



Paper Laid by
the Majority Party
Whip Hon.
Benjamin Wakhari
MP, on 14.2.18
1Bm

THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE THIRD QUARTERLY REPORT COVERING THE PERIOD
1ST JULY, 2017 TO 30TH SEPTEMBER, 2017

PREAMBLE

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

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The report covers the Third Quarter and is for the period commencing 1st July, 2017 to 30th September, 2017.

INVESTIGATION REPORT COVERING THE PERIOD 1ST JULY, 2017 TO 30TH SEPTEMBER, 2017

1. CR.6B4/190/2016 CF: KISUMU ACC.NO. 472/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CANDIDATE IN THE RECRUITMENT OF THE KENYA DEFENCE FORCES AT MADIANY PRIMARY SCHOOL PLAYING GROUNDS- KISUMU COUNTY.

Investigations revealed that during the recruitment process by the Kenya Defence Forces at Madiany Primary School, the suspect had carried money amounting to Kshs. 135,000/=, and offered the same to one of the recruitment officers.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 29th September 2017 recommending that the suspect be charged with the offence of corruptly offering a benefit contrary to section 39(3)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 4th October, 2017 the DPP accepted the recommendation for prosecution.

2. EACC/OPS/INQ/41/2014

INQUIRY INTO ALLEGATIONS AGAINST A NAIROBI CITY COUNTY ENFORCEMENT OFFICER FOR SOLICITING AND RECEIVING A BRIBE AS AN INDUCEMENT TO FACILITATE THE RELEASE OF AN IMPOUNDED MOTOR CYCLE NO. KMCW 462H.

Investigations revealed that the complainant, a bodaboda operator dropped a passenger along Mfangano Lane in Nairobi when three enforcement officers impounded his motor cycle, over alleged obstruction, locked it up at Race Course Yard and demanded Kshs. 3000/= from the complainant for its release. The evidence on record was sufficient to establish that the suspect was criminally culpable for the offence of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

A report was compiled and forwarded to the DPP on 20th September 2017 recommending that the suspect be charged with the offence of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 4th October, 2017 the DPP accepted the recommendation for prosecution.

3. EACC/KIS/EL/INQ/6/2017

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY THE HONOURABLE MEMBER OF PARLIAMENT FOR KITUTU CHACHE SOUTH CONSTITUENCY.

Investigations established that there was unequivocal evidence that the Hon. Member of Parliament assaulted the complainant. The complainant was assaulted during a political meeting when the Member of Parliament accused him of organizing hooligans to disrupt a political rally. This amounted to the offence of assault contrary to section 251 of the Penal Code. EACC established that his conduct of assaulting the complainant was unethical on the part of the Honourable Member of Parliament.

A report was compiled and forwarded to the DPP on 20th September, 2017 recommending that the National Assembly institutes administrative action against the suspect as provided under section 42(9) of the Leadership and Integrity Act.

On 4th October 2017 the DPP concurred with EACC that, EACC in exercise of its statutory mandate under section 42(9) of the Leadership and Integrity Act, should caution the Honourable Member of Parliament against engaging in conduct of a similar nature.

4. EACC/NYR/FI/INQ./08/2012

INQUIRY INTO ALLEGATIONS OF CORRUPTION AND ABUSE OF PROCUREMENT RULES IN THE PURCHASE OF 67 WATER TANKS BY NANYUKI RIVER WATER USERS ASSOCIATION (NRWUA).

Investigations revealed that the NRWUA Procurement Sub- Committee procured 67 water tanks at a cost of Kshs. 25,000/= each. The Procurement Committee had overpriced the cost per tank by Kshs. 10,000/= and the management committee members had resolved to get at Kshs. 9,000/= each. Investigations revealed that seven officials of the NRWUA were culpable for wilful failure to comply with the law and procedures of procurement.

A report was compiled and forwarded to the DPP on 20th September, 2017 recommending that the suspects be charged with the offence of wilful failure to comply with the law and procedures relating to procurement contrary to section 45(2)(b) as read with section 48 of the Anti- Corruption and Economic Crimes Act 2003.

On 16th October, 2017 the DPP accepted the recommendation for prosecution.

5. EACC. NKR/INQ/OPS/09/2017

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST WHO IS NOW DECEASED

Investigations established that the suspect, who was driving a matatu was stopped by a Police Officer and he was asked to produce his driving license. Instead of producing his driving license he gave the Police Officer Kshs. 100/= as a bribe. The suspect was taken to Londiani Police Station and later Kericho Law Courts where it was directed that the matter be handed over to EACC.

Investigations revealed that in as much as the Kshs. 100/= note was handed over to the Police Officer as a bribe, the subject of this inquiry did not reach the EACC Offices at Nakuru. There is also a burial permit indicating that the suspect died on 22nd April 2017.

Investigations revealed that the evidence obtained could not meet the threshold to sustain a charge of corruptly giving a benefit contrary to section 39(3)(b) of the Anti-Corruption and Economic Crimes Act against the suspect.

A report was compiled and forwarded to the DPP on 20th September, 2017 recommending the file be closed with no further action.

On 3rd October, 2017, the DPP concurred with the EACC to close the inquiry file.

6. CR. 148/06/2017 CF ACC. 10/2017

INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TRAFFIC POLICE OFFICERS AT RAILWAY BUS TERMINUS

Investigations established that police officers controlling traffic at various points within the Nairobi CBD were harassing and demanding for bribes from motorists. EACC's undercover officers carried out surveillance targeting Moi Avenue, Haille Selassie Roundabout extending to Railways Bus Terminus.

EACC found that the charges of abuse of office and dealing with suspect property could not be sustained against the two suspects. EACC also found that the evidence obtained is sufficient to charge the suspects with the offence of conspiracy to commit an offence of corruption contrary to section 47A(3) as read with section 48(1)

of the Anti- Corruption and Economic Crimes Act 2003, and section 27 of the Bribery Act 2016.

