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# *Annual Report*

## *1999-2000*



The Authority is housed at Integrity Centre, Nairobi

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# THE CHAIRMAN AND MEMBERS OF THE ADVISORY BOARD



Tom D. Owour, M.B.S, O.G.W,  
CHAIRMAN



Fatuma Sichale



Amos M. Kimunya



John B. Kariuki



Dr. Kenneth Kiplagat



Shantilal R. Shah



Murtaza Jaffer

## MESSAGE FROM THE CHAIRMAN OF THE ADVISORY BOARD

The second KACA Advisory Board was appointed by the President on January 18<sup>th</sup>, 1999 in exercise of powers conferred on him by section 11B(11) of the Prevention of Corruption Act, for a period of three years with effect from 15<sup>th</sup> January 1999. The role of the Board is to advise the Authority generally on the exercise of its powers and the performance of its functions. Its members are: Mr Tom D. Owuor – Chairman, Mr Amos Muhiga Kimunya, Mrs Fatuma Sichale, Mr John Boro Kariuki, Dr. Kenneth Kiplagat, Mr Murtaza Jaffer and Mr Shantilal Raishi Shah.

The Board's membership is representative of major sectors of the Kenyan economy. Members have broad-based experience in areas such as private and public sector management, accounting, law, banking, insurance, trade unions and non governmental organizations. They are also conversant with the needs of preventing and fighting corruption within their various sectors in particular and the country in general. This expertise has been the most important asset in the Board's execution of its mandate.

During the period under review, the Board held eight sittings. Among its crucial activities was the identification of candidates to fill the posts of Director and Assistant Directors. Upon its recommendations, the President in accordance with the law appointed Hon. Justice Aaron Ringera as Director/Chief Executive on 23<sup>rd</sup> March 1999, and Mr Swaleh Slim Khalil, Dr. Julius Rotich and Mrs Hannah Okwengu as Assistant Directors in May, June and July 1999, respectively. The Board initiated and actively participated in reviewing the provisions of the Prevention of Corruption Act and in recommending appropriate changes thereto. We were also keenly involved in the preparation of the Authority's Strategic Plan.

The Board is proud of the speedy and efficient manner in which the Director and his team have, with our advice, built the Authority from scratch to a credible institution with clearly spelt out systems, structures, policies and personnel capable of fighting corruption in its magnitude in Kenya. On behalf of the Board and on my own behalf, I congratulate KACA for a job well done. Fighting and preventing corruption is the role and responsibility of every Kenyan. I request all Kenyans to actively participate in the fight against corruption. On our part, we will continue to execute our duties as mandated by the Law.



**Mr. Tom D. Owuor, M.B.S., O.G.W.**  
Chairman – Advisory Board.

# THE EXECUTIVE MANAGEMENT OF THE AUTHORITY



Hon. Justice Aaron G. Ringera  
Director & Chief Executive



Dr. Julius T. Rotich  
Assistant Director  
Finance and  
Operations



Hannah M. Okwengu  
Assistant Director  
Prosecutions



Swaleh S. Khalil  
Assistant Director  
Investigations

# **DIRECTOR'S REVIEW OF THE YEAR**

## **Establishment of the Authority**

The past fourteen months have been significant in the life of the Kenya Anti-Corruption Authority (KACA). First, the Authority was revitalised after two developments that had affected its functions. The first development was the removal of the previous Director from office by the President on the recommendation of an ad hoc statutory disciplinary tribunal. Then a new Advisory Board was appointed on January 15<sup>th</sup>, 1999. On their recommendation, I was appointed as the new Director on 23<sup>rd</sup> March 1999.

My initial task was to find a home for the Authority, which is now housed at the Integrity Centre. I then proceeded on to develop systems, procedures and policies for the Authority, and then developed a strategic plan in consultation with the Board and stakeholders on whose basis KACA is spearheading the fight against corruption in the country. My other initial challenge was to assemble a multi-disciplinary team capable of tackling corruption in all its dimensions in the country. This was done and the first appointments were done in October 1999. KACA officers are bound by a code of conduct, which was developed in the initial days after the formation of the Authority.

## **Finance and Accounts**

During the Financial year 1999/2000, KACA received Grants from the Government of Kenya and other donors amounting to Ksh. 325,035,408 while the expenditure was Ksh. 168,764,220 resulting in a surplus of Ksh. 156,271,189. The surplus was occasioned by the late receipt of the funds and the low level of activity, because the number of staff was small and it has been carried forward to fund activities in the next financial year.

## **Strategic Planning**

The KACA strategic plan 1999-2003 outlines a three-pronged approach to combating corruption in Kenya. The first approach is Enforcement, which involves investigation of corruption cases and their prosecution. The second is Prevention, which involves the careful analysis and review of systems with a view to detecting loopholes or the failures within the systems that induce corruption and sealing them. The third approach is Education, which aims at influencing Kenyans to evolve attitudes, beliefs and perceptions that do not give rise to or sustain corruption, using behaviour change communication techniques. Appendix II is a schedule of the Strategic Plan action plans.

## **Enforcement of the Law**

When I was appointed, there was a lot of scepticism as to whether the Authority would really make an impact. The arraignment of a good number of people in court, including various public personalities has definitely been a good indicator of KACA's seriousness in executing its mandate. However, the desired level of expeditious disposal of the criminal cases by the courts has not been attained. Be that as it may, a good number of cases have already taken off. It is hoped that the enactment of a new Anti-Corruption and Economic Crimes law will enable the Authority to perform its role better in the future.

From November 1999 when the first team of investigators reported for duty to 30<sup>th</sup>, June 2000, the investigations department has handled 135 cases. One of these cases has successfully been prosecuted. 13 cases are pending before court, 14 files have been closed and 4 have been referred to other agencies. 22 others are fully investigated and in process of going to court while investigations are still going on in 81 cases. The 14 cases in court involve losses exceeding Ksh. 380 million in total. The Authority intends to facilitate investigations through, among other strategies, training of personnel, procurement of the relevant equipment and opening up of regional desks in the Coast, Western and Rift Valley regions in the coming financial year.

