reforms results in unresponsive offences regime.

**VI. Capacity constraints within other criminal justice agencies.**

The criminal justice is a chain, and is only as strong as its weakest link. A number of the other key agencies within the justice system such as the National Police Service, and the Government Chemist suffer acute capacity constraints which inevitably affect the efficient delivery of services by the entire system.

For instance, in the area of investigation of crime, the lack of a modern National Forensic Crime Laboratory and inadequate forensic investigation skills have greatly hampered the ability of the police to investigate complex and emerging crimes.

**VII. Conflict between Alternative Dispute Resolution Mechanisms and the Formal Court System**

Article 159 of the Constitution provides for alternative dispute resolution and traditional justice mechanisms. The ODPP operates under the ambit of the formal justice system. There are currently no mechanism to harmonize the application of these two very distinct regime in terms of the application of criminal law.

**VIII. Security and safety of staff handling sensitive cases**

The handling of serious crimes by prosecutors, exposes them to increased threats and insecurity which adversely affects the Office's performance. In carrying out the mandate, officers have faced threats from the perpetrators during trial and when out on bail and bond.

**IX. Unattractive terms and conditions of service**

ODPP's ability to attract and retain staff has been constrained due to unattractive remuneration package offered to the staff compared to that of complementary institutions and agencies.

**X. Budgetary Constraints**

The ODPP experiences acute financial constraints due to inadequate budgetary allocation. This, no doubt, has adverse implications on the effective execution of the ODPP's mandate.

**RECOMMENDATIONS**

The ODPP proposes the following recommendations to address the challenges discussed above:

**I. INFRASTRUCTURAL SUPPORT**

- Increased funding to facilitate acquisition of office space, equipment, and motor-vehicles.
- Support for the establishment of resource centers.

**II. CAPACITY BUILDING**

- Enhancement of collaboration with development partners to provide specialized training.
- Establishment of a national prosecutors' training institute to undertake capacity building.

**III. CASE MANAGEMENT AND AUTOMATION**

Implementation of phase two of the automated and integrated case management project at a cost of KES 358 million.

**IV. STAFF WELFARE**

- Harmonization of terms and conditions of service with the wider justice sector to ensure competitiveness of ODPP in the job market.
- Increased budgetary allocation to implement SRC recommendations

on staff benefits.

## **V. LAW REFORM**

Review and revision of key procedural, evidentiary and substantive criminal laws in order to respond to the complex and ever mutating forms of criminality.

## **VI. CRIMINAL JUSTICE SYSTEM SUPPORT**

- Lobbying the NCAJ to develop a witness and victim support policy framework for the wider justice sector.
- Development of a national policy on the harmonization of the formal justice system and alternative dispute resolution mechanisms.

## **VII. BUDGETARY ALLOCATION**

- Lobbying Parliament for increased budgetary allocations to support ODPP programmes and activities.
- Engage with development partners for programmatic support.

# CHAPTER 5

## FINANCIAL ANALYSIS

The source of income for ODPP is funding from the National Government through the National Treasury by way of the Exchequer issuances for both its recurrent and development expenditures. The treasury has consistently supported the ODPP by enhancing the budgetary allocation over the three years. However, the allocations have not matched the budgetary requirements to fully operationalize the Office and implement its Strategic Plan. Enhanced budgetary allocations would enable the Office to establish Sub-county offices, recruit staff, procure both equipment and office space and quality case management.