A report was compiled and forwarded to the DPP on 20th September, 2017 recommending that that the suspects be charged with the offence of conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act 2003, and section 27 of the Bribery Act 2016.

On 13th October, 2017 the DPP accepted the recommendation for prosecution.

7. EACC/INQ/144/20

INQUIRY INTO ALLEGATIONS THAT AN ITALIAN NATIONAL HAD TRIED TO INFLUENCE THE PROSECUTION AT THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS.

EACC received a letter from ODPP requesting that investigations be conducted into allegations of bribery against an Italian national. The allegations were made by the complainant who stated that ODPP Officers had been bribed by the Italian national to maliciously prosecute him.

Investigations revealed that there was no evidence showing that the Italian national colluded or bribed any officers at the ODPP or at the DCI to influence malicious prosecution of the complainant. Investigations also established that there was a dispute between the Italian and the complainant over a hotel ownership.

A report was compiled and forwarded to the DPP on 20th September, 2017 recommending that the file be closed.

On 13th October, 2017 the DPP accepted the recommendation for closure of the inquiry file.

8. CR: 021/15/2017 CF: NO. ACC MSA 13/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO POLICE OFFICERS BASED AT BAMBURI POLICE STATION

Investigations revealed that the suspects who were Police Officers at Bamburi Police Station corruptly asked for a financial benefit of Kshs. 70,000/= from the complainant as an inducement so that they could release his confiscated motor vehicle.

A report was compiled and forwarded to the DPP on 20th September 2017 recommending that the suspects be charged with corruptly requesting for a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 3rd October, 2017 the DPP accepted the recommendation for prosecution.

9. EACC/ISL/FI/INQ/45/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR EMPLOYMENT OF STAFF AT ISIOLO COUNTY ASSEMBLY

Investigations established that the County Assembly Service Board (CASB) - Isiolo advertised for 35 positions for staff for various cadres. Investigations established that the letters of appointment were issued way before interviews were undertaken, CASB appointed candidates to higher job cadres than those advertised and applied for, most of the candidates recruited did not meet the qualifications required for the respective positions as set out in the local and national adverts and some CASB members sat in interviews of their relatives without declaring conflict of interest.

A report was compiled and forwarded to the DPP on 20th September 2017 recommending that the members of CASB be charged with abuse of office contrary to section 46 as read with section 48(1)a of the Anti-Corruption and Economic Crimes Act, 2003.

On 16th October 2017, the DPP accepted the recommendation for prosecution.

10. CR. 921/1203/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR CHIEF, SHIBUYE LOCATION, SHINYALU SUB -COUNTY, KAKAMEGA COUNTY.

Investigations revealed that the suspect a Senior Chief of Shibuye Location within Shinyalu Sub County corruptly solicited for a benefit of Kshs. 3,000/= as an inducement to issue the complainant with a permit to hold his father's memorial service. He also received a benefit.

A report was compiled and forwarded to the DPP on 13th September, 2017 recommending that the suspect be charged with corruptly soliciting and receiving a

benefit contrary to section 39(1)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act 2003.

On 21st September, 2017 the DPP accepted the recommendation for prosecution.

11. EACC/OPS/INQ/NYR/2/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN OFFICER AT THE KENYA FOREST SERVICE

Investigations established that the suspect, a clerk employed by the Kenya Forest Service. He corruptly solicited and received a bribe of Kshs. 1,500/= after he confiscated a hand cart that belonged to the complainant. The bribe was an inducement to release the complainant's handcart.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the suspect be charged with corruptly receiving a bribe contrary to section 6(1)(a) as read with section 12 of the Bribery Act 2016.

On 29th September, 2017 the DPP accepted the recommendation for prosecution.

12. EACC/NKR/INQ/EL/32/2016

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY THE PRINCIPAL KENYATTA SECONDARY SCHOOL WHO IS ALLEGED TO HAVE KEPT PART OF THE NON TEACHING STAFF SALARIES

Investigations established that the school management and the workers' union for non-teaching staff had reached a consent on their negotiations with respect to the salaries of non-teaching staff. A consent document between the school and the union marked the matter as closed. The investigations did not establish that the principal withheld salaries as alleged.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the Inquiry file be closed with no further action.

On 2nd October, 2017 the DPP accepted the recommendation for closure of inquiry file.

13. CR. 421/329/2016 COURT FILE NO: MERU ACC 8/2016

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

Investigations in this matter commenced after EACC received a report that a Police Officer based at Nkubu Police Station solicited for a benefit from the complainant as an inducement to release his motor cycle that had been detained at the Police Station.

Investigations established that the suspect corruptly solicited and received a bribe of Kshs. 2,000/= from the complainant.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the suspect be charged with corruptly soliciting for a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 25th September, 2017, the DPP accepted the recommendation for prosecution.

14. EACC/FI/INQ/NYR/49/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO POLICE CONSTABLES BASED AT KARATINA TRAFFIC POLICE SUB BASE AT THE NYERI KARATINA /KERUGOYA JUNCTION

Following surveillance by the EACC police along the Kerugoya- Kutus Road, it was established that traffic police officers were collecting bribes from motorists. A sting operation was conducted and one of the police officers was found in possession of money given to motorists by the EACC police for purposes of the sting operation. The other officer was not found in possession of the EACC money.

Investigations established that there was sufficient evidence to prove that one officer dealt with money that was corruptly acquired from motorists along Kerugoya- Kutus Road while the other one was found with Kshs. 2,500/= of which non matched with the money that had been prepared for the sting operation.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that one suspect be charged with the offence of corruptly dealing with suspect property contrary to section 47(1)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act No. 3 of 2003. In addition, it was

recommended that administrative action be taken against the second suspect by his employer.

On 21st September, 2017, the DPP accepted the recommendation for prosecution.

15. EACC/MKS/OPS/20/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KATULYE POLICE POST IN MATUNGULU SUB- COUNTY

Investigations established that the suspect who was a police officer solicited for and received a benefit of Kshs. 600/= from the complainant as an inducement to return the complainant's mobile phone after he had been arrested for allegedly fighting.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending the suspect be charged with the offence of corruptly soliciting and receiving a benefit contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 21st September, 2017, the DPP accepted the recommendation for prosecution.

