

THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE 2<sup>ND</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> APRIL, 2018 TO 30<sup>TH</sup> JUNE, 2018

## **PREAMBLE**

The Ethics and Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), 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 of ACECA 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 ACECA. The report covers the Second Quarter and is for the period commencing 1<sup>st</sup> April, 2018 to 30<sup>th</sup> June, 2018.

## INVESTIGATION REPORT COVERING THE PERIOD 1<sup>ST</sup> APRIL 2018 TO 30<sup>TH</sup> JUNE, 2018

### **1. EACC/NYR/FI/INQ/07/2015**

#### **INQUIRY INTO ALLEGATIONS OF BREACH OF PROCUREMENT LAWS BY OFFICERS AT THE COUNTY GOVERNMENT OF NYANDARUA.**

Investigations revealed that there was an agreement between the County Government of Nyandarua and a private entity for the supply of clean water and sewage services. However, there were procurement irregularities in the procurement of this service. Further, the subject project was not in the procurement plan for the financial year 2013/2014.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 22<sup>nd</sup> May, 2018 recommending that the suspects, the former Governor and the County Government officials be charged with the following offences under the Anti-Corruption Commission and Economic Crimes Act, No. 3 of 2003 (ACECA) namely: Willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48; Engaging in a project without prior planning contrary to section 45(2) (c) as read with section 48; Abuse of office contrary to section 46 as read with section 48 and willful failure to comply with the law relating to the management of funds contrary to section 45(2) (b) as read with section 48.

On 17<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

### **2. EACC/NKR/INQ/E/09/2015**

#### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST A MEMBER OF PARLIAMENT (MP) IN ACQUISITION OF PROPERTY.**

Investigations revealed that by virtue of his office, the MP fraudulently acquired possession and ownership of a plot in collusion with officers at the Ministry of Lands, Nakuru Registry. By a sale agreement dated 30<sup>th</sup> July 2010 a businessman bought two plots No. Nakuru Municipality Blocks 6/94 and 6/95 for Kshs. 12 million and was issued with a Certificate of Lease by the Land Registrar.



By using falsified records, officials at the Lands Registry transferred Plot No. Nakuru Municipality Block 6/95 registered in favour of the businessman to two other buyers before the said plot was purportedly sold to the MP. As a result, both the MP and the businessman laid claim on the ownership of the plot. Evidence indicate that the purported vendor who sold the plot to the MP did not own the plot neither did he transfer ownership of the said plot to the MP.

A report was compiled and forwarded to DPP on 22<sup>nd</sup> May, 2018 recommending that the suspects, the MP and others be charged with the following offence under ACECA namely Abuse of office contrary to section 46 as read section 48 and for offences under Land Registration Act (LRA) namely: Fraudulently procuring issuance of a certificate of ownership contrary to section 103 (1) (c) (i) and Fraudulently procuring the making of entries into an instrument relating to land contrary to section 103 (1) (c) (ii).

He was charged for offences under the Penal Code namely: willfully obtaining Registration of transfer of lease by false pretenses contrary to section 320; knowingly uttering a false document with intent to deceive contrary to section 357(b); knowingly permitting an entry in which in any material particular is to his knowledge false, to be made in the register or record contrary to section 361 of the Penal Code.

The MP was also charged for an offence under Leadership and Integrity Act (LIA) namely, knowingly misleading EACC investigators undertaking their duties under the LIA contrary to section 46(1) (1) (b) as read with section 46(2).

On 6<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

### **3. EACC/FI/INQ/NO/102/2016**

#### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS BY THE COUNTY GOVERNMENT OF SIAYA THROUGH PURCHASE OF AIR TICKETS FOR FAMILY AND FRIENDS OF THE GOVERNOR.**

Investigations established that the County Government of Siaya, on instructions of the Governor of the said county, paid for the air tickets for his family members and friends



in the financial years 2013/2014, 2014/2015 and 2015/2016. This was contrary to the provisions of the Public Finance Management Act and Regulations thereunder.

A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2018 recommending that the governor and the officers at the County Government be charged with the following offences under ACECA: Unlawful acquisition of a benefit contrary to section 45(1) (a) as read with section 48 and Abuse of office contrary to section 46 as read with section 48(1).

On 7<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

#### **4. EACC/MLB/FI/INQ/02/2015**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND ENGAGEMENT IN UNPLANNED PROJECTS AGAINST OFFICIALS AT BUSIA COUNTY GOVERNMENT IN THE ACQUISITION OF INTERGRATED SOLID WASTE MANAGEMENT SERVICES FROM MADAM R. ENTERPRISES LIMITED.**

Investigations revealed that the Governor of Busia County Government entered into a Memorandum of Understanding (MOU) with Madam R. Enterprises Limited in a project for solid waste management for Busia County Government. The said project had not been budgeted for in the approved procurement plan for the financial year 2014/2015.

Investigations established that the MOU was fraudulent since the service for solid waste management was not procedurally procured. The Company terminated its services and did not submit a feasibility report yet it had already been paid. This led to a loss of Kshs. 8 million belonging to the County Government.

A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2018 recommending that the suspects, the Governor and other officers of the County Government, be charged with the following offences under ACECA: Abuse of office contrary to section 46 as read with section 48; Conspiracy to commit an offence of economic crimes contrary to section 47 A (3) as read with section 48; Engaging in a project without proper planning contrary to section 45(2) as read with section 48; willful failure to comply with the law relating to management of funds contrary to section 45(2) (b) as read with section 48; fraudulent acquisition of public property contrary to section 45(1)

(a) as read with section 48 and Failure to pay tax contrary to section 45(1)(d) as read section 48 of ACECA.

On 2<sup>nd</sup> July, 2018, the DPP accepted the recommendation for prosecution.

#### **5. EACC/NKR/INQ/78/2015**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND CORRUPT CONDUCT IN HANDLING THE AUTHORITY TO INCUR EXPENDITURE OF FUNDS (AIE) BY THE OFFICER COMMANDING POLICE DIVISION (OCPD), MIRANGINE DIVISION.**

Investigations established that the OCPD was the AIE holder and in charge of processing per diem payment claims for various police officers within his division. He would receive the approved payments in form of a consolidated cheque from the District Treasury which money he would withdraw and distribute to the various officers in accordance to their claims payment vouchers. The officers would sign the payment vouchers upon receipt of the funds claimed. Investigations did not establish abuse of office on the part of the OCPD.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> October, 2017 recommending that the file be closed for lack of evidence. EACC further recommended that a system-audit of the National Police Service(NPS) in regard to handling and processing of officers per diem and reimbursements be undertaken in order to ensure more transparency, accountability and adherence to the relevant laws and regulations.

On 11<sup>th</sup> June, 2018 the DPP accepted the recommendations that the file be closed, and that EACC undertakes a system audit in regard to how NPS handles and processes the daily subsistence allowance given to police officers.

#### **6. EACC. NKR/INQ/FI/42/2016**

##### **INQUIRY INTO ALLEGATIONS OF ENCROACHMENT AND DEVELOPMENT ON A PUBLIC ROAD RESERVE AT LAKE ROAD JUNCTION NEAR GULF PETROL STATION IN NAKURU TOWN BY A PRIVATE DEVELOPER.**

Investigations established that the building (petrol station) erected on the parcel of land which had encroached on the road reserve by an approximate area of 0.02 Ha, belonged to a deceased person and not a former MCA.



A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2017 recommending that the file be closed. EACC Further recommended that an advisory to the Ministry of Lands be issued to inspect and ensure that if there is any encroachment, the same be removed and the portion of the public land secured to avoid future encroachment.

On 11<sup>th</sup> June, 2018, the DPP accepted the recommendation that the file be closed for lack of sufficient evidence.

#### **7. EACC/MSA/INQ/FI/05/2015**

##### **INQUIRY INTO ALLEGATIONS THAT OFFICERS OF THE COUNTY ASSEMBLY OF MOMBASA WERE INVOLVED IN IRREGULARITIES AND BREACH OF PROCUREMENT PROCEDURES.**

EACC commenced investigations following a report that the County Assembly of Mombasa attempted to pay Kshs. 870,000/= to KURI Supplies for goods allegedly delivered to the County Government yet there was no proof of delivery of the said goods. It was further alleged that the tendering process of the suppliers was irregular and unlawful.

Investigations established that procurement officers engaged in falsification of documents to facilitate fraudulent payments for goods that were never received. It was further revealed that there was no procurement plan and that the choice of procurement method, tender evaluation as well as the eventual inspection and acceptance were not properly done.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April ,2018 recommending that the suspects, officers of the County Assembly, be charged with the following offences under ACECA, Public Procurement and Disposal Act (PPDA) and Penal Code respectively namely: willful failure to comply with the applicable law relating to procurement contrary to section 45(2) as read with section 48; Engaging in a procurement without prior planning contrary to section 45(2) (c) as read with section 48 of ACECA; Fraudulent practice in procurement proceeding contrary to section 41(4) as read with section 137 of the PPDA; making a false document contrary to section 347(a) as read with section 357(a) and Engaging in fraud by a person employed in the Public Service contrary to section 127(2) of the Penal Code.