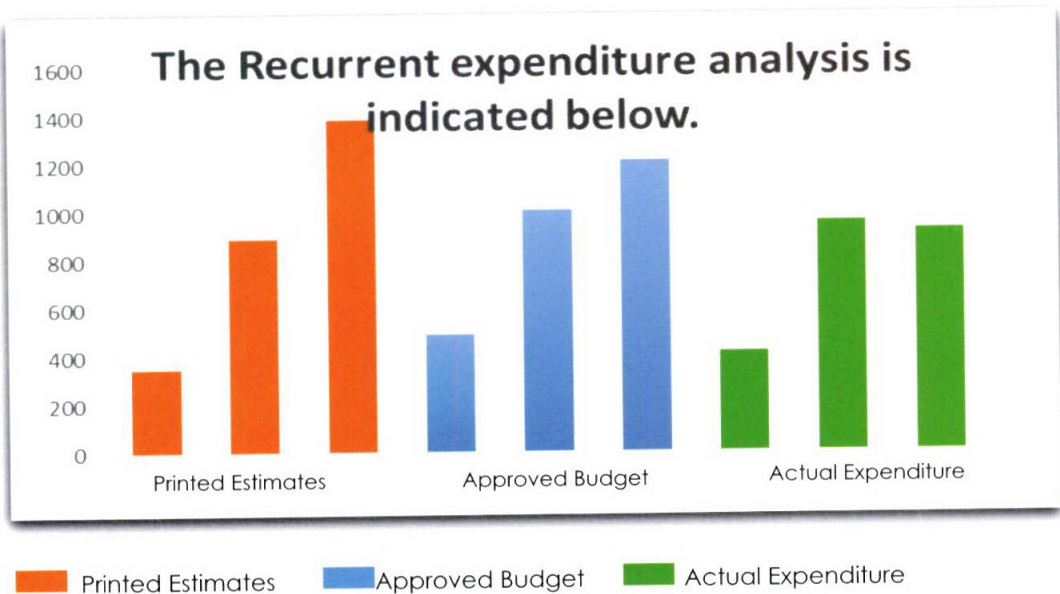
ODPP has made significant achievements in the realization of its strategic objectives from its increased budgetary allocation

as discussed in this report. An analysis of the ODPP's budgetary allocations and expenditures over the last three years is as discussed below.

### 5.1 Analysis of Recurrent Expenditure

The ODPP's total approved allocation for the recurrent votes increased over the last three years from KES 490 million in 2011 /12 to KES 1.214 billion in 2013/14, representing a 147% increase. Its total recurrent expenditure increased over the last one year from KES 1.010 billion in 2012/13 to KES. 1.214 billion in 2013/14 an increase of 20%.

The Recurrent expenditure analysis is indicated below.



**Figure 2: Analysis of Recurrent Expenditure FY 2011/12 – FY 2013/14**

## 5.2 Analysis of Development Expenditure

The ODPP's total approved allocation for the Development vote increased over the last one year from KES. 61.4 million to KES. 87 million in 2013/14. This facilitated the Office to undertake refurbishment at the headquarters and 11 county offices and installation of Local Area Network (LAN). Despite these achievements, the actual expenditure decreased from KES.59 million to KES.34 million due to lengthy procurement procedures and processes in acquiring office space and lack of enough office space in various county stations.

The Development expenditure analysis is presented below.

**Table 17: Analysis of Development Expenditure FY 2011 /12 –FY 2013/14 (KES Millions)**

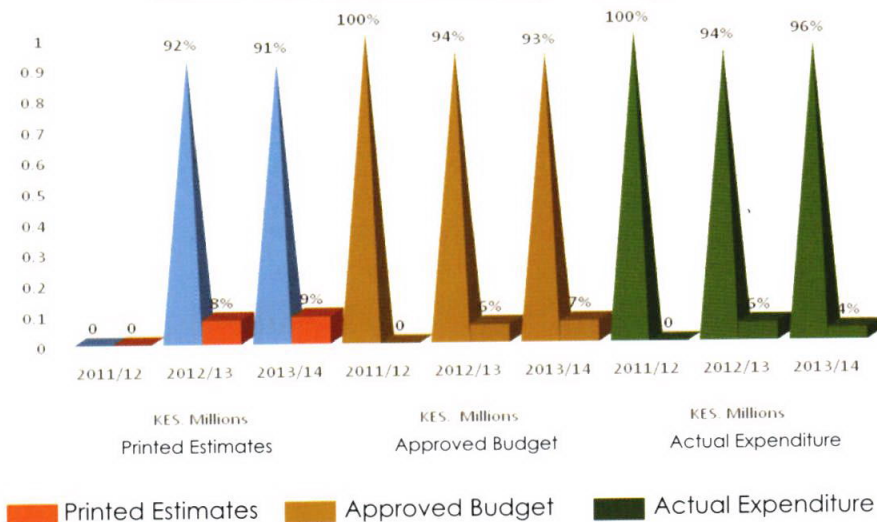
Printed Estimates KES. Millions			Approved Budget KES. Millions			Actual Expenditures KES. Millions		
2011/12	2012/13	2013/14	2011/12	2012/13	2013/14	2011/12	2012/13	2013/14
-	80	137	-	61	87	-	59	34

The budget is further presented into economic classifications such as compensation to employees, use of goods and services and acquisition of non-financial assets and the proportion of recurrent and development expenditure as detailed in Table 15 and Figure 8 respectively.