Since February 2000, 46 people have been arraigned in court cases in 16 cases, charged with various corruption related offences which include abuse of office (14), corruption (7) and stealing by servant (15). Of the 16 cases presented to court, one has been finalised while four are stalled due to motions questioning KACA's prosecutorial powers, the fairness of trials conducted by KACA as presently headed and the refusal by the prosecution to disclose their entire docket to the defence.

## **Prevention and Education**

The Preventive Services Department, which was constituted in May 2000 has now begun its work. It has participated in the development of the Public Sector Integrity Sourcebook, a training and reference manual for corruption prevention in the public service. The department has also undertaken an examination of the Teachers Service Commission on the invitation of the TSC Secretary and is finalising the examination report.

The Department of Research, Information and Public Education has had a distinct function since May 2000. It has undertaken several activities which include holding a seminar on Prevention of Corruption in the Public Service for senior public service officers, spearheading the development of the Public Service Integrity Programme, the development of a sourcebook for corruption prevention in the Kenyan public service, conducting a baseline survey, and arranging press coverage for KACA functions.

## **Capacity Building**

In the year ended June 30<sup>th</sup> 2000, the staff level stood at 116 officers against an approved establishment of 135 officers. The Authority's additional approved staff establishment for the current Financial Year 2000/2001 is 91. Arrangements to fill these positions are at advanced stages. During the period under review the Authority undertook a number of training activities aimed at ensuring that all new staff started fighting corruption from the same footing. These activities included an induction course, various specialised courses on investigations and prosecutions, and a donor funded study tour by senior Authority officers to Hong Kong, Singapore and Australia.

After the organizational strengthening that has taken place over the last fourteen months, the Authority is now well placed to respond to the on-going demands of exposing and minimising corruption. The Authority will continue to monitor the Kenyan environment and adjust its strategies as necessary to meet changing circumstances and the increased sophistication of those who engage in, or are tempted to engage in, corrupt conduct.

## **Achievements**

One of our main achievements during the period under review was to have the Government appoint KACA liaison officers in every ministry, department and parastatal.

A main activity in progress is the development of a National Anti-Corruption Plan for Kenya. From the beginning, the Authority has always believed that corruption will best be fought through co-ordinated national endeavour involving a multi-sectoral approach. Towards this end, a workshop of all stakeholders was held in August 1999 to identify and define corruption and its causes and effects. Subsequently, a National Steering Committee was formed to guide the preparation of a National Plan. It has been meeting since April 6<sup>th</sup>, 2000. The steering committee has put in place the necessary mechanisms to develop the national plan in a stakeholders symposium to be held in November 2000 in preparation for a launch of the Plan in March 2001.

## **Constraints**

The Authority faced a number of constraints during the period under review. They include an inadequate legal framework which has made the work of the Authority difficult, shortage of staff, especially during the initial days of the period under review; delayed disbursement of financial resources which in turn delayed the planned activities of the Authority, office accommodation for the Authority and an atmosphere of scepticism and suspicion with respect to the activities of the Authority.

## **Way Forward and Conclusion**

The institutionalisation of the Authority including the development of a strategic framework for fighting corruption has been the major leadership challenge for me. In this, I have been well supported by a professional Advisory Board and a motivated and highly skilled staff. During the coming years, I am confident that we will continue to perform the Authority's important work diligently to serve the people of Kenya and discharge our legal mandate to the best of our ability and capacity.



**Hon. Justice Aaron G. Ringera**  
Director/Chief Executive

# INTRODUCTION

## OVERVIEW OF CORRUPTION INTERNATIONALLY AND LOCALLY

Today, corruption is increasingly seen as a serious crime with devastating consequences as it leads to wasteful spending, bigger deficits, greater economic inequality; and potentially a crisis of confidence that can spark capital flight, disrupt markets, destabilise governments, and send economic shockwaves around the world. The promotion of action against various forms of corruption is high in the global agenda. Since its establishment, the United Nations has been engaged in facilitating cooperation by its member governments against various forms of crime. In the first few years, there has been growing consensus among governments that the best way to address corruption is through a co-operative international mechanism.

Some of the international efforts geared towards fighting corruption are the Organisation of Economic Cooperation and Development (OECD) convention on Combating Bribery of Foreign Public Officials in International Business transactions, the demand by the international finance institutions that pertinent aspects of economic good governance be a lending pre-condition, the International Anti-Corruption Conference (IACC) and the activities of the Berlin based NGO Transparency International.

The Kenya Anti-Corruption Authority (KACA) is a body corporate established in 1997 by an amendment to the Prevention of Corruption Act (Cap 65), Laws of Kenya. The amended Act provides for the establishment of the Authority, which consists of a Director who is the Chief Executive, and up to three Assistant Directors. The functions of the Authority are organized in three Directorates, each headed by an Assistant Director. These are the Directorate of Finance and Operations, Directorate of Investigations and Directorate of Prosecutions.

The Act also provides for an Advisory Board of seven members including the Chairman. Its main functions are to recommend to the President persons to be appointed as Director and Assistant Directors, and to advise the Authority generally on the exercise of its powers and performance of its functions.

## KACA's MANDATE

Sec 11 B (3) of the Act empowers KACA to:

1. Take necessary measures for the prevention of corruption in the public, parastatal and private sectors, to investigate and subject to the directions of the Attorney-General, prosecute for offences involving corrupt transactions.
2. Advise the Government and parastatal organisations on ways and means of preventing corruption.
3. Inquire and investigate the extent of liability of any public officer in the loss of any public funds and to institute civil proceedings against the officer and any other person involved in the transaction which resulted in the loss in question.

4. Investigate any conduct of a public officer which is connected with or conducive to corrupt practices and to make suitable recommendations thereon.
5. To undertake such further or other investigations as may be directed by the Attorney-General.
6. Enlist members of the public in fighting corruption by use of education and outreach programmes.

