



REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION TO THE LEGAL AFFAIRS AND HUMAN RIGHTS COMMITTEE OF THE SENATE ON INVESTIGATIONS RELATING TO ALLEGATIONS OF CORRUPTION WITHIN THE COUNTIES.

**COMMITTEE ROOM 4
MAIN PARLIAMENT BUILDINGS**

=====

WEDNESDAY

14TH DECEMBER, 2016

=====

REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION TO THE LEGAL AFFAIRS AND HUMAN RIGHTS COMMITTEE OF THE SENATE ON INVESTIGATIONS RELATING TO ALLEGATIONS OF CORRUPTION WITHIN THE COUNTIES.

Background

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Commission Act of 2011. The Act was enacted pursuant to the requirements in Article 79 of the Constitution.

The mandate of the Commission is to combat corruption and economic crime in Kenya through law enforcement, prevention, public education and promotion of ethical standards and practices. Apart from the Act aforesaid and the constitutional mandate conferred on it specifically in enforcement and ensuring compliance with chapter Six of the Constitution, the Commission also derives its statutory mandate from a number of other statutes namely, the Anti-Corruption and Economic Crimes Act of 2003, the Leadership and Integrity Act, 2012 and the Public officer Ethics Act, 2003.

This is a report to the Legal Affairs and Human Rights Committee of the Senate on matters that have been handled by EACC in the exercise of its mandate, relating to or touching on Counties. It is submitted pursuant to a written request by Legal Affairs and Human Rights Committee vide letter Ref: S/SLA/CORR/2016(024) dated 30th November, 2016.

The Commission is currently investigating two hundred (**200**) cases in **26** County Governments. The Report covers major cases pending in Court, preventive mechanisms and public education exercises that are geared towards promoting ethical standards and practices:

PART ONE: INVESTIGATIONS

1. Cases Pending in Court.

Out of the **910** persons charged in Court, **221** persons are in relation to cases on corruption and economic crimes within the Counties. The number comprise of county governments officers, private persons, companies and directors.

In summary, some of the highlights of Public officers charged are:-

- **Governors** – **Two** Governors already charged and **Two** awaiting rulings on Applications filed in the High Court;

- **County Executive Committees – Six** cases involving members of the CEC (**2** Convictions and **4** cases pending before the courts).
- **County Secretaries – Six** cases involving County Secretaries are ongoing.
- **County Assembly Speakers – Three** cases of involving Speakers of County Assemblies are at various stages of prosecution.

A detailed summary of the cases that the Commission is handling in respect to or touching on Counties is herewith attached.

A. SUMMARY REPORT ON COUNTY GOVERNMENT OFFICERS CHARGED IN COURT

S/NO	NAMES	DESIGNATION
A. Governors Charged in Court		
1.	Godana Adhi Doyo	Governor, Isiolo County
2.	Nathif Jama Adan	Governor, Garissa County
B. Governors with recommendations for Charges but awaiting High Court Ruling		
1.	Mwangi Wa-Iria	Governor Muranga County
2.	Alfred Mutua	Governor Machakos County
C. County Executive Committee		
1.	Tioko Logiron	County Executive Member for Roads, Turkana County Government
2.	Kennedy Mukhwana Simiyu	County Executive Member for Finance, Trans Nzoia County Government
3.	Nicholas Ngeno	County Executive Member for Lands Housing and Physical Planning, Kericho County Government
4.	John Maina Mwangi	County Executive Member for Finance Lands & Infrastructure, Nyeri County Government (Already Convicted)
5.	Mr Martin Wamwea	County Executive Committee Member-Agriculture, Fisheries & Cooperative Development, Nyeri County Government (Already Convicted)
6.	Dr. Stanley Kiplagat Cheruiyot	County Executive Member for Roads and Infrastructure, Bomet County
D. County Secretaries		
1.	Irene Wanjiru Kamau	Former Interim County Secretary, Machakos County
2.	Francis Kii Mwaka	County Secretary, Machakos County
3.	Rael Mumo	Ag. County Secretary, Makueni County Government
4.	Lorna Margaret Kariuki	County Secretary, Embu County Government
5.	Lilian Ndegwa	County Secretary, Nairobi City County
6.	Jonathan K. Soi	County Secretary, Bomet County
E. County Assembly Speakers		
1.	Ann Adul	Speaker, Kisumu County Assembly(acquitted but DPP has filed an appeal)
2.	Albert Kocheil	Speaker, Elgeyo Marakwet