**Table 18: Analysis of Expenditure by Economic Classification**

Economic classification	Printed Estimates			Approved Budget			Actual Expenditures		
	KES. Millions			KES. Millions			KES. Millions		
	2011/12	2012/13	2013/14	2011/12	2012/13	2013/14	2011/12	2012/13	2013/14
(1) Recurrent Expenditure	-								
Compensation of employees	-	447	743	189	352	569	147	347	526
Use of Goods and Services	-	331	547	187	446	546	171	405	299
Acquisition of non-financial assets	-	-	113	97	113	211	98	98	205
(2) Capital Expenditure	-								
Acquisition of non-financial assets	-	80	137		61	87		59	34
Total Expenditure	-	972	1,525	490	1,071	1,301	417	1,018	957

**Figure 3: Recurrent and Development as percentage of Total**  
 Recurrent and Development as percentage of Total



### 5.3 Capital Projects

The ODPD undertook capital projects on refurbishment of offices and structured cabling at a cost of KES. 35.5 million and KES. 2.5 million respectively as shown in the table below.

**Table 19: List of Capital Projects**

Capital Projects	2013/14
<b>1. Refurbishment of Non- Residential Buildings (KES)</b>	
NSSF Building Block A Mezzanine floor	6,660,128
Voi	3,454,302
Homa Bay	1,158,134
Bungoma	5,943,956
Nyeri	995,280
Kitale	803,894
Nyamira	4,881,280
Embu	2,200,564
Machakos	3,173,575
Kajiado	5,122,629.60
Narok	1,072,304
Wajir	90,800
<b>TOTAL</b>	<b>35,556.846.60</b>

Capital Projects	2013/14
<b>2. Structured cabling and Installation of LAN</b>	
Headquarters NSSF Building block A	2,588,511

#### **5.4 FINANCIAL STATEMENTS FOR THE YEAR ENDING 30<sup>TH</sup> JUNE 2014 PRESENTED TO THE AUDITOR GENERAL**

The Financial Statements for the 2013/14 Financial Year have been presented to the Auditor General. They have been prepared on Cash Based Method (CBM) of Financial Reporting, using appropriate accounting policies in accordance to the Public Finance Management Act 2012, Generally Accepted Accounting Principles (GAAP) and International Public Sector Accounting Standards (IPSAS). The extracts from the financial statements include the following; -

- i. Statement of office of the Director of Public Prosecution management responsibilities
- ii. Statement of receipts and payments
- iii. Statement of assets
- iv. Statement of cash flow
- v. Summary statement of appropriation: recurrent and development combined

## STATEMENT OF OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS MANAGEMENT RESPONSIBILITIES

Section 81 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the Accounting Officer for a national government entity shall prepare financial statements in respect of the entity. Section 81 (3) requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed the Public Sector Accounting Standards Board of Kenya from time to time.

The Accounting Officer in charge of the Office of the Director of Public Prosecutions (ODPP) is responsible for the preparation and presentation of the Office's financial statements, which give a true and fair view of the state of affairs of the Office for and as at the end of the financial year (period) ended on June 30, 2014. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the ODPP; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the ODPP; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Accounting Officer in charge of the ODPP accepts responsibility for the Office's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the ODPP's financial statements give a true and fair view of the state of the Office's transactions during the financial year ended June 30, 2014, and of its financial position as at that date. The Accounting Officer in charge of the ODPP further confirms the completeness of the accounting records maintained for the ODPP, which have been relied upon in the preparation of the ODPP's financial statements as well as the adequacy of the systems of internal financial control.

The Accounting Officer in charge of the ODPP confirms that the Office has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further, the Accounting Officer confirms that the ODPP's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

### Approval of the financial statements

The ODPP's financial statements were approved and signed by the Accounting Officer on 30/07

~~2014~~

~~Director of Public Prosecutions~~

  
Chief Accountant

## I. STATEMENT OF RECEIPTS AND PAYMENTS

The statement of receipts and payments shows the Office received a total of KES 1.158 billion. This figure is made up of KES 1.156 billion received from the National Exchequer, KES 1.146 million as retention monies and KES 1.327 million proceeds from sale of tender documents.