## **KACA's VISION**

It is KACA's commitment to assist in creating a society that has *Zero Tolerance for Corruption*.

## **KACA's MISSION**

KACA's mission is to promote the achievement of Zero tolerance for corruption and participate in the prevention and eradication of corruption in Kenya.

## **KACA'S STRATEGIC OBJECTIVES**

These can be summarized as follows:

1. To spearhead and coordinate the preparation and implementation of a national strategy against corruption.
2. In partnership with other shareholders, to create public's awareness of the causes and effects of corruption and the public's role in its prevention.
3. To equip and encourage the public to play a positive role in the prevention of corruption.
4. To promote good governance in organizations in order to prevent corruption.
5. To ensure that all corruption cases are properly investigated.
6. To ensure that all corruption cases under KACA's jurisdiction which are identified for prosecution are prosecuted properly.

## **MANAGEMENT AND STRUCTURE OF THE AUTHORITY**

### **The Advisory Board**

The Advisory Board with a membership of seven including the Chairman generally advises the Authority on fighting corruption. During the period under review, the Board held eight sittings.

## **The Director**

The Director/Chief Executive is responsible for the day to day running of the Authority's activities.

## **The Executive**

The Executive management consisting of the Director and three Assistant Directors meet at least once very week. It is the highest administrative organ of the Authority, and oversees the overall management of the Authority, review of the policies, implementation of the Strategic Plan, recruitment and other staff matters.

## **Organisational Structure**

At the top of the organizational chart of the Authority, is the Director/Chief Executive. Below him are three Assistant Directors in charge of Finance and Operations, Investigations and Prosecution. Below them are Chief Officers who are in charge of Departments. Below the Chief Officers are Principal Officers who are in charge of Divisions and Senior Officers who are in charge of Sections. Appendix I is a detailed organisational chart.

# **DIRECTORATE OF FINANCE AND OPERATIONS**

## **INTRODUCTION**

The Directorate of Finance and Operations has three departments namely: Finance and Administration; Preventive Services; Research, Information and Public Education.

From the beginning up to January, 2000 all activities of Finance and Operations Directorate were carried out under one department. Then in January, the Finance and Administration Department became operational, and a few officers set out to form the Department of Preventive Services.

Up to May 2000, Preventive Services, Research Information and Public Education functions were lumped together in one department. Since May the functions have once again been redefined, with preventive Services forming one department, and Research, Information and Public Education forming another.

## **FINANCE AND ADMINISTRATION DEPARTMENT**

The Department provides the following support to the Authority:-

1. Co-ordination of the preparation of annual budgets by liaising with respective Departments of KACA and the Office of the President and Treasury.
2. Ensuring compliance with internal and external financial regulations and guidelines issued by KACA and Treasury, Office of the President and International Accounting Standard's Board respectively.
3. Maintaining proper books of accounts from which it prepares monthly management reports and annual accounts for management and external auditors.
4. Providing custody and up to date records of the assets of the organisation.
5. Human resource recruitment, development and management.
6. Procurement of goods and services as per KACA's internal regulations.
7. Transport management.
8. Management information systems administration.
9. General administration.

To facilitate the provision of the above services and enhance internal controls, the Department has been sub-divided into five sections namely: Finance and Accounts Section, Human Resource Section, Procurement Section, Transport Section, Computer Section and Office Management Section.

## **Finance and Accounts**

Kenya Anti-Corruption Authority ceased to be treated as a department of the parent Ministry - Office of the President on 1<sup>st</sup> May 1999 when financial management of the institution was vested in the Director. The Authority was thereafter exempted from the State Corporations Act (Cap 446) by Legal Notice No. 61 dated 3<sup>rd</sup> June, 1999.

During the 1998/1999 Financial Year, KACA had a budgetary allocation of K£6,655,094 as per the year's Printed Estimates, while during the 1999/2000 Financial Year, the Authority had budgetary allocation of K£16,744,195 as per that year's Printed Estimates. In both the Financial Years there has been marginal shortfall of 7% and 5% respectively in terms of actual exchequer issues. The activities of the Authority are funded entirely by the exchequer and, accordingly, the budgetary constraints facing the Government affect allocations to the Authority.

In order to supplement the Government of Kenya budgetary allocations, the Authority is currently engaged in discussion with various Development Partners for assistance mainly in form of personnel capacity building, procurement of equipment and technical assistance.

The Authority has ensured that proper Books of Accounts are maintained and strict financial discipline enforced. The Financial Year 1999/2000 Accounts are ready for submission to the Auditor General (Corporations) well before the 31<sup>st</sup> October 2000 statutory deadline. The Authority intends to maintain the trend in the years to come, in order to establish itself as an example of excellence in this and other operational areas.

## **Human Resources and Administration**

All Kenya Anti-Corruption Authority staff are engaged on Contract Terms ranging from two (2) to four (4) years

The Authority is an equal opportunity employer. Employees come from a variety of backgrounds such as law, engineering, economics, sociology, business administration, diplomacy, security and computer science just to mention a few. Recruitment is competitive, open and based purely on qualifications and merit. The Authority's policy is to give selective and structured training in various relevant fields to enhance the officers' effectiveness.

## **Procurement Section**

The section is charged with the responsibility of managing the Tender Committee's business. The section sources competitively for all the items required to ensure that value is received for the amount spent. It also ensures that laid down procurement procedures are strictly adhered to, stores and services properly managed and proper custody of Authority's assets.

## **Transport Section**

The Authority's activities cover the entire country. The Section strives to provide reliable, efficient and cost effective service with proper control. All vehicle movements are controlled and

authorised by the Officer-in charge of Transport. At the end of each month the Transport Officer compiles Motor Vehicle Returns, analyses them and makes recommendations for usage control purposes.

### **Management Information System Section**

The Section is charged with the responsibility of ensuring smooth flow of Management Information Systems of the Authority. The Section produces various management reports both for staff and other necessary relevant reports. The Section is set to grow as a focal point in the provision of Corporate Services.