3.	David Lemantile	Deputy Speaker, Isiolo County Assembly
-----------	-----------------	--

B. COUNTIES WHERE OFFICERS HAVE BEEN CHARGED IN COURT

NO	COUNTY GOVERNMENT EXECUTIVES
1.	Turkana
2.	Machakos
3.	Embu
4.	Nyamira
5.	Marsabit
6.	Nairobi
7.	Bomet
8.	Narok
9.	Uasin Gishu
10.	Kilifi
11.	Makueni
12.	Trans Nzoia
13.	Isiolo
14.	Kisumu
15.	Meru
16.	Muranga
17.	Garissa
18.	Kiambu
19.	Nyadurua
20.	Nyeri
	COUNTY ASSEMBLIES
1.	Machakos County Assembly
2.	Trans Nzoia County Assembly
3.	Vihiga County Assembly
4.	Migori County Assembly

C. HIGHLIGHTS OF CASES BEFORE COURT CONCERNING COUNTY GOVERNMENTS

County	Allegations	Suspects
1. Machakos County Government	<p>CF. ACC11/2015 CR. 11/2015 Inquiry into an allegation of irregular purchase of 14 vehicles, Subaru Model for all County Executive Committee members Machakos, through single sourcing, overpricing and older than allowed, when purchasing Government vehicles during financial year 2013/2014</p>	<ol style="list-style-type: none"> 1. Irene Wanjiru Kamau – Former Interim County Secretary, Machakos County 2. John Mwirichia – Procurement Manager, Machakos County 3. Mwengi Mutuse – Chief of Staff in the Office of the Governor 4. Joshua Kipkemboi Sitienei – Director, Administration & Planning 5. Francis Kiio Mwaka – County Secretary, Machakos County
	<p>CF. ACC. 3/2014 CR. 440/532/2014 Inquiry into allegations of construction of a perimeter wall around the County Assembly offices at an exaggerated amount of KShs 29 million.</p>	<ol style="list-style-type: none"> 1. Mr. Meria Peter Wakaba 2. Mr. Mbatha Peter Muema 3. Mr. Kivelenge Peter Kioko 4. Mrs. Muinde Theresia Ngina 5. Mr. Nzioka Jonathan Mulayta 6. Mrs. Kimote Evelyne Munyiva 7. Miss. Wangai Nancy Wambui 8. Mr. Makau Raphael Ian 9. Mr. Musyoka Nicholas Munyao 10. Mr. Njuguna Charles Kinyajui
2. Makueni County Government	<p>ACC 10/2015 CR 431/157/2015 Allegation that the Kikima Dairy Milk processing project was implemented without following proper procurement procedures and exceeded the budget set by the County Government and such is a ghost project</p>	<ol style="list-style-type: none"> 1. Alex Kyallo Mutuku – Director Supply chain Management, Makueni County Government 2. Rael Mumo – Ag. County Secretary, Makueni County Government 3. Dianah Nduku Muli – Director, Tourism services, Makueni County Government 4. Justus Nzioki Suka – Director, Financial Accounting Services, Makueni County Government 5. Mary Mumbua – Ag. Chief Officer, Agriculture , Livestock and Food Security, Makueni County Government 6. Martin Mwendwa Kitavi – Director, Transport & Infrastructure 7. Daniel Nguyi Mututa – Chief Officer, Water , Irrigation and Environmental Department