16. EACC/ KSM/INQ/EL/29/2016

INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE RECRUITMENT OF A CHIEF AT KADIBO DIVISION KANYAGWAL LOCATION, KISUMU COUNTY

Investigations revealed that there was an advertisement for the position of Chief 11. The advertisement attracted twelve applicants. Four of them were shortlisted. Investigations established that none of the candidates satisfied the requirement for the appointment of Chief 11 although a recommendation was made to appoint one of them. The whole process was irregular right from shortlisting to the recommendation of the best candidate who was presumed to be qualified.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the results of the interview be cancelled, the position be re-advertised and the recruitment be carried out within the laid down procedures.

On 3rd October, 2017, the DPP concurred with EACC's recommendation and directed that the position of Chief 11 Kanyangwal Location, Nyando Sub County be re-advertised.

17. EACC/ KSM/OPS/INQ/61/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION BY A SENIOR HUMAN RESOURCE OFFICER AT THE TEACHERS SERVICE COMMISSION.

Investigations established that on diverse dates between the months of September and December 2015 the suspect solicited for a benefit from each of the complainants so that he could facilitate their upgrading to the position of Curriculum Sports Officer. Investigations further established that the suspect, purported that he was in a position to facilitate the complainants upgrading or appointment to the position of Curriculum Sports Officers. He therefore demanded for 20,000/= from each of the three complainants and Kshs. 35,000/= from one of the complainants. He received a total sum of Kshs. 92,222/= through MPESA. Investigations established that the suspect was culpable for the offence of obtaining money by false pretenses contrary to section 313 of the penal code.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the suspect be charged with four counts of obtaining money by false pretenses contrary to section 313 of the penal code. EACC was not able to recommend prosecution under ACECA but recommended that the investigation file be forwarded to the Directorate of Criminal Investigations for purposes of prosecution because the offences disclosed fell outside EACC's mandate.

On 2nd October, 2017, the DPP accepted the recommendation for prosecution.

18. EACC/FI/INQ/93/2014

INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AGAINST THE ASSISTANT DEPUTY DIRECTOR (ADD) FINANCE AND ADMINISTRATION, DEPOSIT PROTECTION FUND BOARD (DPFB).

Investigations established that the suspect, an ADD at the DPFB participated in the purchase of a parcel of land which was auctioned by the DPFB. Investigations further established that the suspect, by virtue of his position in the fund was privy to the properties placed under liquidation and sale by auction notwithstanding his company participated and indeed purchased the land being auctioned yet he did not disclose his private interest in the purchasing company which he was a Director.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the suspect be charged with failure to disclose a private interest to one's principal contrary to section 42(1)(a) and (b) as read with section 48 (1) and

abuse of office contrary to section 46 as read with section 48(1) of the Anti – Corruption and Economic Crimes Act No. 3 of 2003.

On 10th October, 2017 the DPP recommended that further investigations be conducted.

19. EACC/INQ/OPS/18/2017

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST, A TRAFFIC POLICE OFFICER ALONG JOGOO ROAD

Investigations established that a Traffic Police Officer requested and received a financial advantage of Kshs. 3,000/= through a third party so that he could improperly release a motorcycle that belonged to the complainant and to forbear charging him with a traffic offence.

A report was compiled and forwarded to the DPP on 6th September, 2017 recommending that the suspect be charged with two counts of the offence of corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Bribery Act No. 47 of 2016.

On 3rd October, 2017 the DPP accepted the recommendation for prosecution.

20. CR. 148/22/2017 CF. ACC.13/2017

INQUIRY INTO ALLEGATIONS OF DEALING WITH SUSPECT PROPERTY AGAINST, A POLICE OFFICER ATTACHED TO KAYOLE TRAFFIC AND RUAI SUB-BASE

Investigations established that traffic officers manning the Eastern Bypass Highway were demanding bribes from PSV vehicles and motorcycles. EACC organized a sting operation where Kshs. 6,000/= that had given to the motorists by EACC officers for onward transmission to the police officers upon demand was recovered from the suspect.

Investigations established that the suspect was culpable of the offence of dealing with suspect property (Kshs. 6,000/=) and abuse of office by improperly conferring a benefit on himself of Kshs. 6,000/= from various drivers as an inducement so as not to charge the motorists with traffic offences.

A report was compiled and forwarded to the DPP on 29th August, 2017 recommending that the suspects be charged with dealing with suspect property

contrary to section 47(1) as read with section 48 (1) the Anti –Corruption and Economic Crimes Act No. 3 of 2003.

On 29th September, 2017 the DPP accepted the recommendation for prosecution.

21. CR. 148/17/2017 ACC. 11/ 2017

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY TWO TRAFFIC POLICE OFFICERS BASED AT KILIMANI POLICE STATION

Investigations revealed that the suspects requested for and received a bribe of Kshs. 3,000/= with the intention of releasing the complainant's motor cycle and to forbear charging him with a traffic offence.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspects be charged with receiving a bribe contrary to section 6(1)(a) as read with section 18 of the Bribery Act 2016.

On 18th September, 2017 the DPP accepted the recommendation for prosecution.

22. CR. 641/48/2017 CF ACC. (KISII) 1/2017

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY TWO ENFORCEMENT OFFICERS OF THE COUNTY GOVERNMENT OF KISII

Investigations established that the two suspects approached the complainant and informed him that he had parked at an undesignated area. The complainant wanted to pay for the required parking fee but the suspects requested for a bribe of Kshs. 2,000/= with an intent not to charge him with the offence of parking a motor vehicle in an undesignated area.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspects be charged with three counts of the offence of receiving a bribe contrary to section 6(1) as read with section 18 (1) and (2) of the Bribery Act 2016.

On 31st August, 2017 the DPP accepted the recommendation for prosecution.