### **General Administration Section**

The Section is mainly administrative and handles all the wide and varied activities of the Authority. The Section is charged with the responsibility of ensuring that all departments receive the necessary support to facilitate smooth operations.

## **PREVENTIVE SERVICES DEPARTMENT**

Preventive Services Department is charged with the responsibility of promoting good management practices in all organisations in order to prevent corruption. To execute this mandate, the department examines and inspects systems with a view to identifying loopholes that induce corruption and sealing such loopholes. The department was launched in May 2000, and has two Examination Divisions (Divisions 1 and 2) each headed by a Principal Officer. Each Examination Division has three Sections. It is envisaged that when the department is fully developed, each Section will be headed by a Senior Officer.

Examination Division 1 covers a group of Government ministries designated as A sector and includes parastatals falling under each ministry in the sector. The sectoral ministries in this division include:

1. Agricultural and Environment sector.
2. Human Resources Management sector
3. Infrastructural sector.

Examination Division 2 covers a group of Government ministries designated as B sector and includes parastatals falling under each ministry in the sector. This division includes private sector organizations, and covers:

1. Legislation and Law Enforcement sector.
2. Service sector.
3. Advisory services sector (private sector and NGOs).

The main activities in the Department are outlined below.

## **Examination Assignment Guidelines**

During the period under review, the department developed examination assignment guidelines which are currently being used by the officers. These include General Examination Procedures and Detailed Examination Assignments Guidelines.

## **On the Job Training**

Officers received on the job training in utilization of examination assignment procedures, problem identification, proposal development, document analysis and data interpretation.

## **Public Service Integrity Sourcebook**

The Department's officers participated in the development of the Public Service Integrity Sourcebook.

## **Examination Assignments**

The following assignments are on-going.

- (a) Teachers Service Commission  
Officers in the department examined the systems, policies, procedures and practices of the Teachers Service Commission (TSC). The examination was conducted on the invitation of the Secretary (TSC) who sought advice on how to prevent corruption and improve service delivery in the teaching profession.

The examination was necessitated by frequent press reports and teachers' complaints about TSC, particularly as regards irregular promotions and transfer of teachers, abuse of disciplinary procedures, non-adherence to work plans and budget, un-procedural payments and deductions, and weaknesses in the travel payment system.

- (b) Pre-Examination Advisory Services undertaken  
The following pre-examination advisory services were undertaken.

- Kenya Ports Authority – *(Regulations, Security, Finance and Operations)*
- Mombasa Municipal Council – *(Staff Recruitment Procedures)*
- Kilifi District – *(District Tender Board Procedures)*

- (c) Consultative Initiatives  
During the period April - June 2000, the department held consultative initiatives with the following organizations:

- Kenya Wildlife Services
- Police SACCO Society Ltd
- Efficiency Monitoring Unit
- Business Ethics Network of Africa
- Institute of Certified Public Secretaries (K)

## **RESEARCH INFORMATION AND PUBLIC EDUCATION**

The Department is charged with the responsibility of helping to create zero tolerance for corruption through behaviour change communication. Research is important in the development of public education programmes that are appropriate and are likely to cause maximum impact on their audience.

The Authority's 1999-2003 Strategic Plan identifies the development of the National Anti-Corruption Plan, awareness creation that encourages the public to play a positive role in preventing and fighting corruption, and promotion of good governance as the key activity areas for the Department. Its main activities during the period under review are outlined below.

### **National Anti-Corruption Plan**

The following steps have been taken towards the development/formulation of a National Anti-Corruption Plan which is a strategic objective in the Authority's annual plan:

- (a) A workshop of stakeholders was held in August, 1999 at KCCT Mbagathi. This sought to identify the definition, causes and effects of corruption. The workshop also informed the preparation of KACA's Strategic Plan 1999/2003.
- (b) A National Steering Committee was formed to guide the preparation of the Plan. The committee began its sittings on 6th April, 2000 to do the basic planning.
- (c) The Steering Committee has now set up a structural arrangement within which to carry out the task.
- (d) The Steering Committee has set the time-frame for the main events in the preparation process, and launching of the Plan.

### **Awareness creation and encouraging public to play a positive role**

- (a) A research strategy has been prepared.
- (b) A communication strategy has been prepared and implemented, and is now under revision.
- (c) A baseline survey was designed, conducted and disseminated, and its findings are guiding current activities.
- (d) An awareness campaign is being carried out.

## Promotion of good corporate governance

The Public Service Integrity Programme is at an advanced stage of consideration for implementation.

Specifically, the achievements of the department in this area have been:

1. Development of the Public Service Integrity Programme
2. *This is aimed at the promotion of integrity through awareness creation, prevention, and enforcement of best practices in the Public service.*
3. Prevention of corruption in the Public Service. *A Seminar for senior public service officers held from 24<sup>th</sup> –25<sup>th</sup> February, 2000.*
4. Training of facilitators workshop held from May 14th -28th 2000.
5. The Public Sector Programme document *Public Service Integrity: A Sourcebook for Corruption Prevention in the Kenyan Public Service*” is approved and ready for publication.
6. Sourcebook and programme are expected to be launched soon.



Participants at the Seminar on Prevention of Corruption in the Public Sector – held at KCCT Mbagathi on February 24-25, 2000.

## **Research**

- (a) Baseline survey designed, conducted, data analysed, report written and disseminated.
- (b) Advertisement for pre-qualification to conduct Integrity Survey done, and the applications analysed and short-listing has been conducted.
- (c) Research instruments for the Integrity Survey are at advanced stage of development.
- (d) Design of annual corruption perception survey (January 2000/2001) is being undertaken.

## **Library**

- (a) Library space has been identified and the library will be furnished.
- (b) Library materials are being collected.

## **Information/Public Participation**

- (a) E-mail for the Authority and senior officers established.
- (b) IT policy developed and almost finalised.
- (c) Partnerships policy developed and issued.
- (d) Telephone and fax hotlines launched.