	County	Allegations	Suspects
			8. Augustine Musyoki Kitheka – Chief Officer Education
3.	Trans Nzoia County Government	CF. 3/2015 ELDORET CR. 811/436/2015 Inquiry into allegations of corruption and misappropriation of public funds in the tender to renovate the house of the County Assembly Speaker and tender to erect a perimeter wall around the house of the Speaker, Trans - Nzoia County Assembly.	1. Vitalis Simiyu Wafula – Head of Procurement, Trans-Nzoia County Government 2. Sammy Simiyu Okema- Foremer Interim Clerk, Trans-Nzoia County Government
		CF. ACC. 05/2015 CR.811/479/2015 Inquiry into allegations of irregular award of tender for the renovation of Kenyatta Stadium, Kitale by the County Government of Trans-Nzoia to West End Company for KShs. 68 million	1. Vitalis Wafula Kamwesa - Procurement Officer 2. Benjamin Ruto Timitim - County Architect 3. Robert Simiyu Wambulwa – Director/Proprietor, Koyi Buildings Contractor 4. Joseph Muindi Tevulo - Interim Head of Supplies Chain Management 5. Richard Nyongesa Ngoni -Interim Chief Finance Officer 6. Mark Mulunda Khamila - District Works Officer
4.	Kisumu County Government	CR. 032/11/2015 CF 2/2015 Inquiry into allegations of an irregular award of contract to Factor Connect Limited and payment of KShs. 15,400,000/= a the Kisumu County Assembly	1. Anne Atieno Adul - Speaker County Assembly, Kisumu County 2. Nelco Masanya Sagwe – Clerk County Assembly, Kisumu County 3. Samwel Onyango Ongow – Majority Leader Kisumu County Assembly 4. Edwin Philip Anayo – Minority Leader Kisumu County Assembly 5. Margaret Mbuya Jobita – Member of the Kisumu County Assembly Board 6. Samuel Otieno Odera – Director, Factor Connect Ltd 7. Mildred Miriam Omondi - Director, Factor Connect Ltd 8. Elijah Adul – Spouse to the Speaker of Kisumu County Assembly 9. M/s Factor Connect Ltd

	County	Allegations	Suspects
5.	Turkana County Government	<p>CR. 822/255/2015 CF. 4/2015 Inquiry into allegations of full payment by Turkana County Government for work not done in respect of rehabilitation of Kaputir-Loyapakainuk Road (amounting to overpayment of KShs 9,023,711)</p>	<ol style="list-style-type: none"> 1. Tioko Logiron – CEM, In charge of Roads & Public Works 2. Lawrence Lolli Angela –Superintendent Roads, Minister, Turkana County 3. Rhoda Ekares Nanyangae – Director, Nadome Construction 4. Joseph Elmi Juampili – Manager, Nadome Construction Company 5. Amos Ekitela Ewoi – Bank Signatory, Nadome Construction Company 6. M/s Nadome Construction Company Limited
6.	Nyamira County Government	<p>CF. 462/15 CR. 651/196/15 Inquiry into allegations that Nyamira County Assembly irregularly procured and awarded Medical insurance covers for members of the County Assembly on single sourcing and at an inflated rate of KShs. 30,000,000.00</p>	<ol style="list-style-type: none"> 1. Duke Simon Onyari-Ag. Clerk 2. Nehemiah Nyambuto - Member of the County Assembly Tendering Committee 3. Silvanus Nyamoro -Member of the County Assembly Tendering Committee 4. Enick Omwenge- Member of the County Assembly Tendering Committee 5. Peninah Kerubo- Member of the County Assembly Tendering Committee 6. Erick Ayuka- Member of the County Assembly Tendering Committee 7. Robert Nyasato- Member of the County Assembly Tendering Committee 8. Simon Onyari- Member of the County Assembly Tendering Committee
7.	Embu County Government	<p>CF No. ACC 1 of 2015 CR No. 411/87/2015 Inquiry into allegations that the Embu County Secretary and three other County officials awarded contracts for the rehabilitation of the Embu Municipal Stadium without following the applicable procurement procedures.</p>	<ol style="list-style-type: none"> 1. Lorna Margaret Kariuki – County Secretary, Embu County Government 2. Purity Wanyaga – Procurement Officer 3. Anthony Kibuchi- Works Officer 4. David Kiseli – Works Officer 5. Lydia Muthoni Posho 6. Gension Mureithi 7. Mumu General Suppliers