On 13<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**8. EACC/KSM/FI/INQ/34/2017**

**INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AMOUNTING TO KSHS 2,360,000/= BY THE BUNGOMA COUNTY GOVERNMENT OFFICIALS AND THE COUNTY ASSEMBLY MEMBERS.**

Investigations established that the County Secretary conspired with the County Assembly officials in requesting for Kshs. 2,360,000/= through imprest. The County Secretary wrote a letter requesting for members of the Implementation Committee to conduct a fact finding exercise on the County Integrated Development on 19<sup>th</sup> to 30<sup>th</sup> September 2016. The fact finding activity never took place as envisioned by the County Secretary but money was paid.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspects be charged with the following offences: Conspiracy to commit an offence contrary to section 47(A) (3) as read with section 48; Unlawful disposal of public property contrary to section 45(1) (b) as read with section 48(1); Fraudulent acquisition of public property contrary to section 45(1) (a) as read with section 48; deceiving principal contrary to section 41(2) as read with section 48 of ACECA. He was also charged with forgery contrary to section 347 as read together with section 349 and uttering false documents contrary to section 353 of the Penal Code

On 12<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**9. EACC/KSM/921/80/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PROCUREMENT OFFICER BASED AT SIGALAGALA NATIONAL POLYTECHNIC.**

Investigations established that the complainant had been awarded a tender for piping and wiring of the Hospitality Block in the institution at a cost of Kshs. 2.6 million. The complainant alleged that the suspect, a procurement officer, demanded for a bribe of 10% of the awarded sum. EACC conducted a trap operation and it became apparent that the complainant is the one who brought up the issue of payment during the conversation with the suspect therefore the whole recorded conversation looked like an entrapment.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the charges of receiving under the Bribery Act which were already in court against the suspect be withdrawn. It was further recommended that the suspect be subjected to administrative action for breaching Sections 56, 66 and 67 (on corrupt or fraudulent practices and confidentiality) of the Public Procurement and Asset Disposal Act, 2015.

On 11<sup>th</sup> June, 2018 the DPP accepted the recommendation to withdraw the case from court.

#### **10. EACC/FI/INQ/116/2014**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR CONSTRUCTION OF A PRE-FABRICATED BUILDING FOR KSHS.22.5 MILLION AT THE SIAYA COUNTY GOVERNMENT.**

Investigations established that Siaya County Government awarded a tender for pre-fabricated offices at Kshs. 22.5 million without following public procurement laws during the financial year 2014/2015. The tender was awarded to a company at Kshs. 22.5 million, above the budgeted amount of Kshs. 21,671,281/=.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the procurement officers be charged with the offence of conspiracy to commit an offence of economic crime contrary to section 47A (3) and Abuse of office contrary to section 46 as read with Section 48 of ACECA.

On 11<sup>th</sup> June 2018, the DPP accepted the recommendation for prosecution.

#### **11. EACC/FI/INQ/9/2016**

##### **INQUIRY INTO ALLEGATIONS OF CONSPIRACY TO DEFRAUD NAIROBI CITY COUNTY GOVERNMENT OF KSHS. 8,981,943/= BEING PAYMENT OF APPROVAL OF A BUILDING PLAN.**

Investigations established that an officer from the Nairobi City County misled M/s Elephant Real Estate company to deposit Kshs. 6,281,943/= which was part of Kshs. 8,981,943/= into a private bank account held by a junior County Government official as construction approval fee in reference to the construction of a nineteen storey building in Milimani area.



It was established that no money was paid to Nairobi City County Government in respect of the application by Elephant Real Estate Limited. The officials at the Nairobi City County Government informed the complainant that the invoice and receipt he produced purporting to have paid the fees while checking the status of his application were fake.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the suspects be charged with the offences under the Penal Code as follows: conspiracy to defraud contrary to section 317; obtaining by false pretence contrary to section 313; making a false document contrary to section 347 as read with section 349 and uttering a false document contrary to section 353.

On 18<sup>th</sup> June 2018, the DPP accepted the recommendation for prosecution.

## **12. EACC/FI/INQ/109/2015**

### **INQUIRY INTO ALLEGATIONS OF IRREGULAR AWARD OF TENDER FOR INSTALLATION OF SOLAR STREET LIGHTS AND SOLAR MASS IN BUSIA COUNTY AT A TOTAL SUM OF KSHS. 108,817,824.25/=.**

EACC commenced investigations following a report that a company namely Danelec Electrical Services was fraudulently awarded a tender of Kshs. 108,817,824.25 by Busia County Government for solar installation. The investigations established that the money was paid fraudulently to the company's account. The same was transferred to one of the suspect's account and from this account, the money was transferred to NSSF account for the purchase of two houses. One of the houses was purchased for the Governor of Busia County Government at Kshs. 47,000,000/=.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the governor of Busia County Government be charged for the offence of making a false document contrary to section 347 as read with section 349 of the Penal Code; dealing with suspect property contrary to section 47(1) as read with section 48 of ACECA; the director of Danelec Electricals Limited for forgery contrary to section 345 as read with section 349 of the Penal Code; county officers at the procurement department for willful failure to comply with the applicable law relating to incurring



expenditure contrary to section 45(2) as read with section 48 of the ACECA; and engaging in a fraudulent procurement practice contrary to section 41(1) as read with sec 41(4) of PPDA.

On 18<sup>th</sup> May, 2018 the DPP accepted the recommendation for prosecution, however since the file was affected by the decision in the case of *Michael Kamau and Others- vs- Ethics and Anti-Corruption Commission and Others [2016] e KLR*. He ordered that fresh investigations be conducted.

### **13. EACC/OPS/INQ/01/2013**

#### **INQUIRY INTO ALLEGATIONS OF ALLEGED LOSS OF PUBLIC FUNDS THROUGH THE TARMACKING OF KAPTAMA-KAPSOKWONY-SIRISIA ROAD**

Investigations established that the then Chief Engineer, Roads and Permanent Secretary Ministry of Roads and Public Works and other public officials ignored the design for the Kamukuywa-Kaptama-Sirisia Road which had been done by Engiconsulting engineers and the government entered into an MOU with Kundan Singh Construction Limited thus leading a loss of Kshs. 33 million. Further, it was established that the Accounting Officer willfully failed to comply with government financial regulations and procedures.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the Permanent Secretary be charged with the offence of willful failure to comply with applicable procedures and guidelines relating to the management of public funds contrary to section 45(2) as read with section 48 of ACECA ; Abuse of office contrary to section 101 as read with section 102 A of the Penal Code; The Resident Engineer for the offence of abuse of office contrary to section 101 as read with section 102A of the Penal Code and giving a false document to a Principal contrary to section 41 as read with section 48 of ACECA

On 18<sup>th</sup> May 2018, the DPP accepted the recommendation for prosecution.

#### **14. EACC/FI/INQ/112/2014**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULARITIES IN THE TENDERING PROCESS OF LEASING OF MOTOR VEHICLES FOR THE NATIONAL POLICE SERVICE (NPS) TENDER NO. TNT/001/2014-2015.**

EACC commenced investigations into the allegations that there were irregularities in the tendering process of motor vehicles by the National Treasury for the NPS.

Investigations established that there were no irregularities as there was a budget for the leasing of the motor vehicles the method used was approved and the number of vehicles was procedurally increased from 1200 to 1,500.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the inquiry file be closed since there was no evidence of any irregularity in the aforesaid procurement process.

On 30<sup>th</sup> June 2018, the DPP accepted the recommendation for closure.

#### **15. EACC/FI/INQ/103/2016**

##### **INQUIRY INTO ALLEGATIONS THAT THE NATIONAL GOVERNMENT EMBAKASI NORTH CONSTITUENCY FUND COMMITTEE IN THE FINANCIAL YEAR 2014/2015 ALLOCATED KSHS. 32,502,288/= FOR ROADS THAT HAD BEEN CONSTRUCTED BY KENYA RURAL ROADS AUTHORITY**

Investigations established that the National Government Embakasi North Constituency Fund Committee allocated Kshs. 32,502,288/= for the construction of Cinema Road-Dandora Phase 2, Administration Police Road-Dandora Phase 5 and District Officer's Road Dandora Phase 3 which had already been constructed by Kenya Rural Roads Authority. It further established that the said committee allocated Kshs. 8,000,000/= for construction of Maitu Njeri Road a project that was never implemented. Investigations further established infractions in regard to the procurement process.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspects be charged with the following offences under ACECA namely; willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read together with Section 48 and Conflict of interest contrary to section 42 (3) as read with section 48 of ACECA.