## **Press Coverage of the Authority's Functions**

- (a) An introductory and goodwill meeting was held with the Managing Directors of the leading media organizations. The meeting also explored areas of co-operation.
- (b) Press coverage of various KACA activities has been undertaken.
- (c) Newspapers preparing feature articles.
- (d) Several newspapers print the Authority's hotlines and contacts on a daily basis.

## **Public Awareness**

The Department has organised and participated in the following:

- (a) Four local and one international radio talk-shows.
- (b) KTN Breakfast show.
- (c) A series of KBC Economic Focus Programme titled "*Towards Zero Tolerance for Corruption*"
- (d) Continuity Announcers workshop to equip them to air anti-corruption slogans and messages.

In addition, the department carried out the following activities:

- (e) Anti-corruption Art Exhibition at Sarit Centre in collaboration with the University of Nairobi to educate Kenyans on corruption, its causes and effects.
- (f) Sponsorship of two classes of the annual Music Festival on anti-corruption themes and donated two trophies. Throughout the country, thousands of schools competed for the *Perpetual Challenge Cups* right from the zonal level to the national level.
- (g) Discussions with Ministry of Education, Science and Technology to work out introduction of anti-corruption elements in the curricula and introduction of anti-corruption co-curricula activities and materials distribution.

### **Development of brochures and newspaper pull-out**

- (a) Drafts are ready. The three draft brochures are awaiting to reflect possible changes arising from the Anti-Corruption and Economic Crimes Bill.
- (b) Drafts for a newspaper pull-out are ready.

### **Outreach**

The Authority has delivered keynote addresses to many organisations and forums including the following:

- (a) FPPS Art against corruption exhibition opening ceremony at Sarit Centre.
- (b) Ministry of Lands Senior Officers at KCCT, Mbagathi.
- (c) Middle level finance managers at KIA.
- (d) Secretaries/personal assistants at Ahero, KIA and Kitui.
- (e) Provincial administration - Nairobi
- (f) Public Relations Society of Kenya - Nairobi
- (g) District Commissioners at KIA.
- (h) Institution of Kenya Engineers - Nairobi
- (i) Institute of Economic Affairs Forum - Nairobi
- (j) Architectural Association of Kenya - Nairobi
- (k) Public Sector Reform Stakeholders - School of Monetary Studies



The Director Hon. Justice Aaron Ringera displaying a T-Shirt bearing an anti-corruption message during the Facilitators Workshop for Public Service Integrity Programme held at Sarova Hills Lodge, Nakuru on June 14-28,2000. With him is Dr. Julius T. Rotich, Assistant Director Finance and Operations.

# DIRECTORATE OF INVESTIGATIONS

## INTRODUCTION

The Investigations Directorate is one of the three Directorates of the Kenya Anti-Corruption Authority. The Directorate is charged with the responsibility of investigating corruption and corruption related transactions in accordance with the provisions of *The Prevention of Corruption Act (Cap. 65) Laws of Kenya*. The Directorate is divided into three Departments, namely Investigations, Crime Intelligence, and Crime Reading.

## INVESTIGATIONS DEPARTMENT

This is the core functional department of the Directorate. It carries out investigations on corruption and corruption related cases received from Crime Intelligence. The Chief Officer receives the cases and after perusal allocates them to his officers for the necessary action.

The Department comprises of a multi-disciplinary team of officers whose different professional backgrounds have made handling of cases very effective.

In addition, the approach of investigations adopted by the Department has proved very successful. This involves officers handling cases in groups, strict confidentiality with suspects and witnesses, avoidance of arrests unless very necessary, friendly approach to both witnesses and suspects, inclusion of an officer with training background in the subject at issue during the interviewing/interrogation panels, professional legal advice from the Crime Reader, who is a lawyer, and professional analysis from Crime Intelligence.

The following statistics reflect activities in the Investigations Department during the period under review i.e 1<sup>st</sup> November 1999 to 30<sup>th</sup> June 2000.

### Investigation Statistics

Source of cases under investigations

Item	Number
Number referred from crime intelligence	98
Number generated from original cases	37
TOTAL	135

## Status of cases under investigations

Status	Number
Judgement obtained	1
Pending before court	13
Files closed	14
Referred to other agencies	4
Referred to Director for perusal	10
Under perusal by Crime Reader	12
Ongoing Investigations	81
<b>TOTAL</b>	<b>135</b>

The 14 cases in court involve the loss of KShs. 380 million. On the average, it takes three months and approximately KShs. 150,000 (excluding salaries and fixed costs) to investigate a single case. Conducting investigations is, therefore, an expensive undertaking.

## CRIME INTELLIGENCE DEPARTMENT

The Crime Intelligence Department receives all the complaints/information either directly from persons, or through telephone, fax, mail, the media, parliamentary reports and other investigative agencies. It also analyses complaints and prepares reports and recommendations for appropriate action, besides referring some of the cases to other agencies to deal with.

In addition, the Crime Intelligence Department maintains a Database on all the cases and responses received from complainants and other agencies besides making follow-ups, and acts as a liaison office between KACA, other agencies and Government Departments in matters related to Investigations.

Crime Intelligence Operations for the period 1st November 1999 to 30th June 2000 are reflected by the following statistics:

Crime Intelligence Operations	Number
Complaints awaiting additional information/details	283
Complaints referred back to complainants to seek civil remedies	99
Complaints/information under process and sorting	388
Complaints/information forwarded to other agencies/authorities	551
Anonymous telephone calls without full information	183
Complaints referred to KACA investigations	98
Complaints/information dropped after preliminary inquiries	52
<b>Total complaints / information received</b>	<b>1654</b>

## CRIME READING DEPARTMENT

The Department carries out internal crime audit on cases referred from the Investigations Department (when investigations are complete). It also randomly calls for files where investigations are incomplete for perusal to determine the evidential requirements, legal issues in respect to case law and the application of Statutes in force.