	County	Allegations	Suspects
8.	Nyeri County Government	CF No. ACC 3 of 2015 CR No. 255/268/2015 Inquiry into allegations of irregular procurement of Technical Sudit Services from Pleng (K) Limited by the County Government of Nyeri	<ol style="list-style-type: none"> 1. John Maina Mwangi – CEC – Lands & Infrastructure 2. Martin Kanjuaigwa Wamwea – CEC Finance Economy & Planning 3. Simon Wachira Kagiri – Chief of Staff 4. James Maina Kiambigi - Contractor
9.	Garissa County Government	EACC/GSA/FI/INQ/01/2014 Inquiry into alleged irregular leasing ambulance services by Garissa County Government from Emergency (EPLUS) Medical Services Ltd A company Fully owned by the Kenya Red Cross	<ol style="list-style-type: none"> 1. Hon. Nathif Jama Adan 2. Muhamud Aden Bare 3. Abdi Sahal Ali 4. Mohammed Hassan Muhamud 5. Sophia muhamed Ahmed 6. Mohamed Hassan 7. Jawahir Keynan 8. Rahma Dekow
10	Nairobi City County Government	EACC/AT/INQ/3/2015 Inquiry into allegations of abuse of office against top Nairobi County officials – County Secretary Lilian Ndegwa, Chief Officer Finance Jimmy Kiamba, head of Treasury Stephen Osiro, Head of budget Regina Kiruri nad secretary to Chief officer finance Regina Chepkirui	<ol style="list-style-type: none"> 1. Lilian Ndegwa – County Secretary, Nairobi City County 2. Jimmy Kiamba – Chief Finance Officer, Nairobi City County 3. Stephen Osiro – Head of Finance, Nairobi City County 4. Regina Kiruri – Head of Budget, Nairobi City County 5. Regina Chepkirui -
11	Murang’a County Government	EACC/EL/INQ/8/2014 Inquiry into allegations that Wa-iria Mwangi swore a false declaration in the Self Declaration form submitted to the Commission on 11th December 2012	Hon Mwangi Wa-iria – Governor, Murang’a County
12	Isiolo County Government	EACC/NYR/FI/INQ/08/2014 An Inquiry into allegation embezzlement/misappropriation of public funds at Isiolo County Government (Procurement of empty branded gunny sacks/bags).	<ol style="list-style-type: none"> 1. Charles Gachihi Mungai, Interim Head of Procurement, Isiolo County 2. Humphrey Aaron Githuki Maina – Chairperson, Tender Standing Committee
		EACC/ISL/INQ.03/2015 An inquiry into allegations of irregular supplementary appropriation Act, 2014 alleged	<ol style="list-style-type: none"> 1. Godana Adhi Doyo – Governor Isiolo 2. David Lemantile 3. Boru Adan Jirima 4. Abdi Sora