On 2<sup>nd</sup> August 2018, the DPP accepted the Commission's recommendation for prosecution.

#### **16. EACC/MLD/INQ/12/2016**

##### **INQUIRY INTO ALLEGATIONS THAT THE COUNTY GOVERNMENT OF TANA RIVER IRREGULARLY AWARDED A TENDER TO SUPPLY ONE HUNDRED COLLAPSIBLE WATER TANKS TO REGIONAL DRILLING AND TRADING LIMITED AT KSHS. 30,000,000/=**

Investigations established that Tana River County Government irregularly awarded a tender worth Kenya Shillings thirty million (Kshs. 30,000,000/=) for purchase of collapsible tanks which was an intervention measure to assist curb the problem of water storage through an unlawful procurement process and that the tender amount was inflated. It was further established that the contractor used forged documents in his bid for the said tender.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that suspects be charged with the following offences under Penal Code, PPADA and ACECA namely; willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read together with Section 48; Conspiracy to commit an offence of Economic Crime contrary to section 47A (3) as read with Section 48(1) of ACECA; fraudulent practice in procurement proceedings contrary to section 66 as read with section 178 (1)(i) of PPADA and uttering a false document contrary to section 353 of the Penal Code.

On 10<sup>th</sup> July 2018, the DPP accepted the Commission's recommendation for prosecution.

#### **17. EACC/ELD/INQ/64/2016**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE, MISAPPROPRIATION OF PUBLIC FUNDS AND MISUSE OF GOVERNMENT MOTOR VEHICLE BY THE DCIO, KEIYO SOUTH POLICE DIVISON.**

Investigations established that the Director of Criminal investigations had advanced the officer money for use in security operations. However, the money was lost on account of paid claims on items that were never bought.



A report was compiled and forwarded to the DPP on 19<sup>th</sup> June 2018 recommending that the suspect be charged with offences under ACECA and Penal Code namely; Abuse of office contrary to section 46 as read with section 48; Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with Sec 48 of ACECA and forgery contrary to sec 349 of the Penal Code.

On 30<sup>th</sup> June 2018, the DPP returned the inquiry file and recommended further investigations.

#### **18. EACC/FI/INQ/21/2015**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF ALLOWANCES TO EMPLOYEES AND NON-EMPLOYEES OF THE NATIONAL INDUSTRIAL TRAINING AUTHORITY(NTA) DURING THE FINANCIAL YEAR 2013/2014.**

Investigations commenced following a report that NITA had irregularly paid allowances amounting to Kshs. 1,189,564/= to employees and non-employees in the financial year 2013/2014.

Investigations revealed that the participants were paid retreat allowance and per diems which payments were in conformity with the directive by the Head of Public Service. The payments were therefore lawful.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June 2018 recommending that the file be closed with no further action.

On 2<sup>nd</sup> July 2018, the DPP accepted the recommendation for closure.

#### **19. EACC/MKS/FI/INQ/2/2015**

##### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS, ABUSE OF OFFICE AND CONFLICT OF INTEREST BY THE PRINCIPAL OF MULU SECONDARY SCHOOL.**

Investigations commenced following a report that Mulu Secondary School had not been audited for a long time. It is further alleged that the school principal was trading with the school, abused his powers as a principal and did not follow procurement rules and procedure when procuring materials for the school.

Investigations revealed that the suspect failed to adhere to the procurement laws and procedures, abuse of office and was in direct conflict of interest as an agent.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the school principal be charged with offences under ACECA namely; willful failure to comply with applicable procedures and guidelines relating to procurement contrary to section 45 (2) (b); Failure to disclose a private interest to one's principal contrary to section 42(1) (a); knowingly making a false statement contrary to section 41 (2) and abuse of office contrary to section 46 as read with section 48 of ACECA.

On 2<sup>nd</sup> July 2018, the DPP accepted the recommendation for prosecution.

#### **20. EACC/PI/INQ/247/2016**

##### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AGAINST GEOTHERMAL DEVELOPMENT COMPANY FOR SINGLE SOURCING OF PARTITIONING WORK AT THE COMPANY'S OFFICES AND PROVISION OF CATERING SERVICES.**

Investigations commenced following a report that Geothermal Development Company had engaged in procurement irregularities by single sourcing and awarding two tenders in respect of partitioning work at the company's offices and provision of catering services.

Investigations established that the re-allocation of funds was to fund a capital expenditure and the project was one of the capital expenditures and hence exempted from the restriction imposed on reallocation of funds in accordance with Section 43 (1) (b) of the Public Finance Management Act, 2012. The investigations established that the tenders were not single sourced as alleged. One tender was procured through open tender while the other was procured using the restricted tendering method.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the file be closed for lack of sufficient evidence.

On 30<sup>th</sup> June, 2018 the DPP returned the inquiry file recommending further investigations.

## **21. EACC/MSA/AT/INQ/1/2017**

### **INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE OF THE KENYA REVENUE AUTHORITY (KRA) RECEIVED PROCEEDS OF CORRUPTION THROUGH HER LULU COMPANY LIMITED.**

Investigations established that the KRA Officer received bribes of between Kshs. 20,000 and Kshs. 60,000/= through a proxy from clearing agents to aid in mis-declaration of goods leading to underpayment of taxes.

It was established that although there was no direct evidence linking the suspect with corruption, however, the financial activities of the suspect were suspicious because there was a big variance between assets owned by the suspect and her known legitimate sources.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the public officer be charged with the offence of failure to pay taxes payable to the KRA contrary to section 45(1) (d) as read with Section 48 of ACECA.

On 20<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

## **22. EACC/NKR/INQ/FI/07/2015**

### **INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES AGAINST THE CHIEF EXECUTIVE OFFICER AND OTHER OFFICERS OF THE RIFT VALLEY WATER SERVICES BOARD (RVWSB).**

Investigations commenced to establish whether the Chief Executive Officer and other officials of RVWSB had abused their offices and irregularly awarded a contract relating to the construction of the Baringo and Boror water pans. It was established that the suspects complied with the requisite law in the subject procurement process.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the file be closed.

On 5<sup>th</sup> July 2018, the DPP accepted the recommendation for closure.



### **23. EACC/INQ/15/2016**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AND IMPROPRIETY AGAINST NATIONAL YOUTH SERVICE (NYS) OFFICIALS AND OTHER PERSONS IN AN AWARD OF CONTRACT FOR PAYMENT OF KSHS. 791,385,000/=.**

EACC commenced investigations following an affidavit filed in court by a suspect in the NYS matter that there were improper interactions by the complainant, NYS officials including the Cabinet Secretary for Ministry of Devolution and Planning and the Banking Fraud Investigations Unit officers which led to the loss of Kshs. 791,385,000/= belonging to NYS.

EACC together with the Directorate of Criminal Investigations conducted the investigations and established that the allegations made against the suspects were bereft of truth, were denied in totality and there was no evidence in support of the same.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June 2018 recommending that the complainant be charged with the offence of knowingly misleading a person contrary to section 66(1) (b) as read with section 66(2) of ACECA.

On 11<sup>th</sup> July, 2018 the DPP returned the inquiry file recommending further investigations.

### **24. EACC/MLD/ INQ/FI/09/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR TENDERING FOR THE CONSTRUCTION OF A LABORATORY AT HINDI SECONDARY SCHOOL WORTH KSHS. 3,000,000/=.**

Investigations established that the Lamu West Member of Parliament (MP) had irregularly awarded tender number CDF/LW/2013-2014 Hindi Secondary School for completion of a science laboratory; particularly construction of drainage, soak pits, gas chamber, fume chamber, plastering and painting. Investigations concluded that there was willful failure to comply with procurement laws on the part of the school management in the tendering process.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the MP and other suspects be charged with offences under ACECA and Penal Code namely, willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with Section 48 (1); Conspiracy to commit an offence of

corruption contrary to section 47A (3) as read with section 48(1) of ACECA and uttering false document contrary to section 353 of the Penal Code. Further, EACC recommended that an advisory be issued to the Constituencies Development Fund Board to educate, train and advise the CDF Managers in Lamu County over their roles in respect of public procurement processes.

On 28<sup>th</sup> June 2018, the DPP returned the inquiry file recommending further investigations.

#### **25. EACC/FI/INQ/49/2016**

##### **INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT OF TWO VEHICLES BY THE COUNTY GOVERNMENT OF KITUI**

EACC commenced investigations following the Auditor General's report which indicated that there was abuse of office and misappropriation of funds amounting to Kshs. 825,000,000/= by the Executive of Kitui County Government. It was established that two vehicles were bought irregularly from D.T. Dobie at a unit cost of Kshs. 13,670,530/= without following proper procurement procedures.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the officers of the said County be charged with offences under ACECA namely, willful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with Section 48 and engaging in a project without prior planning contrary to section 45 (2) (c) as read with Section 48.