The following statistics are a reflection of the operations in the Crime Readers' Department during the period 1<sup>st</sup> November 1999 to 30<sup>th</sup> June 2000:

Status of cases	Number
Files forwarded to Crime Readers	54
Files acted upon and finalised	32
Files acted upon and in process of being finalised	10
Files pending	12

## Other Activities

KACA spearheads the fight against corruption and in the process enlists the assistance of other agencies, Government Ministries and Departments in sharing information and investigative responsibilities. This has led to the formation of an inter-agency Committee whose representation includes the following:

1. Criminal Investigations Department (CID).
2. Kenya Revenue Authority (KRA).
3. Controller and Auditor-General's Office.
4. Anti-Banking Fraud Unit.
5. Auditor-General (Corporations).
6. Efficiency Monitoring Unit.

The Inter-Agency Committee has already agreed on the modalities of the exchange of information and the sharing of investigative responsibilities. Under this arrangement, non-corruption cases reported to KACA are forwarded to the relevant agencies. The Agencies are required to keep KACA posted on the progress of all corruption cases under their investigation. Through joint effort with the investigative agencies, duplication of effort and wastage of resources are avoided.

Staff of the Directorate have been called upon to talk about economic crimes to various audiences. Some of the institutions/audiences where KACA has participated include:

1. The Kenya Police College Kiganjo
2. Kenya Institute of Administration
3. Mombasa Business Community
4. Kenya Broadcasting Corporation

# DIRECTORATE OF PROSECUTIONS

## INTRODUCTION

One of the key functions of the Kenya Anti-Corruption Authority is the prosecution of offences involving corruption. This necessitated the creation of the Directorate of Prosecutions. An Assistant Director who was appointed in July 1999 heads the Directorate. In November 1999 the first team of Attorneys was appointed. This was followed by the appointment of para-legal staff in December 1999 and the appointment of a Chief Attorney in May 2000.

Except for one officer who is a senior Superintendent of Police seconded to the Authority, and who has been a distinguished prosecutor for over 20 years, the Attorneys appointed are all advocates of the High Court with impeccable credentials. It was initially envisaged that the Directorate would be divided into a criminal division and a civil division. This has however not been possible because the civil work has not picked up.

## PROSECUTIONS

The Prosecution Directorate is basically dependent on the Directorate of Investigation to generate cases for prosecution. Up to February 2000 the work of the Directorate was therefore limited to providing advisory legal briefs as the Investigators only started being active in December 1999. Since February, a total of 46 people have been arraigned in court in 16 cases, charged with various offences as follows:-

	<b>OFFENCES</b>	<b>NO. OF ACCUSED</b>
1.	Abuse of Office	14
2.	Corruption	4
3.	Forgery & uttering false documents	3
4.	Conspiracy to defraud	4
5.	Obtaining by false pretences	4
6.	Stealing by servant	15
7.	Cheating	5
8.	Resisting arrest	1
9.	Escape from lawful custody	1
10.	Disobeying a lawful order	1
11.	Wrongful confinement	1
12.	Aiding a prisoner to escape	1

These prosecutions have given rise to one High Court Appeal, one High Court Revision Case and 3 High Court applications.

In addition to the actual attendance in court for criminal trials, the Attorneys have also to peruse the Inquiry Files, advise on the sufficiency of evidence or otherwise, recommend and draft charges, prepare briefs for the Director for purposes of obtaining consent to prosecute from the Attorney-General, and prepare any other court documents as required. Pre-trial conferences with main witnesses are also held when necessary. A total of 29 briefs were prepared during the period under review. The Directorate also spearheaded the preparation of the Authority's Code of Conduct and Staff Rules and Regulations.

Apart from the prosecution of criminal cases, the Directorate also has the responsibility of prosecuting civil cases for the purposes of recovering public funds, which have been lost through corrupt transactions. A few advisory legal briefs have been given in this regard but no situation has matured into a suit. The Directorate also acts as the in-house lawyers.

To enable the Directorate carry out its mandate diligently, the building up of a comprehensive legal library is underway.

## **RELATIONSHIP WITH THE ATTORNEY-GENERAL'S OFFICE**

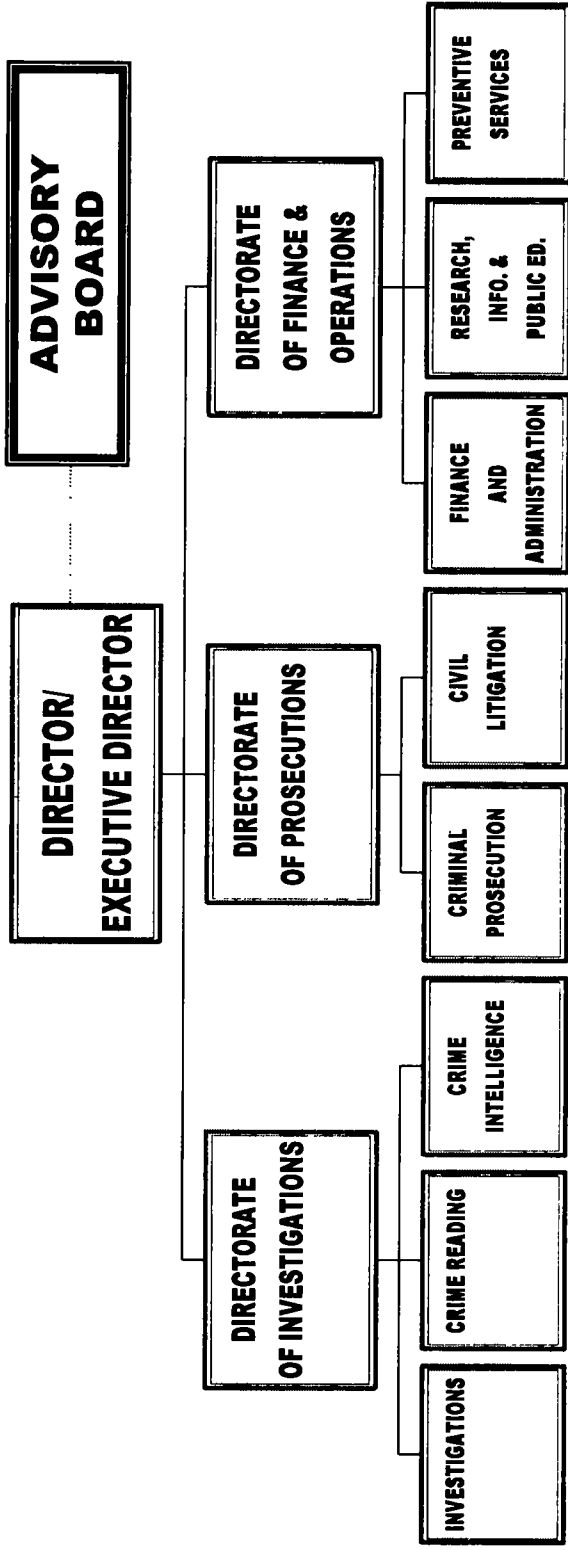
In undertaking its prosecutorial role, the Authority is under Section 11B (3)(b) of the Prevention of Corruption Act, subject to the direction of the Attorney-General. Under section 12 of the same Act a prosecution for offences under the Act can only be instituted with the written consent of the Attorney-General. The above, coupled with the fact that the prosecutors in this Directorate are all appointed public prosecutors by the Attorney-General under section 85 (1) of the Criminal Procedure Code (Cap 75) makes KACA prosecutions subject to the directions of the Attorney-General. Although this fact has been criticized and identified as a possible route for interference with KACA cases, so far no problems have been experienced in this regard.