The payments were made under the economic classifications as compensation to employees, use of goods, acquisition of assets and other expenses.

<b>RECEIPTS</b>	<b>2013-2014</b>	<b>2012-2013</b>
Transfers from National Treasury	1,156,000,000	1,001,000,000
Domestic Currency and Domestic Deposits	1,146,403	1,591,728
Other Revenues	1,327,000	1,446,656
<b>TOTAL REVENUES</b>	<b><u>1,158,473,403</u></b>	<b><u>1,004,038,384</u></b>
<b>PAYMENTS</b>		
Compensation of Employees	528,051,162	347,409,298
Use of goods and services	493,633,923	405,524,009
Transfers to Other Government Units	14,506,789	-
Acquisition of Assets	125,137,151	265,122,198
Other Expenses	1,591,728	-
<b>TOTAL PAYMENTS</b>	<b><u>1,162,920,752</u></b>	<b><u>1,018,055,505</u></b>
<b>SURPLUS/DEFICIT</b>	<b><u>(4,447,350)</u></b>	<b><u>(14,017,121)</u></b>

## II. STATEMENT OF ASSETS

The statement of Assets shown below consists of total bank balances for the Head Office and various County Offices as at the end of the financial year. It also includes cash in hand at the Head Office of KES 751,210 and salary advance of KES 88,230 held by the staff at the closure of the year.

	2013-2014	2012-2013
<b>FINANCIAL ASSETS</b>		
<b>Cash and Cash Equivalents</b>		
Bank Balances	13,051,076	17,339,320
Cash Balances	751,210	920,780
Outstanding Imprests & Advances	88,230	77,766
<b>TOTAL FINANCIAL ASSETS</b>	<b>13,890,516</b>	<b>18,337,866</b>
<b>REPRESENTED BY</b>		
Fund balance b/fwd	18,337,866	32,354,987
Surplus/Deficit for the year	(4,447,350)	(14,017,121)
Prior year adjustments	-	-
<b>NET FINANCIAL POSITION</b>	<b>13,890,516</b>	<b>18,337,866</b>

## III. STATEMENT OF CASHFLOW

This statement shows cash inflows and out flows as cash flows from operating activities. These are transfers from the National Treasury paid out as compensation of employees, use of goods and services and acquisition of assets as shown under cash flow from investing activities.

Acquisition of assets under cash flow from investing activities of **KES 125 million** is money expended for refurbishment of buildings **KES 35 million**, overhaul of vehicles and other transport equipment **KES 44.8 million**, purchase of Office furniture and general equipment **KES 42.7 million**, purchase of ICT equipment, software and other ICT assets **KES 2.6 million**.

Cash flow of **KES 1.146 million** under cash flow from borrowing activities is the amount held as retention and deposits for contractors/suppliers.

**Table 21: STATEMENT OF CASHFLOW**

	2013 - 2014	2012 - 2013
CASH FLOW FROM OPERATING ACTIVITIES		
Receipts for operating income		
Transfers from National Treasury	1,156,000,000	1,001,000,000
Other Revenues	1,327,000	1,446,656
Payments for operating expenses		
Compensation of Employees	(528,051,162)	(347,409,298)
Use of goods and services	(493,633,923)	(405,524,009)
Transfers to Other Government Units	(14,506,932)	-
Other Expenses	<u>(1,591,728)</u>	<u>-</u>
Net cash flow from operating activities	<u>119,543,399</u>	<u>249,513,349</u>
CASHFLOW FROM INVESTING ACTIVITIES		
Acquisition of Assets	<u>(125,137,151)</u>	<u>(265,122,198)</u>
Net cash flows from Investing Activities	<u>(125,137,151)</u>	<u>(265,122,198)</u>
CASHFLOW FROM BORROWING ACTIVITIES		
Domestic Currency and Domestic Deposits	<u>1,146,403</u>	<u>1,591,728</u>
Net cash flow from financing activities	<u>1,146,403</u>	<u>1,591,728</u>
NET INCREASE IN CASH AND CASH EQUIVALENT	(4,447,350)	(14,017,121)
Cash and cash equivalent at BEGINNING of the year	<u>18,337,866</u>	<u>32,354,987</u>
Cash and cash equivalent at END of the year	<u>13,890,516</u>	<u>18,337,866</u>

V. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT AND DEVELOPMENT COMBINED

Revenue/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation Difference to Final Budget
	a	b	c=a+b	d	e=c-d	f=d/c %
<b>RECEIPTS</b>						
Exchequer releases	1,525,402,397	(224,180,000)	1,301,222,397	1,156,000,000	145,222,397	89%
Transfers from other Government entities	-	-	-	-	-	-
Domestic Currency and Domestic Deposits	-	-	-	1,146,403	(1,146,403)	100%
Other receipts	-	-	-	-	-	100%
Other receipts 'AIA'	-	250,000	250,000	1,327,000	(1,077,000)	531%
<b>TOTALS</b>	<b><u>1,525,402,397</u></b>	<b><u>(223,930,000)</u></b>	<b><u>1,301,472,397</u></b>	<b><u>1,158,569,563</u></b>	<b><u>142,998,994</u></b>	
<b>PAYMENTS</b>						
Compensation of Employees	743,425,631	(174,180,000)	569,245,631	528,051,162	41,194,469	93%
Use of goods and services	547,581,877	(2,676,700)	544,905,177	493,633,923	51,271,254	91%
Transfers to Other Government Units	-	-	-	14,506,785	(14,506,785)	100%
Acquisition of Assets	234,394,889	(47,073,300)	187,321,589	125,137,151	62,184,438	67%
Other Expenses	-	-	-	1,591,728	(1,591,728)	100%
<b>TOTALS</b>	<b><u>1,525,402,397</u></b>	<b><u>(223,930,000)</u></b>	<b><u>1,301,472,397</u></b>	<b><u>1,162,920,749</u></b>	<b><u>138,551,648</u></b>	<b>89%</b>

## 5.5 Audited Financial Statements for the Year 2012/2013

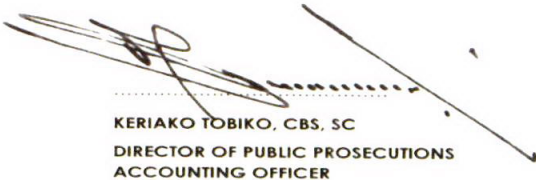
During the preparation of the First Annual Progress Report, the ODPP had not received the certified financial statements from the Auditor General. Below are audited accounts for the Financial Year 2012/13.

### **PART III: STATEMENT OF THE ACCOUNTING OFFICER RESPONSIBILITY**

I accept responsibility for the maintenance of accounting records which may be relied upon in preparation of the financial statements as well as adequate systems if internal control.

I further accept responsibility for the attached annual accounts which have been prepared in conformity with Treasury directions and appropriate Government Financial Regulations and procedures.

I am of the opinion that the attached Appropriations and other Financial Statements present fairly the financial state of affairs of the **Office of the Director of Public Prosecutions Vote 163** as at 30<sup>th</sup> June, 2013



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**KERIAKO TOBIKO, CBS, SC**  
**DIRECTOR OF PUBLIC PROSECUTIONS**  
**ACCOUNTING OFFICER**

REPUBLIC OF KENYA



**KENYA NATIONAL AUDIT OFFICE**

**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**THE FINANCIAL STATEMENTS OF  
OFFICE OF THE DIRECTOR OF PUBLIC  
PROSECUTIONS**

**FOR THE YEAR ENDED  
30 JUNE 2013**

# REPUBLIC OF KENYA

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P.O. Box 30084-00100  
NAIROBI

## KENYA NATIONAL AUDIT OFFICE

### REPORT OF THE AUDITOR-GENERAL ON THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS FOR THE YEAR ENDED 30 JUNE 2013

#### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of the Office of the Director of Public Prosecutions which comprise the Statements of Assets and Liabilities – Recurrent and Development as at 30 June 2013, and the Appropriation Accounts – Recurrent and Development for the year then ended, and a summary of other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 8 of the Public Audit Act, 2003.

#### **Accounting Officer's Responsibility for the Financial Statements**

The Accounting Officer - Office of Director of Public Prosecutions is responsible for the preparation and fair presentation of these financial statements in accordance with Government Financial Regulations and Procedures and Public Finance Management Act, 2012 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Accounting Officer is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 4 of the Public Audit Act, 2003.