On 29<sup>th</sup> June 2018, the DPP accepted the recommendation for prosecution.

#### **26. EACC/NYR/EL/08/2015**

##### **INQUIRY INTO ALLEGATION OF CORRUPTION AND ABUSE OF OFFICE ON THE PART OF THE MEMBERS OF THE NYERI COUNTY PUBLIC SERVICE BOARD IN THE PROCESS OF THE HIRING OF SUB-COUNTY ADMINISTRATORS AND WARD ADMINISTRATORS.**

Investigations established that the Nyeri County Service Board had irregularly appointed Sub-County Administrators and Ward Administrators. It was established that the applicants who were eventually appointed to the positions had presented false documents.



A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the suspects be charged with offences under ACECA and Penal Code namely, Abuse of office contrary to section 46; conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 of ACECA; Forgery contrary to section 349 as read together with Section 345 and 347(a) and uttering of false documents contrary to section 353 of the Penal Code.

On 10<sup>th</sup> July, 2018, the DPP accepted the recommendation for prosecution.

**27. EACC/MLD/INQ/FI/16/2016**

**INQUIRY INTO ALLEGATION OF IRREGULAR PROCUREMENT AND EMBEZZLEMENT OF PUBLIC FUNDS IN THE TENDER FOR CONSTRUCTION OF KADZADANI-ADU-KAMALE WATER PROJECT IN KILIFI COUNTY**

Investigations established that the County Government of Kilifi had procured and awarded a tender for construction of Kadzandani -Kamate Water Project irregularly to Goetech Contractors Limited for a sum of Kshs. 36,345,240/=. Investigations revealed that the documents submitted by the winning bidder were forged.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the officials of the said County, directors of Goetech Contractors Limited and the Company itself be charged with the following offences under PPDA, ACECA and Penal Code: Fraudulent practice in procurement proceedings contrary to section 41(1) and (4) as read with section 137 of the PPDA; Fraudulent acquisition of public property contrary to section 45 (1) as read with Section 48 of ACECA and uttering false documents contrary to section 353 of the Penal Code.

On 30<sup>th</sup> June 2018, the DPP accepted the recommendation for prosecution.

**28. EACC/KIS/INQ/FI/4/2017**

**INQUIRY INTO ALLEGATION OF MISAPPROPRIATION OF PUBLIC FUNDS BY HOMABAY COUNTY ASSEMBLY OFFICIALS FOR PROCUREMENT OF HOTEL SERVICES AND PAYMENT OF MEMBERS OF THE COUNTY ASSEMBLY ALLOWANCES FOR THE FINANCIAL YEARS 2015/2016 AND 2016/2017 AMOUNTING TO KSHS. 35 MILLION.**

Investigations established that some of the Homabay County Government officials together with some members of the County Assembly, (the suspects), had

misappropriated County Assembly funds by making irregular payments for allowances and hotel services amounting to Kshs. 35 million.

Investigations revealed that the suspects applied for imprest warrants on the pretext that they would pay the participants and the hotel for the services offered and yet the functions did not take place. The alleged participants denied having attended the meetings in any of the hotels as alleged, nor having received any allowance.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the suspects be charged with offences under ACECA and Penal Code namely, Conspiracy to commit an offence of corruption contrary to section 47A (3); Unlawful acquisition of public property contrary to section 45 (1) (a); Abuse of office contrary to section 46; Fraudulent payment from public revenues for services not rendered contrary to section 45 (2) (a) (iii); Willful failure to comply with applicable law relating to incurring of expenditure contrary to section 45 (2) (b) as read with section 48 of ACECA and breach of trust by a person employed in public service contrary to section 127 (1) as read with section 127 (2) of the Penal Code.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

## **29. EACC/FI/INQ/28/2018**

### **INQUIRY INTO ALLEGATIONS THAT THE NATIONAL LAND COMMISSION (NLC) IRREGULARLY COMPENSATED KSH. 3,269,040,600/= TO ENTITIES CLAIMING OWNERSHIP OF LAND PARCEL NUMBER L.R 7879/4 (PART) WHERE RUARAKA HIGH SCHOOL AND DRIVE-IN PRIMARY SCHOOL ARE SITUATED.**

Investigations established that the NLC irregularly compensated the purported owners of the land belonging to Ruaraka High School and Drive-In Primary School, LR. 7879/4 (part) in the sum of Kshs. 3,269,040,600.

It was revealed that the subject land was surrendered for public use and therefore not available for compensation. NLC did not serve notice of intention to compulsorily acquire the land and hence there was no public inquiry for purposes of interrogating the application for compulsory acquisition. The investigations revealed that NLC and other suspects including the officials in the Ministry of Education, the Nairobi City



County Government and the office of the Official Receiver willfully failed to follow the relevant law.

The Directors of Afrison Export Import Limited and Huelands Limited were also established to have participated in the fraudulent payment of Kshs 1,500,000,000/= since they knew the correct position on the ownership of the subject land.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> June, 2018 recommending that the suspects be charged with offences under ACECA and Penal Code namely, Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48; Willful failure to comply with the law relating to allocation of public property contrary to section 45(2) (b) as read with section 48, Abuse of office contrary to section 46 as read with section 48, unlawful acquisition of public property contrary to section 45(1) (a) as read with Section 48 of ACECA and breach of trust contrary to Section 127 (1) as read with Section 127 (2) of the Penal Code.

On 11<sup>th</sup> June 2018, the DPP returned the inquiry file recommending further investigations.

### **30. EACC/FI/INQ/31/2006**

#### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST AN EMPLOYEE OF THE TEACHERS SERVICE COMMISSION, (TSC)**

Investigations established that there were two recruitment processes, one by the District Education Board and the other by TSC. That TSC recruited some candidates directly without them having gone for an interview process therefore the process was not fair and competitive.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that TSC be issued with an advisory to put in place policies/guidelines relating to recruitment including guidelines on affirmative action and direct recruitment.

On 30<sup>th</sup> June 2018, the DPP concurred with EACC's recommendation that advisory opinion be given to the institution.

**31. EACC/NYS/OPS/INQ/3/2018; CASE FILE REF: NO. 255/473/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST JUDICIARY STAFF STATIONED AT THE KARATINA LAW COURTS.**

EACC commenced investigations following a complaint that two employees of Judiciary at the Karatina Law Courts were demanding for a bribe of Kshs. 25,000/= in order to facilitate the release of a suspect from police custody, the withdrawal of the charges against him and ultimately the termination of Case No. 394/2017 (*R-Vs-E.W. Muriuki*) in the Magistrates Court at Karatina.

EACC officers conducted a trap operation at the station and the complainant met the officers who demanded for Kshs. 30,000/- from him, which demand was reduced to Kshs. 25,000/= , to be applied thus: Kshs. 15,000/= was for cash bail while the balance of Kshs. 10,000/= was for the facilitation of the withdrawal of the charges against the complainant's kin. The suspects were handed the threatened money. A search was conducted by the EACC officers who found it in a drawer the suspects shared.

A report was compiled and forwarded to the DPP on 25<sup>th</sup> May, 2018 recommending that the suspects be charged with receiving a bribe contrary to section 6(1)(b) of the Bribery Act and dealing with suspect property contrary to section 47(1) as read with section 48 of ACECA.

On 13<sup>th</sup> June, 2018 the DPP recommended prosecution of one suspect and withdrawal of the case against the other suspect for lack of sufficient evidence.

**32. CR. 148/7/2018, ACC NO. 5/2018**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICER ATTACHED TO THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI).**

Investigations revealed that a DCI officer (the suspect) was investigating a complaint of fraud. The complainant, an advocate agreed to meet with the suspect to discuss the status of the case. He met with the suspect who was in the company of other officers who demanded for Kshs. 50,000/= from him. When they realized he had no money, he was locked up in the police cell at Ngong' Police Station and forced to make a cash withdrawal of Kshs. 20,000/=.



A report was compiled and forwarded to the DPP on 25<sup>th</sup> May, 2018 recommending that there was sufficient evidence to sustain the charge of bribery as filed in court.

On 11<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

### **33. EACC/OPS/INQ.157/2017**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TWO MOTORISTS WHO BRIBED NTSA OFFICERS.**

A joint operation was undertaken by EACC officers in conjunction with NTSA officers with an aim of ensuring that all motorists in breach of the law were apprehended and arraigned in court. Investigations revealed that the two motorists bribed NTSA officers when found to have committed traffic offences.

A report was compiled and forwarded to the DPP on 4<sup>th</sup> October, 2017 recommending that the suspects be each charged with the offence of dealing with suspect property contrary to section 47(2) (a) as read with section 48 of ACECA.