23. EACC/EL/INQ.106/2015

INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE OF THE COUNTY GOVERNMENT OF KITUI USED A FAKE DEGREE CERTIFICATE TO SECURE EMPLOYMENT

Investigations established that the suspect, presented a false Degree Certificate and Undergraduate Transcripts in Bachelor of Commerce (Business Administration) purportedly issued by the University of Nairobi so as to secure employment at the County Government of Kitui. Investigations further established that the suspect submitted false information in a Self- Declaration Form by indicating that he had acquired a University Degree issued by the University of Nairobi.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspect be charged with offences of forgery of a document contrary to section 349 of the Penal Code and uttering a false document contrary to 353 as read with section 349 of the Penal Code. The Commission further recommended that recovery proceedings be instituted to recover the salary received by the suspect since he had been illegally earning for the period that he was in employment. EACC also recommended that the pension accrued by the suspect to be treated as a civil debt since he misrepresented himself as a qualified person for the position of Assistant Director Co-operative Development.

On 20th September 2017, the DPP accepted the recommendation for prosecution.

24. EACC/OPS/INQ/21/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A COURT CLERK BASED AT CITY COURT

Investigations established that the complainant was arrested for being drunk and disorderly. That he was locked up in the City Hall Cells so that he could be arraigned in Court to answer to the charges of being drunk and disorderly. The complainant met with the suspect at the registry and solicited for a bribe of Kshs. 2,000/= so as not to arraign him in Court. He also received a bribe of Kshs. 1,000/=.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspect be charged with three counts of the offence of receiving a benefit contrary to section 6 (1) (a) as read with section 18 of the Bribery Act, No. 47 of 2016.

On 4th September, 2017, the DPP accepted the recommendation for prosecution.

25. EACC/OPS/INQ/124/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE NATIONAL REGISTRATION BUREAU AT KIBERA HUDUMA CENTRE

Investigations established that the complainant sought for the suspect's assistance in obtaining a Birth Certificate for her niece. The suspect solicited for Kshs. 3,000/= as facilitation fees but this was negotiated downwards to Kshs. 2,500/=. The complainant gave the suspect Kshs. 2,500/= which amounted to a bribe.

A report was compiled and forwarded to the DPP on 18th August, 2016 recommending that the suspect be charged with two counts of the offence of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003.

On 14th September, 2017 the DPP accepted the recommendation for prosecution.

26. EACC/ELD/OP/22/2016

INQUIRY INTO ALLEGATIONS THAT THE OFFICER COMMANDING POLICE, KAPSOYA POST SOLICITED FOR A BENEFIT AS AN INDUCEMENT TO FACILITATE THE RELEASE OF A MOTOR CYCLE.

Investigations established that the suspect, a police officer, solicited for a benefit of Kshs. 2,000/= from the complainant as an inducement to release his motor cycle. A trap operation was laid that led to the suspect being arrested after receiving Kshs. 2,000/=. The suspect tried to resist arrest by kicking and throwing blows at the EACC arresting officers. The suspect called two police officers for assistance who obstructed the EACC Officers from arresting him.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the police officer be charged with resisting arrest contrary to section 253(b) of the Penal Code. It was further recommended that the two Police Officers who obstructed the EACC Officers be charged with obstruction contrary to section 66(1)a as read with section 66(2) of the Anti- Corruption and Economic Crimes Act No. 3 of 2003. In addition, one Police Officer was charged with knowingly misleading the EACC Officers contrary to 66(1)(b) of the Anti-Corruption and

Economic Crimes Act, 2003 with an alternative count of giving false information to a person employed in the public service contrary to section 129(a) of the Penal Code. The suspect could not be charged with soliciting and receiving a bribe since he swore an affidavit indicating that the suspect did not solicit for any money from him

On 6th September, 2017 the DPP accepted the recommendation for prosecution.

27. CR. 21/266/2016 ISIOLO ACC. NO.2 OF 2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THREE POLICE OFFICERS SERVING AT ANTUBEIYA ADMINISTRATION CAMP IN TIGANIA WEST SUB-COUNTY MERU COUNTY

Investigations revealed that the suspects visited the complainant's home in search of illicit brew. Upon reaching his home, they did not get what they were looking for. The complainant was not at his home but he arrived before the suspects left when they asked for Kshs. 2,000/= with no explanation. The complainant later received several phone calls from one of the suspects in pursuit of the money allegedly on instruction of his supervisor.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending the suspects be charged with offences of corruptly soliciting for and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) and corruptly agreeing to receive a benefit contrary to section 39(3)a as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003

On 11th September, 2017 the DPP accepted the recommendation for prosecution.

28. CR. 627/356/2016 (ACC 5/2016)

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO POLICE OFFICERS ATTACHED TO NYALENDA POLICE POST

Investigations revealed that the suspect corruptly solicited for Kshs. 10,000/= as an inducement to release the complainant from custody and to withdraw a case of burglary and stealing.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspect be charged with two counts of corruptly soliciting

for a benefit and one count of corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 5th September, 2017 the DPP returned the inquiry file for further investigations.

29. CR. 148/35/2016 CF. NO. 7/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION BY A COMPLIANCE OFFICER AT THE KENYA REVENUE AUTHORITY, MACHAKOS BRANCH.

Investigations revealed that the complainant applied for a loan at Equity Bank. He filed for tax returns. He was informed by the person who was filing tax returns on his behalf that he could not get the clearance certificate as he had not filed for his tax returns since 2011. The complainant was introduced to the suspect who solicited from him a bribe of Kshs. 500,000/= that would be shared amongst other KRA officers as an inducement so as to facilitate nil financial returns.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that the suspect be charged with two counts of corruptly soliciting for a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

On 8th September, 2017 the DPP accepted the recommendation for prosecution.