#### **Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and to report in accordance with the provisions of Section 9 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the

purpose of expressing an opinion on the effectiveness of the Office's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

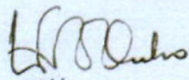
I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

### Opinion

In line with my responsibility, I express unqualified opinion on the following financial statements.

- (i) Appropriation Account for Recurrent Vote R.163
- (ii) Statement of Assets and Liabilities for Recurrent Vote R.163
- (iii) Appropriation Account for Development Vote D.163
- (iv) Statement of Assets and Liabilities for Development D.163

In my opinion, the financial statements, present fairly in all material respects, the financial position of the Office of the Director of Public Prosecutions as at 30 June 2013 and of its financial performance for the year then ended, in accordance with Government Financial Regulations and Procedures and the Public Finance Management Act, 2012.



**Edward R.O. Ouko, CBS**  
**AUDITOR-GENERAL**

Nairobi

25 March 2014

**ODPP COUNTY OFFICE  
CONTACTS**

<p><b><u>NAKURU COUNTY</u></b> CDN Plaza, Ground &amp; 2<sup>nd</sup> Floor P.O BOX 1165-20100, NAKURU OFFICE TEL: 053 – 8008373 <b>Head, Mr. Andrew J. Omutelema</b></p>	<p><b><u>KAKAMEGA COUNTY</u></b> PC'S Building Block 'A', 2<sup>nd</sup> Floor P.O BOX 1529-50100, KAKAMEGA OFFICE TEL:0722621386 <b>Head, Mr. Peter Mailanyi</b></p>	<p><b><u>KISUMU COUNTY</u></b> Nyanza Provincial Headquarters, 7<sup>th</sup> Floor P.O BOX 1902-40100, KISUMU OFFICE TEL: 057 -2024620 <b>Head, Mr. Douglas N. Ogoti</b></p>
<p><b><u>NAIROBI COUNTY</u></b> NSSF BLOCK 'A', 19<sup>th</sup> &amp; 18<sup>th</sup> Floor P.O BOX 30701-00100, NAIROBI OFFICE TEL: 020-22732090 <b>Head, Mr. John Mungai Warui</b></p>	<p><b><u>KAJIADO COUNTY</u></b> ODPP Building P.O BOX 646, KAJIADO OFFICE TEL: 020 - 2622894 <b>Head, Mr. Renson Ingonga</b></p>	<p><b><u>KILIFI COUNTY</u></b> Malindi Complex Building, 1<sup>st</sup> Floor P.O BOX 5751-80200, MALINDI OFFICE TEL: 042-2121259 <b>Head, Mr. Vincent Monda</b></p>
<p><b><u>TRANS NZOIA COUNTY</u></b> Ndege House 3<sup>rd</sup> floor P.O BOX 663-30200, KITALE OFFICE TEL: 054-31273 <b>Head, Mr. Christopher Abele</b></p>	<p><b><u>HOMA BAY COUNTY</u></b> District Treasury Building P.O BOX 153-40300, HOMA-BAY OFFICE TEL: 020-2698187/0202696130 <b>Head, Mr. Ammon Oluoch Ojwang</b></p>	<p><b><u>MERU COUNTY</u></b> Ntara Place Building, 2<sup>nd</sup> Floor P.O BOX 2377-60200, MERU OFFICE TEL: 0712-008022 <b>Head, Mr. Evans Onderi Orege</b></p>
<p><b><u>EMBU COUNTY</u></b> Faith House ACK House, 2<sup>nd</sup> Floor P.O BOX 2855, EMBU OFFICE TEL: 31227 <b>Head, Ms. Fredah Mwanza</b></p>	<p><b><u>BUNGOMA COUNTY</u></b> IFTHIM Investment Building, 2<sup>nd</sup> Floor P.O BOX 2058-50200, BUNGOMA OFFICE TEL: 0770-355066 <b>Head, Mrs. Felisters Njeri Njeru</b></p>	<p><b><u>MACHAKOS COUNTY</u></b> Kiamba Mall P.O BOX 1041-90100, MACHAKOS OFFICE TEL: 044-21041 <b>Head, Mr. Joseph Gikonyo Kinyanjui</b></p>
<p><b><u>TANA RIVER COUNTY</u></b> DC's Office P.O BOX 10-80200, GARSEN OFFICE TEL: 0722-857181 <b>Head, Mr. Robert Oyiembo</b></p>	<p><b><u>NYERI COUNTY</u></b> Provincial Commissioner's Office Block 'A', 2<sup>nd</sup> &amp; 3<sup>rd</sup> Floor P.O BOX 463-10100, NYERI OFFICE TEL: 061-2030698 <b>Head, Mr. Job Karundu Kaigai</b></p>	<p><b><u>UASIN GISHU COUNTY</u></b> K.V.D.A Plaza, 10<sup>th</sup> Floor P.O BOX 4024-30100, ELDORET OFFICE TEL: 053-2031781 <b>Head, Mr. Omwega Zacharia Gitinya</b></p>
<p><b><u>GARISSA COUNTY</u></b> Rt. General Mohamud Plaza, 1<sup>st</sup> Floor P.O BOX 69-70100, GARISSA OFFICE TEL: 046-2102362 <b>Head, Mr. John Walter Wanyonyi</b></p>	<p><b><u>MOMBASA COUNTY</u></b> NSSF Building &amp; Min of Home Affairs, City Centre P.O BOX 80896-80100, MOMBASA OFFICE TEL: 041-2222211 <b>Head, Mr. Muteti Alexander Muasya</b></p>	<p><b><u>KERICHO COUNTY</u></b> AFC Building, 1<sup>st</sup> Floor P.O BOX 1512-20200, KERICHO OFFICE TEL: 020-2172594 <b>Head, Mr. Jacob Mutai Kibiego</b></p>