On 11<sup>th</sup> June, 2018 the DPP accepted the recommendation to charge the suspects.

### **34. EACC/OPS/INQ/162/2017**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST WHO HAD COMMITTED A TRAFFIC OFFENCE.**

A joint operation was undertaken by EACC officers in conjunction with NTSA officers with an aim of ensuring Kenyan roads remained accident free and that all motorists in breach of the law were apprehended and arraigned in court. This operation was done at Kiganjo along the Nyeri- Nanyuki road. Investigation revealed that the suspect had committed the offence of operating a public service vehicle without a route license. The suspect was asked to pay a cash bail of Kshs. 5,000/= but he offered and gave the NTSA officer Kshs. 2,000/= so that he be allowed to go without any charges being preferred against him.

A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2018 recommending that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 12<sup>th</sup> June, 2018 the DPP recommended that although there is sufficient evidence to prosecute, administrative action be taken against the motorist as the amount of time and resources to be used in prosecution will not make economic sense both to government and tax payers.

**35. CR.148/04/2018, CF. ACC.NO. 305/2018: EACC/MKS/OPS/10/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS ATTACHED TO KAJIADO PATROL BASE.**

Investigations through surveillance established that the traffic police officers based at Kajiado Patrol Base were demanding for bribes from the motorists plying the Nairobi-Namanga road. The suspects were arrested and Kshs. 4,350/- was recovered from them.

A report was compiled and forwarded to the DPP on 21<sup>st</sup> May, 2018 recommending that the suspects be charged with the offences under ACECA namely, Dealing with suspect property contrary to section 47(2) (a) as read with section 48; concealing evidence contrary to section 66(1) (c) as read with section 66(2); abuse of office contrary to section 46 as read with section 48 ; conspiracy to commit an offence of corruption involving Economic Crimes contrary to section 47(3) (a) as read with section 48 and obstruction contrary to section 66(1) (a) as read with section 66(2).

On 12<sup>th</sup> June,2018 the DPP accepted the recommendation for prosecution.

**36. CR. EACC 313/483/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ACTING CHIEF, MALINDI TOWN LOCATION.**

Investigations revealed that the complainant complained to the chief about a buyer of land who had defaulted in paying a debt with regard to the sale of his land. The Chief asked for a bribe of Kshs. 2,000/= so that he could summon the debtor.

A report was compiled and forwarded to DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of receiving a benefit contrary to Section 6 (1) as read with section 18 (1) of the Bribery Act No,47 of 2016.

On 4<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.



**37. EACC/OPS/INQ/156/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST TO FORBEAR BEING CHARGED WITH THE OFFENCE OF EXCEEDING THE STIPULATED SPEED LIMIT.**

During a joint operation between the EACC and the NTSA the motorist was found to have exceeded the speed limit when driving his motor vehicle. The motorist offered Kshs. 1000/= to the NTSA officer to forbear being charged with the offence of exceeding the stipulated speed limit.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 22<sup>nd</sup> May, 2018, the DPP returned the inquiry file recommending further investigations.

**38. EACC/OPS/INQ/164/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST ALONG THE KENOL-SAGANA ROAD.**

During a joint operation between the EACC and the NTSA officers, the motorist was found to have exceeded the speed limit when driving motor vehicle. The motorist offered Kshs. 1000/= to the NTSA officer to forbear being charged with the offence of exceeding the stipulated speed limit.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offences of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

On 13<sup>th</sup> June, 2018 the DPP recommended that although there was sufficient evidence to prosecute the time and resources expected to be used in prosecution do not make economic sense and advised that the matter be dealt with administratively.

**39. EACC/MSA/OPS/INQ/35/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER ATTACHED TO LIKONI TOURIST POLICE BASE.**

Investigations established that the police officer solicited for Kshs. 1000/= from a motorist so as to release the driving license she had confiscated from him for driving a vehicle with a cracked windscreen.

Investigations established that the police officer stopped the motorist and on carrying out an inspection of his motor vehicle, noted that it had a cracked windscreen. The police officer asked for his driving licence and on receipt of the driving licence, handed it over to another police officer. The complainant informed the police officer that he was going to replace the windscreen but the police officer asked for a bribe of Kshs. 1000/=

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of requesting a bribe contrary to section 6(1) as read with section 18(1) of the Bribery Act No. 47 of 2016.

On 12<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**40. EACC/OPS/INQ/170/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST TO FORBEAR BEING CHARGED OF A TRAFFIC OFFENCE.**

There was a joint operation between the NTSA and EACC following surveillance which had established that road users offered bribes to Traffic Officers on major roads without the officers asking for the bribe.

Investigations revealed that the motorist was arrested for flouting some traffic regulations and was required to pay cash bail of Kshs. 5,000/= to secure his release and then appear in court at a later date. He instead offered a bribe of Kshs. 1,500/= as a bribe.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No. 47 of 2016.



On 11<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**41. EACC/INQUIRY FILE NO. 69/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICER IN CHARGE, CRIMES PARKLANDS POLICE STATION TO RELEASE FOUR PRISONERS.**

Investigations were done to establish whether the officer in charge of Parklands Police Station demanded for a benefit of Kshs. 8,000/= in order to release four ladies who had been arrested for the offence of being idle and disorderly.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April 2018 recommending that the file be closed with no further action since the threshold had not been met to sustain a charge of bribery against the police officer.

On 28<sup>th</sup> December, 2017, the DPP accepted the recommendation that the file be closed.

**42. CR. 623/227/2017 CF: ACC 2/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER ATTACHED AT RIAT POLICE POST.**

Investigations revealed that a police officer attached to Riat Police Station improperly requested for Kshs. 5,000/= so as not to incriminate the complainant as the principal suspect after the death of the complainant's daughter.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the bribery Act No 47 of 2016.

On 4<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**43. CR. 421.123/2017 MERU ACC 1/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS STATIONED AT MAUA TRAFFIC SUB- BASE, MERU COUNTY.**

Investigations revealed that the two traffic police officers corruptly requested for Kshs. 2,000/= from the complainant in order to release a motor vehicle which had been detained on grounds that it had a broken windscreen.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018 recommending that the suspects be charged with the offences under ACECA and Bribery Act namely; receiving a bribe contrary to section 6(1) (a) as read with section 18(1) and (2) of the Bribery Act; dealing with suspect property contrary to section 47(2) and conspiracy to commit an offence of corruption contrary to section 47 A (3) as read with section 48 of ACECA.

On 11<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

#### **44. EACC/OPS/INQ/161/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A DRIVER OF KONGONI FARM.**

There was a joint operation between the NTSA and EACC following surveillance which had established that road users offered bribes to Traffic Police Officers on major roads without the officers asking for the bribe.

Investigations revealed that the suspect, was over speeding at 103 km/hr. He offered Kshs. 2,000/= to an NTSA officer to avoid being charged.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged with the following offences under ACECA; Impersonating an Investigator contrary to section 34(1) as read with section 34(2) and hindering EACC acting under the Act contrary to section 66(1) (a) and (2) of ACECA.

On 30<sup>th</sup> May, 2018 the DPP accepted the recommendation for prosecution.

#### **45. EACC/ OPS/ INQ/60/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OFFICER OF KRA.**

Investigations revealed that the suspect requested for a financial benefit of Kshs. 350,000/= as an inducement from the complainant so as not to fine him Kshs. 1,000,000/= for failing to using an Electronic Tax Register in conducting his business. When the matter was reported to EACC, the investigators treated money which was meant to be given to the suspect in a trap operation. The investigators waited for him to pick the money but he did not show up. When he was contacted by phone, the



suspect asked the complainant to pay the Kshs. 1,000,000/= fine that he had been told.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018 recommending that the file be closed for insufficient evidence, however administrative action be taken against the suspect.

On 13<sup>th</sup> June, 2018 the DPP accepted the recommendation for administrative action against the suspect.

#### **46. EACC/OPS/INQ/165/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST DRIVING A PUBLIC SERVICE VEHICLE.**

During a joint operation between the EACC and the NTSA officers, the motorist was found to be operating a Public Service Vehicle without a Public Service License and carrying excess passengers along the Kitui- Mutomo road at a place called Mwembe-Tayari. Upon inspection of the motor vehicle, the NTSA officer noted that it was insured as a private motor vehicle hence not licensed to carry fare paying passengers. It was also noted that the vehicle had an excess of one passenger.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged with the offences of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

On 12<sup>th</sup> June, 2018, the DPP recommended closure of the inquiry file for reasons that although there was sufficient evidence to prosecute the time and resources expected to be used in prosecution will not make economic sense.