30. CR. NO. 720/233/2016 SAMBURU ACC1/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF SAMBURU WEST CONSTITUENCY DEVELOPMENT FUND

Investigations established that the suspect solicited for money from the complainant so that he could secure him employment with the County Government of Samburu as a truck driver. Investigations revealed that indeed, the suspect solicited for and asked a bribe. However, the offences committed by the suspect did not relate to the affairs of his Principal to wit the Samburu West Development Fund. As such, the charges against him could not be sustained because the unlawful action must relate to the affairs of his Principal. The suspect's conduct amounted to the offence of obtaining by false pretenses contrary to section 313 of the penal code.

A report was compiled and forwarded to the DPP on 18th August, 2017 recommending that each the charges preferred against suspect be substituted with

two counts of obtaining money by false pretenses contrary to section 313 of the penal code.

On 11th September, 2017 the DPP accepted the recommendation for prosecution.

31. EACC/FI/INQ/91/2015

INQUIRY INTO ALLEGATIONS OF HIKING OF LEGAL FEES PAID TO A LAW FIRM BY THE KENYA PIPELINE COMPANY (KPC)

Investigations established that KPC, was enjoined in a petition that was filed by three petitioners in a bid to recover land worth Kshs. 3,372,434,071.56/= allegedly taken from them by the Government. KPC instructed a Law Firm to represent them in the petition. Investigations revealed that the initial fee note that was raised by the Law Firm was Kshs. 75,545,319.83/=. The fees were later negotiated downwards to Kshs.18,506,250.00/=. Kshs. 18,506,250.00/= was arrived at after KPC prepared an interim fee note based on the KPC property that was affected by the subject suit. EACC found that the Advocates should have used the 2006 remuneration order and not the 2014 remuneration order that raised their fees upwards, a matter that could also be determined by the taxation court.

A report was compiled and forwarded to the DPP on 31st July 2017 recommending that KPC advises the law firm to use the 2006 remuneration order as they prepare their final fee note. The Commission further recommended that since legal fees is a matter that can be determined during taxation in a civil court, the inquiry file be closed.

On 14th August, 2017 the DPP concurred with the EACC recommendation to close the inquiry file.

32. CR.148/01/2017 CF NO.11/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE CONSTABLE ALONG THE MLOLONGO WEIGHBRIDGE

EACC commenced investigations in this matter after receiving a bribery complaint from an informant that a police officer demanded for a benefit of Kshs. 3,000/= from him as an inducement so that he could release his driving license to him on an

allegation that he had used the service lane without using the the correct route through the feeder road at Mlolongo in Athi River.

Investigations established that the suspect, confiscated the driver's driving license and delivery note and thereafter demanded for a benefit of Kshs. 1,000/= as an inducement so that he could release the driving license.

A report was compiled and forwarded to the DPP on 31st July, 2017 recommending that the suspect be charged with two counts of soliciting for a benefit and one count of corruptly receiving a benefit, contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. EACC later confirmed through the Daily Nation Orbituary of Thursday July, 2017 that the suspect has passed on. Based on this, EACC recommended termination of the proceedings pursuant to Article 157 (6) (c) of the Constitution.

On 18th September, 2017 the DPP accepted the recommendation for prosecution and further recommended abatement of the case against the deceased.

33. EACC/MCKS/FI/INQ/21(A)/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF THIRTY MILLION TO A LAW FIRM BY KAJIADO COUNTY ASSEMBLY

Investigations revealed that the Law Firm in question was in the prequalified list of service providers in the Kajiado County Assembly. The Law Firm was instructed to defend the County Assembly at the Public Procurement Administrative and Review Board (the Board). Investigations revealed that the Law Firm appeared before the Board. Investigations further revealed that the application before the Board (the application that made the Kajiado County Assembly to instruct the Law Firm to represent it) was withdrawn by the applicants. The Law Firm raised its Fee Note of Kshs. 32,552,500/= and the County Assembly was of the view that it was too high. The Law firm filed a miscellaneous application before the High Court in Nairobi for purposes of taxation. The application is yet to be heard and determined. It was established that no payment was being processed by the County of Kajiado in favour of the Law Firm. It was also established that the services rendered by the Law Firm are awaiting taxation of costs by the Court.

A report was compiled and forwarded to the DPP on 31st July, 2017 recommending that there was no breach of law procedures and regulations and therefore recommended closure of the file.

On 12th September, 2017 the DPP accepted the EACC recommendation for closure of the file.

34. EACC/MSA/OPS/INQ.49/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN INDIVIDUAL WHO OFFERED A BRIBE TO AN OFFICER EMPLOYED BY THE NATIONAL REGISTRATION BUREAU STATIONED AT HUDUMA CENTRE AS AN INDUCEMENT TO FACILITATE GIVING OUT INFORMATION.

Investigations revealed that the suspect, had inquired for the details to register a motor vehicle for his client and was offering a bribe of Kshs. 500/= to the Huduma centre officer so that he could get information regarding the national identity card of another person which is against the regulations of the institution.

A report was compiled and forwarded to the DPP on 31st July, 2017 recommending that the suspect be charged with offences of corruptly offering and giving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 24th August, 2017 the DPP accepted the recommendation for prosecution.

35. CR. EACC 313/627/2017/ CF. ACC.1/2017

INQUIRY INTO ALLEGATIONS THAT AGAINST A POLICE CONSTABLE STATIONED AT WATAMU POLICE STATION

Investigations established that the complainant owns a motorcycle and that the suspect detained it *at the Police Station*. The complainant visited the police station to pursue the release of the motor cycle. It was at this point that the suspect *demand*ed for Kshs. 5,000/= which was later reduced to Kshs. 2,000/= as an inducement so as to release the motorcycle.

A report was compiled and forwarded to the DPP on 20th July, 2017 recommending that the suspect be charged with offences of corruptly soliciting and receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 3rd August, 2017 the DPP accepted the recommendation for prosecution.

36. EACC/PI/INQ/110/2015

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

EACC commenced investigations in this matter following allegations that the Prisons Service Department entered into an agreement with a Company to supply and deliver tyres valued at a total sum of Kshs. 5,250,000/= and that the same were never delivered.