## **RELATIONS WITH OTHER AGENCIES**

Apart from the Office of the Attorney-General, the only other agency which carries out prosecutions which would be of relevance to this Directorate is the Criminal Investigation Department (CID). Within the period under reference several prosecutions involving cases of corrupt transactions were initiated by the C.I.D. Consultations are in progress with the Director of C.I.D, the Officer in Charge – Prosecutions and the Director of Public Prosecutions with a view to having KACA monitor the prosecutions and make interventions where necessary.

# KENYA ANTI-CORRUPTION AUTHORITY (KACA)

## ORGANISATION CHART



**Strategic objective 1: To spearhead and co-ordinate the preparation and implementation of a national strategy against corruption**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Establish and operationalise team to develop strategy	Stakeholders identified and categorised Strategy development team established and operational	Time taken against plan Time taken against plan	30 November 1999 30 November 1999	AD(F&O)	Chief Officer (Preventive Services) (CO(PS)) Preventive services staff
Conduct workshop to identify definition, causes, growth and effects of corruption in Kenya;	Workshop held Agreed report of workshop	Time taken against plan Time taken against plan % of stakeholders represented	31 December 1999 31 December 1999 TBA	AD(F&O)	CO(PS) Preventive services staff Workshop resources Facilitators
Outline possible approaches to combat corruption	Report on approaches to combat corruption	Time against plan	31 January 2000	ADM(F&O)	CO(PS) Preventive services staff
Agree mission and objectives of the national strategy with all stakeholders	Stakeholder consultations held	Time taken against plan % of stakeholders consulted	29 February 2000	AD(F&O)	CO(PS) Preventive services staff
Conduct workshop to obtain agreement from each stakeholder on their own roles and responsibilities	Workshop held Agreed report of workshop	Time taken against plan % of stakeholders represented	29 February 2000	AD(F&O)	CO(PS) Preventive services staff Workshop resources Facilitators

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Support stakeholders to develop their own strategic plans	Stakeholder strategies produced.	Time taken against plan	30 June 2000	AD(F&O)	CO(PS) Preventive services staff
Conduct workshop to agree implementation plan and monitoring process	Workshop held Agreed report of workshop	Time taken against plan % of stakeholders represented	30 June 2000	AD(F&O)	CO(PS) Preventive services staff Workshop resources Facilitators
Collate draft national strategy and review with stakeholders	Final strategy produced	Time taken against plan	30 September 2000	AD(F&O)	CO(PS) Preventive services staff
Disseminate and publicise finalised strategy	Final strategy disseminated	Time taken against plan Number of copies issued % of population aware Cost per person reached	31 October 2000 TBA TBA TBA	AD(F&O)	CO(PS) Preventive services staff Printing costs
Monitor implementation of national strategy	Quarterly monitoring reports Annual review workshops held Annual report published	Time taken against plan Time taken against plan Time taken against plan	31 December 2000 28 February 2001 30 June 2001	AD(F&O)	CO(PS) Preventive services staff

**Strategic objective 2: In partnership with other stakeholders, to create public awareness of the causes and effects of corruption and the public's role in its prevention**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
In co-operation with other stakeholders, determine what information should be given to the public and assess whether it is available, if not decide how best to collect information	Required information identified Research strategy prepared	Time taken against plan Time taken against plan % of stakeholders consulted	30 November 1999 31 December 1999 TBA	AD(F&O)	Chief Officer (Preventive Services) (CO(PS))
Agree strategy with other stakeholders setting out respective roles, format and mode of delivery and target audience	Agreed communications strategy	Time taken against plan % of stakeholders consulted	29 February 2000 TBA	AD(F&O)	CO(PS)
Research and data collection activities to provide information not otherwise readily available	Research reports prepared	Time taken against plan	Ongoing	AD(F&O)	CO(PS) Research staff
Implement communications strategy	Awareness programme developed Awareness programme delivered	Time taken against plan Time taken against plan Cost per citizen % of population aware	31 March 2000 31 March 2001 TBA TBA	AD(F&O)	CO(PS) Information Officers Publication costs
Prepare annual report including an assessment of impact of the strategy	Annual report	Time taken against plan	30 June 2001	AD(F&O)	CO(PS)
Review strategy	Revised strategy	Time taken against plan	30 June 2001	AD(F&O)	CO(PS)