	County	Allegations	Suspects
		to have been passed by the County assembly of Isiolo on 11 th December, 2014	
13	Vihiga County Government	EACC/KSM/FI/INQ/37/2015 Inquiry in respect of allegations of obstruction against the Clerk of the Vihiga County Assembly Mr. Joseph Alusiola Musambayi and the Vihiga County Assembly Senior Accountant Peris Livanga Odari	<ol style="list-style-type: none"> 1. Josephat Alusiola Musambayi 2. Peris Livanga Odari
14	Elgeyo Marakwet County Government	EACC/ELD/FI/INQ/04/2014 Allegations that the Elgeyo Marakwet County Speaker Mr. Albert Kochei took allowances and purported to have travelled to Atlanta, America something that never was.	Albert Kochei - Elgeyo Marakwet County Speaker
15	Kericho County Government	EACC/ELD/FI/INQ/09/2014 Inquiry into allegations of misappropriation of over Khs. 28 million in paying for uncompleted/undone work at the Langas Market by Kericho County Government for Lands Housing and Physical Planning Mr. Nicholas Ngeno	<ol style="list-style-type: none"> 1. Nicholas Ngeno 2. Jackson Mutua 3. Fredik Ojwang 4. Ruth Otanga
16	Bomet County Government	EACC/NKR/FI/INQ/27/2015 Inquiry into allegations of abuse of office/failure to comply with the law/applicable procedures and guidelines relating to procurement/tendering of contracts/management of public funds or incurring of expenditure in the procurement of lease of ambulance services for the Bomet County government	<ol style="list-style-type: none"> 1. Dr. Stanley Kiplang'at Cheruiyot 2. Rose Chepkurui Kositany 3. Coran Chepkoech 4. Philip Cheruiyot 5. Joel Kiprut arap Kosgei 6. Michael Kiplagat Cheruiyot 7. Chirchir Kipkoech Ezekiel 8. Bernard Kipkorir Kosgei 9. John Cheruiyot Rono 10. Kingetichi Sammy Kirui 11. Peter Kipgetich Rotich 12. Chris Kipkoech Magerer 13. Bernard Kipgeno Chirchir 14. Purity Nzuki 15. Jonathan K. Soi – County Secretary

County	Allegations	Suspects
17 Migori County Government	EACC/KSM/FI/INQ/09/2014 Inquiry into allegations that the Migori County Government irregularly awarded a contract to Speedway Technical Company Limited for the supply of water pipes through single sourcing and made a payment of Kshs. 7,004,500.00 before delivery of pipes	<ol style="list-style-type: none"> 1. Elekia Ochola Odari – Head of Supply Chain Management 2. George Asiyo Amenity - County Director Water 3. Dan Odhiambo – County Deputy Director Water

PART TWO: PREVENTION OF CORRUPTION IN THE COUNTIES

S/No.	Activity	Date
Part I: Completed Corruption Risk Assessment (CRA) Reports presented		
1.	Presentation of the Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures and Practices of Kericho County Executive and Assembly.	The reports were presented to the Governor and Speaker of the County Assembly at a function held in Kericho Town on 13th September, 2016.
2.	Presentation of the Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures and Practices of Kisii County Executive and Assembly.	The reports were presented to the Governor and Speaker of the County Assembly at a function held in Kisii County Assembly Hall on 14th September, 2016.
3.	Presentation of the Report on Corruption Risk Assessment (CRA) into the Systems, Policies, Procedures and Practices of Kwale County Executive.	The report was presented to the Governor at a function held in Ukunda (Kwale County) on 9th November, 2016.
4.	Presentation of the Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures and Practices of Laikipia County Executive and Assembly.	The reports were presented to the Governor and Speaker of the County Assembly at a function held in Laikipia County Assembly Hall (Nanyuki Town) on 15th November, 2016.
5.	Presentation of the Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures	The reports were presented to the Governor and Speaker of the County Assembly at a function held in Kathwana Town on 30th November, 2016