#### **47. EACC/NKR/OPS/INQ/10/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ADMINISTRATION OFFICER ATTACHED AT SIGOWET TRADING CENTER.**

Investigations revealed that the suspect was always demanding for a financial advantage of Kshs. 4,000/= from a local businessman, carrying out a gambling business without the required documents. A trap operation was organized by the EACC officers where treated money amounting to Kshs. 4,000/= was given to the

complainant who gave it to the suspect upon demand. It was later recovered from him by the EACC officers.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) as read with section 18(1) and (2) of the Bribery Act.

On 4<sup>th</sup> June, 2018 the DPP returned the inquiry file recommending further investigations.

#### **48. EACC/OPS/INQ/150/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ADMINISTRATION POLICE OFFICER ATTACHED TO NDARASHA ADMINISTRATION POLICE POST.**

Investigations revealed that the Administration Officer demanded for Kshs. 20,000/= in order to protect the complainants from accusations which had been lodged at the police post which they alleged to have resolved.

EACC organized a trap operation which established that the suspects had demanded Kshs. 20,000/= in order to settle or terminate an alleged case filed against one of the complainant who was a suspect.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the inquiry file be closed since the evidence was not sufficient to sustain bribery charges against the suspect. EACC however recommended disciplinary action be taken against the suspect.

On 11<sup>th</sup> June, 2018, the DPP accepted the recommendation for administrative action.

#### **49. EACC/OPS/INQ/158/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST DRIVING ALONG THE BUNGOMA- ELDORET HIGHWAY.**

During a joint operation between the EACC and the NTSA officers, the motorist suspect was found driving a motor vehicle without a driving license. The suspect in an attempt to forbear charges from being preferred against him for the said traffic offence, offered and gave a financial advantage of the sum of Kshs. 200/= to the NTSA officer.



A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged with the offences of giving a bribe contrary to section 5(1) as read with section 18 (1) of the Bribery Act.

On 4<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

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

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A SENIOR SUPERVISOR ATTACHED TO CAR PARK AND CLAMPING SECTION AT THE NAIROBI CITY COUNTY.**

EACC commenced investigations following a complaint that a senior supervisor at the Car Park and Clamping Section at Nairobi City County Government was collecting bribes from junior officers attached to the said section.

EACC conducted an operation and arrested junior officers whilst performing their duties at Industrial Area. It was established that the junior officers had not collected any money on the day of the operation hence no money was recovered from them. EACC officers conducted a search on the senior officer's residence but did not recover any money.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the inquiry file be closed with no further action.

On 12<sup>th</sup> June, 2018 the DPP accepted the recommendation for closure of the inquiry file.

**51. EACC/OPS/INQ/14/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST EMPLOYEES OF EXTRA GROUP CONSULTANT LIMITED.**

Investigations established that the officials requested for a financial advantage of Kshs. 180,000/= from the complainant to withdraw a complaint, for being in possession in the course of trade of counterfeit goods from the Anti-Counterfeit Agency. This was after a search was undertaken at the complainant's phone- shop and some counterfeit mobile phones were recovered in his shop.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018 recommending that the suspects be charged with the offence of requesting for a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

On 3<sup>rd</sup> November, 2017, the DPP accepted the recommendation for prosecution.

**52. CR 641/308/2017 CF ACC. (KISII) 2/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF OF KIOGORO LOCATION, KISII COUNTY.**

Investigation established that the complainants together with her brother in law asked the chief to write a letter that would be used in transfer of a plot in a succession matter. The chief demanded for Kshs. 4,000/= from them before she could write the letter for them.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged for the offence of receiving a bribe contrary to section 6 (1)(a) as read with section 18 (1) and (2) of the Bribery Act.

On 14<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

**53. CR. 627/246/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN ADMINISTRATIVE OFFICER (THE SUSPECT) IN THE COUNTY GOVERNMENT OF KISUMU.**

Investigations revealed that the suspect had demanded for Kshs. 90,000/= from the complainant in order to process a payment of Kshs. 1,540,000/= at the County Government of Kisumu. The payment was for maize and beans that the complainant had supplied to the County Government of Kisumu in the financial year 2014/2015. The maize and beans were to be distributed to people affected by flooding in Ahero, Nyando Sub County in the year 2015.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of receiving a bribe contrary to section 6(1) as read with section 18(1) (2) of the Bribery Act No. 14 of 2016.

On 12<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.



#### **54. EACC/OPS/INQ/66/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PROSECUTOR BASED AT NGONG LAW COURTS.**

Investigations established that the complainant was involved in a non-injury traffic accident along Ngong' Road. Following the accident, the complainant's car was driven to Ngong' Police Station where the complainant paid Kshs. 5,000/= cash bail and was to report to court for plea taking. The plea did not take place on the scheduled date. On the day the complainant was expected to take plea, he did not appear therefore the cash bail was forfeited and a warrant of arrest issued against the complainant

The complainant's employer went to court and was informed by the suspect to plead guilty to the offence of careless driving notwithstanding that she was not the driver and asked to pay a fine of Kshs. 20,000/= as well as facilitation fees of Kshs. 30,000/= to the suspect.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the suspect be charged for the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

On 11<sup>th</sup> June 2018, the DPP declined the recommendation for prosecution for lack of sufficient evidence and directed that administrative action be taken against the suspect.

#### **55. CR.148/31/2017 CF ACC.24/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A TRAFFIC POLICE OFFICER ATTACHED TO KIAMBU TRAFFIC BASE.**

Investigations revealed that the suspect demanded for a bribe of Kshs. 2,000/= so as to forbear charging the complainant with three traffic charges namely driving without a license, disobeying verbal instructions and driving a motor vehicle with a defective hand brake.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April, 2018 recommending that the charges already before the court should proceed to logical conclusion and

similarly administrative action be taken against the suspect for flouting the provisions of the LIA by demanding for a bribe.

On 12<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution of the case before court to logical conclusion.

**56. EACC/OPS/INQ/142/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST OFFICIALS OF KENYA COUNTY GOVERNMENT WORKERS UNION.**

Investigations revealed that the officials of Kenya County Government Workers Union were asking for a financial benefit of Kshs. 200,000/= as an inducement to call off a planned strike. The first suspect issued a strike notice to the Nairobi City County Government. This notice prompted a meeting between the suspects and the County Government of Nairobi. In the meeting it was deliberated and agreed that the complainant would consult with the Governor before a final decision was made. The first suspect made several calls to the complainant requesting for a benefit of Kshs. 1,000,000/= to facilitate the calling off of the strike. The complainant negotiated the benefit to Kshs. 200,000/= before reporting the matter to EACC.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018, recommending that the suspects be charged with the offence of receiving a bribe contrary to section 6(1) (a) as read with section 18 of the Bribery Act.

On 11<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

**57. EACC/MKS/OPS/10/2016**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THE ASSISTANT COMMISSIONER, NAMANGA DIVISION.**

Investigations established that the suspect demanded for Kshs. 100,000/= from the complainants who are members of a group ranch in order to settle an election dispute between two dissenting factions of the group. EACC organized a sting operation that led to the arrest of the suspect after he received Kshs. 50,000/= treated money.



A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018 recommending that the suspect be charged with the offences of soliciting for a bribe contrary to section 39(3) (a) as read with section 48(1) of ACECA and section 27 of the Bribery Act.

On 12<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**58. EACC/OPS/INQ/13/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TWO POLICE OFFICERS ATTACHED TO RWENO POLICE POST.**

Investigations established that the suspects demanded for Kshs. 40,000/= from the two complainants. The two complainants had purchased a printing machine with an aim to offer printing and laminating services but could not agree on how to carry out the business. One of the complainants carted away the machines prompting the other complainant to report him at the Police Station. The police officers arrested the complainant who had been accused of running away with the said machines and released him on a cash bail of Kshs. 5,000/=. The machines which were in custody of the police were to be released to the complainant who now lodged the complaint at the police station. The suspect police officers demanded for Kshs. 40,000/= in order to release the machines.

A report was compiled and forwarded to the DPP on 20<sup>th</sup> April 2018 that the suspects be charged with the offence of receiving for a bribe contrary to section 6(1) as read with section 18 of the Bribery Act.

On 1<sup>st</sup> December, 2017, the DPP returned the inquiry file recommending further investigations.

**59. EACC/OPS/INQ/NO/160/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A DRIVER WITH THE MINISTRY OF LANDS, KAKAMEGA COUNTY.**

During a joint operation between the EACC and the NTSA officers the motorist was found driving a motor vehicle under the influence of alcohol along the Kakamega-Mumias road. The suspect was informed that he would be arraigned in court for the offence and he asked about the amount of the cash bail to which he was told that

whatever he would give would be receipted. The investigations established that from the conversation between the suspect and the officer, he did not unequivocally offer a bribe.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed with no further action.

On 29<sup>th</sup> June, 2018, the DPP accepted the recommendation for closure.