**Strategic objective 3: To equip and encourage the public to play a positive role in the prevention of corruption**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Establish framework for public participation in the prevention of corruption	Public participation framework agreed	Time taken against plan	31 December 1999	AD(F&O)	CO(PS)
Establish processes for public participation	Processes operational	Time taken against plan	31 March 2000	AD(F&O)	CO(PS) Staff to deal with public
Carry out awareness campaigns for the public to inform them of the process and encourage participation	Participation process communicated to the public	Time taken against plan % of population aware	31 December 2000 TBA	AD(F&O)	CO(PS) Information Officers Market researchers
Determine and take appropriate action on reported cases	Corruption cases reported	Cases reported per month % recorded on KACA system Time to determine action % of cases investigated % of cases with no action % of cases passed to other agencies	TBA TBA TBA TBA TBA TBA	AD(InvS) AD(Pros)	Investigation staff
Establish and operate feedback mechanism to demonstrate action taken	Action on reported cases disseminated	Time taken against plan Number of follow up enquiries	31 March 2000 TBA	AD(F&O)	Staff to deal with public Computer system

**Strategic objective 4: To promote good governance in all organisations in order to prevent corruption**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Work with stakeholders to assess current profile of corruption and to identify key steps to tackle corruption within organisations	Strategy produced	Time taken against plan	27 February 2000	AD(F&O)	CO(PS)
Study existing practices within organisations to prevent corruption	Research into practices completed Areas where good practice guidance required identified and agreed with stakeholders	Time taken against plan Time taken against plan Research cost per standard	31 March 2000 31 March 2000 TBA	AD(F&O)	CO(PS) Preventive services staff Research staff
Identify examples of generally accepted good practice from within and without Kenya and tailor to the local context	Resource centre of good practice Standards of good practice developed	% of identified areas covered	TBA	AD(F&O)	CO(PS) Preventive services staff
Recommend standards of good practice, including the adoption of codes of conduct	Standards of good practice developed	Number of standards against plan	TBA	AD(F&O)	CO(PS) Preventive services staff
Advise specific organisations on approaches to combating corruption	Advice given	% of requests satisfied % of advice implemented % of customers satisfied Number of requests for advice Number of organisations seeking advice	TBA TBA TBA TBA TBA	AD(F&O)	CO(PS) Preventive services staff

Activity	Output	Performance indicator	Target date/value	Responsibility	Resources
Monitor and review the effectiveness of the strategy	Revised strategy	Time taken against plan	29 February 2001	AD(F&O)	CO(PS) Preventive services staff
Prepare annual report including an assessment of the impact of the strategy.	Annual report published	Time taken against plan	30 June 2001	AD(F&O)	CO(PS) Preventive services staff

**Strategic objective 5: To ensure that all corruption cases are properly investigated**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Agree with other relevant investigative agencies on an overall approach to ensuring proper investigation of all corruption cases	Relevant agencies identified Approach to investigations agreed	Time taken against plan Time taken against plan	30 November 1999 31 December 1999	AD (Invs)	Chief Investigator Officer (CIO)
Establish appropriate reporting mechanisms for all corruption cases in liaison with other relevant investigative agencies	Reporting processes established and communicated to relevant agencies	Time taken against plan	31 January 2000	AD (Invs)	CIO
Determine which cases KACA should investigate	Cases for investigation identified	Number of cases % allocated to KACA	TBA TBA	AD (Invs)	CIO Principal Investigators Officers (PIOs)
Investigate selected cases	Investigation completed	Number of cases Value of cases Time taken per case Cost per case % leading to further action	TBA TBA TBA TBA TBA	AD (Invs)	Investigations staff
Review progress and results of investigations and identify which cases require KACA intervention	Progress on investigations reviewed	Number of cases Time taken per case	TBA TBA	AD (Invs)	CIO PIOs

**Strategic objective 6: To ensure that all corruption cases under KACA's jurisdiction which are identified for prosecution are prosecuted properly**

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Agree with other relevant prosecution agencies on an overall approach to ensuring proper prosecution of all corruption cases	Relevant agencies identified Approach to prosecutions agreed	Time taken against plan Time taken against plan	30 November 1999 31 January 2000	AD (Pros)	Chief Prosecutions Officer (CPO) Principal Prosecutions Officers (PPOs)
In co-operation with other agencies, determine which cases should be prosecuted and by which agency	Cases for prosecution identified	% allocated to KACA Time taken to determine which agency	TBA TBA	AD (Pros)	CPO PPOs
Monitor prosecutions and make appropriate interventions	Prosecutions monitored Interventions made	Interventions identified Interventions made	TBA TBA	AD (Pros)	CPO PPOs
For those which KACA is to prosecute, seek directions and consent from the appropriate authority.	Directions and consent received	Number of cases Value of cases % for which consent given	TBA TBA TBA	AD (Pros)	CPO PPOs
Carry out civil and criminal prosecutions	Prosecution completed	Number of cases Value of cases Success rate (%) Cost per case Time taken to complete	TBA TBA TBA TBA TBA	AD (Pros)	Prosecutions staff

<b>Activity</b>	<b>Output</b>	<b>Performance indicator</b>	<b>Target date/value</b>	<b>Responsibility</b>	<b>Resources</b>
Consider appeal where necessary	Other appropriate action taken.	Number of cases Success of appeals Cost per case Time taken to complete	TBA TBA TBA TBA	AD (Pros)	CPO PPOs
Execute judgement in civil cases.	Judgement executed and monies recovered	Time taken to complete Amounts recovered	TBA TBA	AD (Pros)	PPOs
Update records	Records kept up to date	Time to update records Accuracy of records	TBA TBA	AD (Pros)	Support staff
Consolidate information and compile statistics and reports	Quarterly statistics produced Annual report produced	Time taken against plan Time taken against plan	1 month after quarter 30 June 2001	AD (Pros)	Support staff Computer system

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