Investigations revealed that the suspects who were employed as Senior Sergeant in charge of stores at the Kenya Prisons Central Workshop Stores conspired with a Supplier to commit an economic crime to wit attempted fraudulent acquisition of public property by initiating, delivering, signing delivery notes, generating counter receipt vouchers and making invoices on pieces of tyres and tubes addressed to the Commissioner of Prisons while knowing that the said tyres had not been delivered. The investigations established that the said false documents were submitted in a bid to have payment for goods not delivered.

A report was compiled and forwarded to the DPP on 13th July, 2017 recommending that the Senior Sergeant be charged with four counts of attempt to commit an economic crime contrary to section 47(a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003. It was also recommended that the Supplier be charged with making a false document contrary to section 349 of the Penal Code. In addition, it was recommended that the Senior Sergeant and the Supplier be jointly charged with conspiracy to commit an economic offence contrary to section 47A as read with section 48(1) of the Anti-Corruption Act, 2003.

On 3rd October, 2017 the DPP returned the inquiry file for further investigations.

37. CR.431/262/2016 ACC. NO. 573/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO OFFICERS OF THE CIVIL REGISTRATION DEPARTMENT IN THE OF THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

Investigations revealed that the complainant visited the Civil Registration office at Wote to get a birth certificate for his son. He was asked to pay Kshs. 5,000/= to facilitate the process. He reported the matter to EACC. An operation was organized

that led to the arrest of the suspects. Investigations established that the suspects corruptly solicited and received a benefit of Kshs. 5,000/= so as to issue a birth certificate of the complainant's son.

A report was compiled and forwarded to the DPP on 13th July, 2017 recommending that the suspects be charged with corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48 (1) of the of the Anti-Corruption and Economic Crimes Act, 2003 and making a false document contrary to section 349 of the Penal Code.

On 28th July, 2017 the DPP returned the inquiry file for further investigations.

38. EACC/EL/INQ/16/2016

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY A MEMBER OF THE KITUI COUNTY PUBLIC SERVICE BOARD.

Investigations revealed that the suspect, her husband, daughter and son were Directors of a company that was awarded tender to supply oil fuel and lubricants to the Kitui County Government. The suspect, being an employee of the Kitui County Public Service Board in Kitui County was obliged to disclose her interest in the company to Kitui County Government. She failed to make the said disclosure and as such, she knowingly acquired, a private interest in the subject contract emanating from Kitui County Government therefore offending section 42(3) of ACECA.

A report was compiled and forwarded to the DPP on 13th July, 2017 recommending that the suspect be charged with the offence knowingly acquiring a private interest connected with one's principal contrary to section 42(3) as read with section 48 of the of the Anti-Corruption and Economic Crimes Act, 2003.

On 15th August, 2017 the DPP accepted the recommendation for prosecution.

39. CR. 148/03/2017 CF. NO. KAJIADO ACC 207/2017

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY TWO POLICE OFFICERS ATTACHED TO GATAKA POLICE POST

Investigations revealed that one of the suspects, had asked for a benefit amounting to Kshs. 2,000/= from the complainant as an inducement so as to facilitate the release

of the complainant's motor cycle that had been confiscated because it had not been insured. EACC organized an operation that culminated in the arrest of the officer who solicited for a benefit together with another officer who received the benefit on his behalf, whilst knowing that the money was a bribe.

A report was compiled and forwarded to the DPP on 13th July, 2017 recommending that the suspects be charged with four counts of receiving a bribe contrary to section 6(1) of the Bribery Act as read with section 18(1) and 2 thereof. In addition, one suspect was charged with assisting in bribery contrary to section 13(1)(a) as read with section 18(1) and (2) of the Bribery Act.

On 28th August 2017, the DPP accepted the recommendation for prosecution.

40. CR. 032/4/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ACCOUNTANT AT THE TOURISM FUND WESTERN REGIONAL OFFICE KISUMU

Investigations revealed that the suspect, an Accountant at the Tourism Fund attached to the Western Regional Office in Kisumu requested to examine the records of a Hotel and allegedly found that the Hotel had not paid its levies. He demanded for a benefit of Kshs. 100,000/=. The figure was negotiated downwards to Kshs. 70,000/=. An operation was organized by EACC Officers that led to the arrest of the suspect. He was found in possession of Kshs. 50,000/= which he had received as a bribe from the complainant.

A report was compiled and forwarded to the DPP on 31st July, 2017 recommending that the suspect be charged with three counts of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003.

On 4th August, 2017 the DPP accepted the recommendation for prosecution.

41. EACC/OPS/INQ/NYR/758/170/2016

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

Investigations revealed that the complainant's brother was arrested by the suspect while he was spraying his cattle in his Ranch. He was charged with trespass contrary

to section 5(1)(a) of the Trespass Act. His pump was confiscated by the suspect. The complainant visited the Police Station and found that his brother had been booked in the cells. The brother was released on cash bail after appearing in Court. He went back to the police station to get his pump when the OCS demanded for a bribe of Kshs. 5,000/=. The complainant went to the station with Kshs. 2,000/= out of the Kshs. 5,000/= but the suspect chased him away and asked him to bring the balance.

Investigations have established that the suspect corruptly solicited for and received a benefit of Kshs. 5,000/= contrary to section 39(3)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003.

A report was compiled and forwarded to the DPP on 13th July, 2017 recommending that the suspect be charged with corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003.

On 18th August, 2017 the DPP accepted the recommendation for prosecution.

42. EACC/ISL/FI/INQ/50/2016

INQUIRY INTO ALLEGATIONS OF INTERFERENCE WITH THE OPERATIONS OF THE COUNTY PUBLIC SERVICE BOARD- ISIOLO BY THE ISIOLO COUNTY EXECUTIVE

Investigations revealed that the suspects, being the Interim Head of Supply, Chain and Management, County Secretary of Isiolo, and the Chief Officer in charge of Finance attempted to commit an offence of corruption by using a certificate he knew contained misleading information concerning his academic qualifications and purported that the certificate was issued by the Kenya National Examination Council in support his application for employment as Head of Supply and Chain Management which Isiolo County Public Service Board had advertised. Investigations also established that the suspects uttered false documents to wit Academic Transcripts and Degree Certificates.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the suspect be charged with attempt to commit an offence of corruption contrary to section 47A as read with section 48(1) of the of the Anti- Corruption and Economic Crimes Act, 2003, abuse of office contrary to section 46 as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003 and uttering a false document contrary to section 353 of the penal code.