<p><b><u>KISII COUNTY</u></b> AG Chambers Building, Ground Floor P.O BOX 2470-40200, KISII OFFICE TEL: 058-2030331 <b>Head, Mr. Tom Peter Imbali</b></p>	<p><b><u>BUSIA COUNTY</u></b> ECO Bank Building, 1<sup>st</sup> Floor P.O BOX 476, BUSIA OFFICE TEL: 077-4204446 <b>Head, Mr. Geoffrey Obiri</b></p>	<p><b><u>MURANG'A COUNTY</u></b> Ministry of Lands Building, 1<sup>st</sup> Floor P.O BOX 931, MURANGA OFFICE TEL: 060-2030400 <b>Head, Mr. Solomon Njeru</b></p>
<p><b><u>NYANDARUA COUNTY</u></b> Ministry of Water &amp; Irrigation Building P.O BOX 321, NORTH KINANGOP OFFICE TEL: 020-2396060 <b>Head, Mr. George Abuga Mongare</b></p>	<p><b><u>KIAMBU COUNTY</u></b> Thika Arcade, 6<sup>th</sup> Floor P.O BOX 6219-01000, THIKA CELL PHONE: 0721-231476 <b>Head, Mr. Amos Chigiti</b></p>	<p><b><u>BOMET COUNTY</u></b> Roranya Premises Building P.O BOX 236, BOMET CELL PHONE 0710-613494 <b>Head, Ms. Jackline Kiptoo</b></p>
<p><b><u>LAIKIPIA COUNTY</u></b> GF Plaza 1<sup>st</sup> Floor P.O BOX 1438-2300, NYAHURURU OFFICE TEL: 020-2573752 <b>Head, Mr. Lucas Tanui Kipkogei</b></p>	<p><b><u>SAMBURU COUNTY</u></b> Letiya Plaza, Ground Floor P.O BOX 132, MARALAL OFFICE TEL: 202- 392727/020-2688339 <b>Head, Mr. Solomon Wabomba Naliaka</b></p>	<p><b><u>WEST POKOT COUNTY</u></b> Divisional Police Headquarters P.O BOX 363-30600, KAPENGURIA CELL PHONE:0714 424368 <b>Head, Mr. Mark Nabuyumbu</b></p>
<p><b><u>NANDI COUNTY</u></b> Biegon Building P.O BOX 318-30300, KAPSABET CELL PHONE: 0722 834663 <b>Head, Ms. Gladys Jepchirchir Rutto</b></p>	<p><b><u>KIRINYAGA COUNTY</u></b> Professional Plaza, 2<sup>nd</sup> Floor P.O BOX 1224-10300, KERUGOYA OFFICE TEL: 020-2695803 <b>Head, Mr. Peter Eusebius Omayo Omooria</b></p>	<p><b><u>NAROK COUNTY</u></b> Information Office, 1<sup>st</sup> Floor P.O BOX 991-20500, NAROK OFFICE TEL: 050-23247 <b>Head, Mr. Muriuki Evans Gitonga</b></p>
<p><b><u>TAITA – TAVETA COUNTY</u></b> Maghamba Plaza P.O BOX 760-80300, VOI OFFICE TEL: 020-2318016 <b>Head, Mr. Kibui Barnabas Gioche</b></p>	<p><b><u>WAJIR COUNTY</u></b> DCS Office P.O BOX 417-70200, WAJIR OFFICE TEL: 020-2594873 <b>Head, Mr. Rieche, Jonah Meroka</b></p>	<p><b><u>MARSABIT COUNTY</u></b> Madina House P.O BOX 387, MARSABIT OFFICE TEL: 020-2192632 <b>Head, Mr. Motende Jackson Mobisa</b></p>
<p><b><u>VIHIGA COUNTY</u></b> Posta Building P.O BOX 840-50300, MARAGOLI OFFICE TEL: 077-5711735 <b>Head, Mr. John Osungu Okoth</b></p>	<p><b><u>MIGORI COUNTY</u></b> Dev Mart Building, 2<sup>nd</sup> floor P.O BOX 1228-40400, MIGORI OFFICE TEL: 020-2348709 <b>Head, Ms. Monica Akoth Owenga</b></p>	<p><b><u>NYAMIRA COUNTY</u></b> Jubilee Plaza P.O BOX 243-40500, NYAMIRA OFFICE TEL: 020-2392734 <b>Head, Mr. Erick Kidali Malesi</b></p>
<p><b><u>ISIOLO COUNTY</u></b> DC'S Office P.O BOX 739-60300, ISIOLO OFFICE TEL: 020-2395001 <b>Head, Mr. Jalson Makori</b></p>	<p><b><u>KITUI COUNTY</u></b> Nzambani Building P.O BOX 448-90200, KITUI OFFICE TEL: 077-1258125 <b>Head, Mr. James Muriithi Njogu</b></p>	<p><b><u>SIAYA COUNTY</u></b> J&amp;J Building P.O BOX 681, SIAYA OFFICE TEL: 020-8008287 <b>Head, Mr. Eliphaz Ombati</b></p>