	and Practices of Tharaka Nithi County Executive and Assembly.	
Part II: CRA Reports Pending Presentation		
1.	Presentation of the Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures and Practices of Nyeri County Executive and Assembly.	The reports will be presented to the Governor and Speaker of the County Assembly at a function to be held in Nyeri Town on 15th December, 2016
2.	Presentation of the Report on Corruption Risk Assessment (CRA) into the Systems, Policies, Procedures and Practices of Vihiga County Assembly.	The report will be presented to the Speaker of the County Assembly at a function to be held in Mbale Town on 26th January, 2017.
3.	Presentation of the Report on Corruption Risk Assessment (CRA) into the Systems, Policies, Procedures and Practices of Kilifi County Executive	The report will be presented to the Governor at place and date to be agreed with between EACC and the County Executive.
Part V: CRA Reports Currently Under Development		
	Reports on Corruption Risk Assessments (CRAs) into the Systems, Policies, Procedures and Practices of: <ol style="list-style-type: none"> 1) Busia County Executive and Assembly; 2) Homabay County Executive and Assembly; 3) Kajiado County Executive and Assembly; 4) Kitui County Executive and Assembly; 5) Samburu County Executive and Assembly; 6) Trans-Nzoia County Executive and Assembly; and 7) Bungoma County Assembly. 	

Major highlights/ findings of the Examination and CRA Reports

a) Financial Management

- Lack of Fixed Assets Registers – almost all the assessed County Executives and County Assemblies do not have comprehensive Fixed Assets Registers.
- Lack of title deeds and log books for assets owned by the County Executives and Assemblies. For example in Kwale, Tharaka Nithi and Laikipia County Executives;

- Use of manual systems that may lead to misappropriation of Revenue;
- Use of casual employees in revenue collection;
- Failure to maintain some important books of accounts, and in some cases where they are maintained they are not promptly updated;
- Unsupported payment vouchers. For example in Tharaka Nithi CE, Kisii County Executive among others. In Kisii CE, A payment to a contractor for the construction of Kiogoro washrooms of Kshs: 1,000,000 paid on 25th September, 2014 lacked the approved requisition to procure, invoice and the level of completion certificate in the same CE A payment to Geosan Enterprises of Kshs: 49,920 paid on 24th September, 2014 for the supply of DSTV services/goods lacked the tender award document, inspection and acceptance certificate, contract/LPO document, goods received note and delivery note.
- Delay in surrender of imprests and in some cases issue of multiple imprests to staff contrary to the provisions of the Public Finance Management (County Government) Regulations, 2015. This was a common finding in most of the assessed County Executives and Assemblies.
- Lack of Audit Committees. E.g. in Kwale County Executive at the time of the assessment, the audit committee consisted of the Deputy Governor as chair and some member of the CEC as members. In Tharaka Nithi and Kilifi County Executives, the Audit Committees had not been established at the time of the assessment

b) Procurement

- Use of contractors and suppliers who have not been prequalified by the County Executive and Assemblies;
- Lack of an effective mechanism for inspection and acceptance of delivered items which may lead to fictitious payments;
- Weak stores management / control procedures;
- Failure to disclose evaluation criteria in the bid documents, which may lead to biased award of Tenders.

c) Human Resource Management

- Haphazard recruitment of staff
- Interference by MCAs in recruitments
- So many casual employees inherited from defunct Local Authorities

Summary of Preventive Services Achievements in 2015/2016

- Corruption Risk Assessments (CRAs) were conducted for 13 County Governments (Executive and Assemblies) with the aim of identifying and profiling Corruption Risks in public institutions and advising on the strategies that should be implemented to mitigate the identified risks.
- Trained 1,878 County Governments Officials from the 47 counties on anti-corruption, ethics and integrity.
- Provided 1,370 advisories to 265 public institutions under the Performance Contracting (PC) framework
- Established Integrity clubs in 398 Schools across 17 counties in Kenya
- Conducted county anti-corruption outreach programmes in 4 counties thereby reaching over 260,000 people;
- Conducted County Public Education Forums in four Counties covering 347 participants.
- Trained 910 Integrity Assurance Officers (IAOs) and 1,440 Corruption Prevention Committees (CPCs) members;
- Trained 1,118 participants drawn from Faith Based Organizations;
- Trained 100 Community Based Anti-corruption Monitors (CBAMs).
- Reached approximately 39,000,000 listeners across the country through local FM stations
- A total of 124,650 assorted IEC materials were disseminated.