On 31st August, 2017, the DPP accepted the recommendation for prosecution.

43. EACC/OPS/INQ/155/2016

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE DIVISIONAL CRIMINAL INVESTIGATIONS OFFICER (DCIO), KABETE

Investigations have established that the suspect together with three other officers were on duty at Karura village. They arrested a suspect in a robbery case. The officers were carrying some electronic gadgets which had been seized from the suspect. Investigations further established that as they were heading to their motor vehicle, the complainant took a photograph of them as he mistook the officers for thieves. The suspect saw him take the photograph and he confiscated his camera. The complainant was asked to follow the officers to the police station where the suspect asked him to give an explanation as to why he took the photograph. He sent emissaries to intervene so that he could get his camera but it was all in vain. Later, the suspect demanded for a bribe of Kshs. 50,000/= as an inducement to release the camera. The complainant reported the matter at EACC where an operation was organized that established that the suspect solicited for and received a bribe of Kshs. 50,000/=. It was further established that the suspect failed to record a complaint in the occurrence book against the complainant whose camera he had confiscated.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the suspect be charged with two counts of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and failure to record a complaint in the police occurrence book contrary to section 50(4) as read with section 129 of the National Police Service Act.

On 28th July, 2017 the DPP accepted the recommendation for prosecution.

44. EACC/NYR/FI/INQ/2/2012

INQUIRY INTO ALLEGATIONS OF PAYROLL MALADMINISTRATION AT THE COUNTY ASSEMBLY OF EMBU FOR THE PERIOD JULY 2013 TO MARCH 2014

EACC commenced investigations in this matter following a report stating that "ghost workers" had been inserted into the payroll of the County Government of Embu.

Investigations have established that the County Assembly Service Board (CASB) resolved to appoint employees at ward offices. These employees were selected and recommended by the MCAs. There is no evidence to demonstrate that any of the employees mentioned were personally known to the various MCAs. It has been established that the staff attended work during the said period. The staff payroll for the employees reflect the distribution of the employees across various wards and also show their respective designation, salaries and other identification details across various wards. It was also established that CASB made direct employment of two employees who were issued with letters of appointment and worked at the County Assembly Offices. The allegations of maladministration were therefore not established.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the investigation file be closed.

On 22nd August, 2017 the DPP accepted the recommendation for closure of the inquiry file.

45. CR. 148/06/2017 ACC NO. 4/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO TRAFFIC OFFICERS AT THE MAKUYU- THIKA ROADBLOCK ALONG THIKA NAIROBI HIGHWAY

Investigations have established that a team of between four and six police officers led by an inspector would stop vehicles at an erected road block, approach the driver's side of the vehicle and pick out money from the driver and/or the conductor without inspecting the vehicle. An operation was conducted where police officers were arrested with money stacked in polythene bags. It was established that the money was bribes collected from motorists. A total of Kshs. 34,000/= was recovered. There was evidence from video clips showing that the suspects took the money from motorists.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the suspects had already been charged with dealing with suspect property contrary to section 47(2)(a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act No. 3 of 2003 as well as abuse of office contrary to section 46 as read with section 48(1) thereof. It was further recommended that the charge sheet be amended to include an alternative count of being in possession of property

suspected to have been unlawfully and inexplicably obtained contrary to section 323 of the Penal Code.

On 1st August, 2017 the DPP accepted the recommendation for prosecution.

46. EACC/EL/INQ/107/2015

INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT BY THE BUSIA GOVERNOR

Investigations have established that the suspect's secretary received a pen holder from the marketing team of the Hotel Itoya. The gift was worth Kshs. 2,500/=. It was also established that the gift was brought to the suspect in his official capacity as the Governor and which gift he was allowed by the law to accept. Further, the value of the gift was below Kshs. 20,000/= hence he was not required to surrender it as per Rule 5(2) of the Leadership and Integrity Rules (LIR). Further, the Regulations came into effect on 2nd February 2015 while the gift was received in January 2015.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that based on the evidence and the provisions of the law, the inquiry file be closed. It was also recommended that, the EACC, in furtherance of its mandate should issue an advisory to the Busia County Government on the provisions of Rules 5(4), 6 and 12 of the Leadership and Integrity Regulations (LIR) on gift registers.

On 24th August, 2017 the DPP returned the inquiry file and advised that this inquiry file be merged with the main inquiry file No. EACC/FI/INQ/109/2015 and be resubmitted to enable him to make a holistic decision thereof.

47. EACC/OPS/INQ/10/2017

INQUIRY INTO ALLEGATIONS OF BRIBERY ALLEGATIONS AGAINST A POLICE OFFICER ATTACHED TO KILIMANI POLICE STATION

Investigations have established that a warrant of arrest had been issued against the complainant's employer. Investigations have established that the suspect informed the complainant that he was not the one who was going to execute the warrant but if he was the one, perhaps he would have asked for Kshs. 10,000/=. However, since he would not be executing the warrant, he preferred that the complainant discuss the issue with the executing officer. It was established that in the absence of an express demand from the suspect, he cannot be said to have requested for a financial advantage.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the evidence does not support the allegations against the suspect but discloses a violation of sections 9(a) and (c) of the Public Officers Ethics Act and thus administrative action be taken against him

On 3rd August, 2017 the DPP accepted the recommendation for administrative action.