**60. EACC/NKR/OPS/INQ/07/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AGENCY OFFICERS IN KISUMU COUNTY.**

Investigations revealed that the employees from Anti-Counterfeit Agency carried out inspection and seizure of counterfeit items from electronic shops and demanded for bribes from those arrested.

Investigations established that one of the suspects solicited and received a benefit from the complaint along the Kericho – Litein road. The suspect collected the bribe at a feeder road where he had directed the complainants.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspects be charged with the following counts: Receiving a benefit contrary to section 6(1) (a) as read with section 18 of the Bribery Act and dealing with suspect property contrary to section 47(1) as read with section 47(2) (a) and section 48 of ACECA.

On 2<sup>nd</sup> July, 2018 the DPP accepted the recommendation to prosecute.

**61. EACC/OPS/INQ/OP/4/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TRAFFIC POLICE OFFICERS AT GRASSLAND AREA ALONG THE KITALE-WEBUYE HIGHWAY.**

Investigations established through surveillance that the suspects collected bribes from motorists on the road. Footages captured at different times indicated that the money would be folded and dropped by the drivers or conductors and would shortly thereafter be picked by the officers.



However, the images taken of the police officers at the scene were not very clear due to poor visibility. Similarly, the footages did not clearly show the faces and force numbers of the police officers who were collecting the bribes. Money was recovered by the EACC officers from the suspects. However, the evidence gathered did not link the suspects with corrupt conduct and the suspects were also not linked with the video footages captured.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed with no further action since the evidence gathered was not sufficient to sustain any charges against the suspects.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for closure.

#### **62. EACC/OPS/INQ/23/2017**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOMBASA COUNTY GOVERNMENT INSPECTORATE OFFICER.**

Investigations established that the suspect, an Inspectorate officer requested for a bribe of Kshs. 10,000/= from a driver of a truck so as not to charge him for driving a truck within the city center without a permit.

While negotiating for a reduction of the bribe, the suspect noticed that the vehicle parked ahead of the truck had some occupants who were filming them. On enquiring the suspect was informed by the occupants that they were officers from EACC. They wanted to arrest him but he resisted and a scuffle ensued. In the process, the windscreen of the truck was broken. The suspect did not receive the bribe.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that there was sufficient evidence to charge the suspect for the following offences under ACECA and Penal Code namely assaulting an officer contrary to section 66(1) (a) and (2), obstruction contrary to section 66(1)(a) and (2) of ACECA and malicious damage to property contrary to section 339(1) of the Penal Code.

On 29<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution

**63. EACC/OPS/INQ/NO/27/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST OFFICERS AT THE MINISTRY OF LANDS, KILIFI COUNTY.**

Investigations established that the suspects demanded for a bribe as facilitation to process title deed for the complainant. The complainant had begun the process of legally acquiring the land. He requested the area chief to prepare a ground report so that he could take it to the Land Adjudication Office for the registration process to begin. However, the process took long and a friend proposed to him to seek the assistance of one of the suspects. One of the suspects told the complainant that they would assist save for payment of a bribe of Kshs. 150,000/=

Investigations revealed that the suspects received Kshs. 80,000/= from the complainant.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspects be charged with offences under the Bribery Act namely; requesting a bribe contrary to section 6(1) (a) as read with section 18(1) and receiving a bribe contrary to section 6(1) (a) as read with section 18(1) & (2) of the Bribery Act.

On 10<sup>th</sup> July, 2018 the DPP declined the recommendation for prosecution and directed that file be closed with no further action against the suspects.

**64. EACC/OPS/INQ/139/2016**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TWO OFFICERS OF THE DEPARTMENT OF REGISTRATION OF PERSONS ATTACHED TO KIBERA HUDUMA CENTRE.**

The Commission commenced investigations following a report that officers at the Department of Registration of Persons attached to Kibera Huduma Centre, solicited for Kshs. 30,000 from a member of the public as inducement to help fast track processing of an identity card.

A surveillance was conducted by EACC officers who established that the allegations were true and that the suspects who were stationed at the center were soliciting and receiving bribes. The then officers conducted a sting operation where one of the



suspects received Kshs. 8,000/= and Kshs 2,000/= from the other suspect. Upon search, the treated money was recovered by EACC officers.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that one of the suspects be charged with the offences of soliciting and receiving a bribe contrary to Section 39(3) (b) as read with Section 48 of ACECA. EACC further recommended Administrative action against the other suspect for performing her duties in an unprofessional manner.

On 4<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution against one suspect and declined the recommendation for administrative action against the other.

**65. EACC/OPS/INQ/108/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER AT KAYOLE POLICE STATION.**

EACC commenced investigations following a report that a Police Officer had requested for a financial advantage of Kshs. 10,000/= as an inducement to facilitate the release of a suspect from police custody. EACC officers conducted an operation at the Kayole Police Station. The suspect, received Kshs. 6,000/=.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of receiving a bribe contrary to Section 6 (1) (a) as read with Section 18 of the Bribery Act and concealing of evidence contrary to Section 66 (1) (c) as read with section 66 (2) of ACECA.

On 24<sup>th</sup> May, 2018 the DPP accepted the recommendation for prosecution.

**66. EACC/OPS/INQ/41/2014**

**INQUIRY INTO ALLEGATIONS OF OBSTRUCTION OF EACC OFFICERS FROM PERFORMING THEIR DUTY BY AN OFFICER OF THE COUNTY GOVERNMENT OF NAIROBI.**

The Commission commenced investigations following a report that an officer from the County Government of Nairobi City had demanded for a bribe after impounding a

motor cycle from a *boda boda* operator for the offence of obstruction before he could release the motor cycle to the *boda boda* operator.

The investigations led to officers visiting a yard and while at the yard, EACC officers tried to arrest the suspect suspected of corrupt conduct. As EACC officers tried to arrest him, a commotion ensued whereby two of the suspect's colleague tried to rescue a colleague who had been arrested on suspicion of corrupt practices. The suspect managed to run away with handcuffs and Kshs 3,000/= that had been used as trap money. He was later arrested by EACC officers.

A report was compiled and forwarded to DPP on 13<sup>th</sup> April, 2018 recommending that the file be closed due to insufficient evidence against the suspect on the charges of obstruction contrary to Section 66 (1) as read with Section 66 (2) of ACECA.

On 6<sup>th</sup> June, 2018, the DPP accepted the recommendation for closure.

#### **67. CR. 421/216/2016**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A PROBATION OFFICER AT ISIOLO PROBATION OFFICE**

EACC commenced investigations following a report that a Probation Officer from Isiolo Probation Office was demanding Kshs.1500/= from the complainant on account of his supervisory duties.

Investigations established that the complainant had been found guilty of manslaughter in Meru Crim. Case No. 14 of 2014, *Republic-vs- Joseph Peter*. The court issued a probation order which the complainant was required to comply with and upon conviction the complainant was sent to Isiolo for Probation Office for supervision. The suspect was his supervisor. In due course, the suspect told the complainant that in order to stay in harmony with the victim's family he needed to pay a small token to the victim's wife. They agreed in a meeting that the complainant pays the victim's family Kshs. 40,000/=. Kshs 30,000/= would be paid by the complainant's father and Kshs. 10,000/= would be paid by the complainant. The Complainant's father thought that the suspect was extorting money from him and failed to honour his part of the



bargain. The complainant was afraid that he may be prejudiced by the conduct of the suspect and he reported the matter at EACC.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that in exercise of its mandate under section 11 (1) (g) of EACA, EACC advises the probation Department on the dangers of exceeding their mandate when supervising probationers and the need to adhere to the law under the Probation of Offenders Act.

On 22<sup>nd</sup> May, 2018, the DPP declined the recommendation for administrative action and directed for prosecution of the suspect for the offence of abuse of office.

#### **68. EACC/MSA/OPS/INQ/39/2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO OFFICERS OF KENYA FILM CLASSIFICATION BOARD MOMBASA.**

EACC commenced investigations following a report that the two officers employed by Kenya Films Classification Board had solicited for a bribe of Kshs. 5000/= from the complainant as an inducement so as to issue a license and to release stock of CDs which had been confiscated during a raid.

Investigations revealed that the suspects did not solicit for money from the complainant but EACC officers recovered the treated money from the one of the suspects. However, the suspects were required under law not to collect fines but issue compliance notices and arrest those who fail to comply with the notice.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the Board institutes internal disciplinary action against the suspects for breach of Section 29 of Leadership and Integrity Act.

On 6<sup>th</sup> June 2018, the DPP accepted the recommendation for administrative action against the suspects.