<p><b><u>LAMU COUNTY</u></b> Bahari House P.O BOX 43 – 80500, LAMU OFFICE TEL: 020-2424750 <b>Head, Mr. Japheth Isaboke</b></p>	<p><b><u>BARINGO COUNTY</u></b> Talai Plaza, 2<sup>nd</sup> Floor P.O BOX 110, KABARNET OFFICE TEL: 020-8008289 <b>Head, Mr. James Marefe Gikunda</b></p>	<p><b><u>KWALE COUNTY</u></b> Mwanabeyu Plaza P.O BOX 201-80403, KWALE OFFICE TEL: 0770-165945 <b>Head, Mr. George Mungai Kamau</b></p>
<p><b><u>ELGEYO-MARAKWET COUNTY</u></b> AFC Building P.O BOX 578-30700, ITEN OFFICE TEL: 020-8008291 <b>Head, Mr. Duncan Chelashaw Kipkosgei</b></p>	<p><b><u>MANDERA COUNTY</u></b> DC's Office P.O BOX 478-70300, MANDERA OFFICE TEL: 0786-605521 <b>Head, Mr. Allen Mulama</b></p>	<p><b><u>THARAKA-NITHI COUNTY</u></b> Meru South Coop Sacco Building P.O BOX 791-60400, CHUKA OFFICE TEL: 020-2459002 <b>Head, Mr. Noah Okong'o Ongige</b></p>
<p><b><u>TURKANA COUNTY</u></b> District Treasury P.O BOX 563, LODWAR OFFICE TEL: 020-2640008 <b>Head, Mr. Kimanthy Joseph</b></p>	<p><b><u>MAKUENI COUNTY</u></b> SOI Plaza, 1<sup>st</sup> Floor P.O BOX 531-90300, WOTE OFFICE TEL: 020-8008283 <b>Head, Mr. Pithon Mwangi Gachanja</b></p>	



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# Notes

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# Notes

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