48. 831/890/2016 FC NO. 6/2016 EACC/OPS/164/2016

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF INSPECTOR OF OCCUPATIONAL SAFETY AND HEALTH OFFICER, TRANS NZOIA COUNTY

Investigations have established that three individuals (the complainants) were charged in Kitale Criminal Case No. 2442/2016 for failing to comply with an improvement notice from the Occupational Safety Health Office. The complainants sought for an out of Court settlement but the suspect solicited for a bribe of Kshs. 400,000/= so that the matter could be settled by withdrawing the criminal case. Investigations further established that the suspect took advantage of his position to intimidate the complainants.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that there was sufficient evidence to sustain the charges of corruptly soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 in the matter that was already pending in Court.

On 2nd August, 2017 the DPP accepted the recommendation for prosecution.

49. EACC/PI/INQ/07/2013

INQUIRY INTO ALLEGATIONS OF FINANCIAL MISMANAGEMENT BY THE FORMER CHIEF EXECUTIVE OFFICER (CEO) EXPORT PROCESSING ZONES AUTHORITY (EPZA)

Investigations have established that the suspect was being interviewed he presented a Degree Certificate as well as a Masters Degree Certificate from Belford University. It was further established that the Commission of Higher Education does not recognize the two Certificates as the said University was not accredited in Kenya. It was also established that the suspect had accumulated salary advances amounting to Kshs. 7,709,866.70/=. This was contrary to the EPZA staff rules and regulations that

stated that in special circumstances a salary advance may be granted at the discretion of the CEO provided the repayment period does not exceed 12 months and the net balance of the employees' total earnings will not be less than one third of the employee's total earnings. He had also not surrendered imprests amounting to Kshs. 960,659.19 Investigations established that the suspect used his office as the CEO of EPZA to improperly advance himself the salary and failed to pay it.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that the suspect be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003 with an alternative count of unlawful acquisition of public property contrary to section 45(1) as read with section 48 (1) of the Anti- Corruption and Economic Crimes Act, 2003. The Commission further recommended that it will institute civil proceedings against the suspect for the recovery of the amounts that he owes EPZA in form of salary advances, excess salaries and unsurrendered imprests.

On 18th August, 2017 the DPP accepted the recommendation for prosecution.

50. EACC/KIS/OPS/INQ/1/2017

INQUIRY INTO ALLEGATIONS THAT A MOTORIST OFFERED A BRIBE TO A NATIONAL TRANSPORT AND SAFETY AUTHORITY OFFICER TO FORBEAR BEING CHARGED WITH A TRAFFIC OFFENCE AND TO SECURE HIS RELEASE

EACC planned a joint operation with the National Transport and Safety Authority (NTSA). The operation targeted drunk drivers who were to offer/give financial advantage to NTSA Officers as an inducement to avoid being tested and charged with drunk driving offences.

Investigations established that the suspect, being a conductor with Transline Classic Bus Company was arrested for not being in possession of a PSV badge as required by the law and his vehicle was temporarily detained. The suspect then approached an NTSA officer and offered to give him Kshs. 2,000/= which was indeed handed over to him as witnessed by other officers who were in the operation.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that there was sufficient evidence to charge the suspect with two counts giving a bribe contrary to section 5(1) as read with section 18(1) and (2) of the Bribery Act.

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

51. EACC/OPS/INQ/157/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE ASSISTANT CHIEF, HURUMA SUB LOCATION IN MATHARE WARD AND THE SENIOR CHIEF HURUMA LOCATION, STAREHE WARD

EACC commenced investigations in this matter after receiving a report alleging that the Assistant Chief, Huruma Sub Location solicited for a benefit of Kshs. 10,000/= from the complainant as an inducement so as to return confiscated construction materials.

Investigations established that after the complainant's building materials were confiscated, the suspect solicited for Kshs. 10,000/= from him so that she could return the same. It was further established that the Senior Chief asked the complainant to apologize to the suspect (the Assistant Chief) so that the confiscated construction materials could be released. The materials were recovered from the Senior Chief's office. The evidence obtained showed that the suspect (Assistant Chief) solicited for a bribe as an inducement so as to release the complainant's materials. There is no evidence available linking the Senior Chief to the bribe demand because he only asked the complainant to apologize to the Assistant Chief (suspect).

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that there was sufficient evidence to charge the Assistant Chief with two counts of corruptly soliciting for a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003.

On 22nd August, 2017 the DPP accepted the recommendation for prosecution.

52. EACC/GSA/EL/INQ/4/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROMOTION OF STAFF BY GARISSA COUNTY PUBLIC SERVICE BOARD

It was established that after an advertisement in the Daily Nation, the Chief Officer Health (suspect) appointed various persons as Deputy Directors for various Departments in the Ministry of Health. It has been confirmed that the law provides that the positions should have been created by the County Public Service Board. The suspect admitted that she created the positions by herself and not the Board. This was contrary to the County Government Act.

A report was compiled and forwarded to the DPP on 5th July, 2017 recommending that there was sufficient evidence to charge the suspect with seven counts of abuse of office contrary to section 46 as read with section 48(1) of the Anti- Corruption and Economic Crimes Act, 2003, providing false information to the Garrissa County Public Service Board contrary to section 46(1)(d) as read with section 46 (2) of the Anti- Corruption and Economic Crimes Act, 2003, and deceiving principal contrary to section 41 as read with section 48(1) of the Anti- Corruption and Economic Crimes Act No. 3 of 2003.

On 6th September, 2017 the DPP accepted the recommendation for prosecution

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	52
No. of files recommended for prosecution	42
No. of files recommended for administrative or other action	3
No. of files recommended for closure	7
No. of files recommended for prosecution and the cases are already lodged before Court	17
No. of files where recommendation to prosecute accepted	38
No. of files where recommendation for administrative or other action accepted	3
No. of files where recommendation for closure accepted	6
No. of files returned for further investigations	4
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	1
No. of files awaiting Director of Public Prosecutions' action	0

Dated at Nairobi this 18TH Day of DECEMBER 2017

For: *Depreciated*
 ARCHBISHOP (RTD) ELIUD WABUKALA
CHAIRPERSON
 /dm

[Signature]
 HALAKHE D. WAQO, CBS, MCI Arb
SECRETARY/CHIEF EXECUTIVE OFFICER