#### **69. EACC/ISL/OPS/23/2016**

##### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THREE POLICE OFFICERS BASED AT ANTHUBEIYA AP CAMP IN TIGANIA WEST -MERU COUNTY**

EACC commenced investigations following a report that Police Officers based at Anthubeiya AP camp corruptly solicited for a benefit of Kshs. 20,000/- from the

complainant as an inducement to forbear charging her for alleged offence of being in possession of illicit brew. Investigations conducted by EACC established that one of the officers received the bribe from the complainants while the other two accepted to receive a share of bribe from the officer who received.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the suspects be charged with offence of soliciting for a benefit and jointly receiving contrary to section 39(3) as read with section 48 of ACECA.

On 18<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

**70. EACC/ELD/INQ/OPS/23/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST THREE ENFORCEMENT OFFICERS OF COUNTY GOVERNMENT OF TRANS-NZOIA TO ALLOW FOR CONSTRUCTION OF A HOUSE WITHOUT AN APPROVED PLAN.**

EACC commenced investigations following a report that three enforcement officers demanded for a benefit of Kshs. 45,000/- in order to allow the complainant to continue with the construction without following due procedure. Investigations revealed that the suspects were arrested after they corruptly received Kshs. 10,000/=.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the suspects be charged with offence requesting, agreeing to receive and receiving a benefit contrary to section 39(3) as read with section 48(1) (2) and conspiracy to commit an offence of corruption contrary to section 47(A) (3) as read with Section 48 (1) of ACECA.

On 7<sup>th</sup> May 2018, the DPP accepted the recommendation for prosecution.

**71. CR.148/35/2017 CF.ACC.25/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST POLICE OFFICERS ATTACHED TO MAKONGENI TRAFFIC SUB-BASE REGARDING DEALING WITH SUSPECT PROPERTY**

EACC commenced investigations following a report that police officers along Muthurwa Road were collecting bribes from *matatus*. Investigators conducted a surveillance operation and a police officer was seen stopping and boarding *matatus* without inspecting motor vehicles. A sting operation conducted by the surveillance



team led to the arrest of the suspect and recovery of Kshs. 5,250/= from his trousers pocket.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June 2018 recommending that the charges be withdrawn due to insufficient evidence to sustain the charges already in court namely; dealing with suspect property contrary to Section 47 (2) of ACECA.

On 28<sup>th</sup> June 2018, the DPP had recommended that since the matter was in court, the verdict of the court should be awaited.

## **72. EACC/OPS/INQ/12/2017**

### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN EMPLOYEE OF THE JUDICIARY.**

EACC commenced investigations following a report that an employee of the Judiciary had received a benefit of Kshs. 50,000/= through a proxy from a litigant in a judicial review matter that was pending determination before a judge at the Millimani High Court, as an inducement to influence a ruling that was to be delivered.

Investigations established that the first suspect solicited and received Kshs 50,000/= while the second suspect offered and gave a bribe of Kshs 50,000/=.

A report was compiled and forwarded to DPP on 19<sup>th</sup> June, 2018 recommending that the suspects (the giver and taker) be charged with offence of soliciting, offering and receiving a benefit contrary to section 39 (3) (a) and b) as read with section 48 of ACECA and Section 27 of the Bribery Act.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

## **73. CR. B1/18/2018**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO BONDO POLICE STATION.**

EACC commenced investigations following a report that a police officer was requesting for a financial advantage of Kshs. 5,000/= in order to release a public service vehicle which he had detained at Ndori Police Post for an unspecified offence.

Investigations established that the suspect solicited and received a benefit of Kshs. 5,000/=.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspect be charged with offence of receiving a bribe contrary to section 6 (1) (a) as read with sec 18 (1) (2) of the Bribery Act.

On 29<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

#### **74. CR. 921/174/2018**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST EMPLOYEES OF KAKAMEGA COUNTY WATER AND SANITATION COMPANY.**

EACC commenced investigations following a report that two officers of Kakamega County Water and Sanitation Company were demanding for a benefit of Kshs. 5,000/= from the complainant so as not to make an arrest over illegal water connection. A trap operation was organized and the suspects arrested by EACC officers upon receipt of the treated money.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspects be charged with offence of receiving bribe contrary to section 6 (1) (a) as read with sec 18 (1) (2) of the Bribery Act.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

#### **75. EACC/MCKS/OP/INQ/44/2017**

##### **INQUIRY IN RESPECT OF ALLEGATIONS OF BRIBERY AGAINST TRAFFIC POLICE OFFICERS ATTACHED TO MAKUENI TRAFFIC UNIT, MAKUENI COUNTY**

EACC commenced investigations following a report that a police officer had arrested the complainant and detained his motorcycle for lack of insurance certificate and went ahead to demand a bribe of Kshs. 5,000/= in order to forbear charging him for the traffic offence. EACC conducted a sting operation whereby Kshs. 4,000/= was recovered from the suspect.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the suspects be charged with offences under ACECA, Bribery Act and National Police Service Act (NPSA) namely; receiving a bribe contrary to Section 6 (1) of Bribery



Act; concealing of evidence contrary to section 66(1) of ACECA and Failure to record a complaint contrary to Sec 50(1) and (4) as read with Section 129 of NPSA.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**76. EACC/OPS/171/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST ALONG THE NAIROBI-NAROK ROAD.**

EACC and the National Transport and Safety Authority conducted a joint operation with a view to arresting motorists who were flouting traffic laws and offering bribes to avoid being charged.

Investigations established that whereas the motorist committed the traffic offence, the officers conducting the operation entrapped him to giving Kshs 1000/= as bribe.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June, 2018 recommending that the file be closed for insufficient evidence but NTSA to arraign the suspect for traffic offences namely: operation of a public service vehicle without a valid license by the Authority under Regulation 15(1) of the NTSA (Operation of Public Service Rules).

On 29<sup>th</sup> June, 2018 the DPP accepted the recommendation for closure of the inquiry file with no further action against the suspect.

**77. CR.148/34/2017 CF. NAIROBI ACC.21/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTOR VEHICLE INSPECTOR WITH NTSA**

EACC commenced investigations following a report that a motor vehicle inspector with NTSA requested for a benefit amounting to Kshs. 5000/= from the complainant as an inducement to facilitate the release of number plates for his motor vehicle. A trap operation was conducted and an agent received Kshs. 7000/= on behalf of the aforesaid officer.

A report was compiled and forwarded to the DPP on 12<sup>th</sup> June 2018 recommending that there was sufficient evidence to charge the said officer with offence of receiving a bribe contrary to Section 6 (1) as read with Section 18 (1) and the agent be charged

with the offence of assisting in bribery contrary to Section 13 (1) (a) as read with Section 18(1) and (2) of the Bribery Act.

On 20<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**78. EACC.NKR/INQ/OPS/1/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST A MOTORIST WHO BRIBED A MOTOR VEHICLE INSPECTOR ATTACHED TO NTSA KAKAMEGA.**

Investigations revealed that the motorist was driving a public service vehicle without a valid TLB licence, contrary to a section 41 of the National Transport and Safety Authority Act, 2012. In his attempt to forgo charges from being preferred against him for the said offence, he offered and gave a financial advantage of the sum of Kshs 500/= to a NTSA officer.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the suspect be charged with the offence of giving a bribe contrary to section 5(1) as read with section 18 of the Bribery Act No 47 of 2016.

On 11<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**79. EACC/KSM/EL/INQ/24/2017**

**INQUIRY INTO ALLEGATIONS THAT AN ODM NOMINEE FOR MANYATTA B WARD, KISUMU EAST CONSTITUENCY, KISUMU COUNTY HAD NO ACADEMIC PAPERS.**

Investigations revealed that the nominee did not meet the minimum qualifications to vie for the MCA for Manyatta B Ward in Kisumu County. She sat for her KCSE examination as a private candidate in the year 2015 and obtained a mean grade of D. She then enrolled at the KCA University for a one-year diploma course in County Management and Governance in January 2016 but was yet to graduate.

She submitted a self-declaration form from EACC where she declared herself as a diploma holder. She submitted the said declaration form together with a completion letter from KCA University purportedly to be from KCA University confirming that she had successfully completed her diploma course. The letter from KCA was not authentic and that it was prepared by a clerk at the KCA University without authority.



A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2018 recommending that the suspects be charged with two offences of forgery contrary to section 349, making a document without authority contrary to section 357 of the Penal Code and providing false information to the EACC contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act.

On 6<sup>th</sup> June, 2018 the DPP returned the inquiry file recommending further investigations.

#### **80. EACC/GSA/EL/INQ/003/2015**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT OF ABALATIRO ASSISTANT CHIEF BY THE DEPUTY COUNTY COMMISSIONER IJARA SUB COUNTY.**

Investigations revealed that there was a vacancy for the post of Assistant Chief occasioned by the promotion of the then Assistant Chief to the position of Chief, Kotile Location. Adverts were prepared, applications received and applicants were shortlisted. The shortlisted candidates were invited for interviews. The Assistant Chief in question was established not to have applied nor participated in the interviews. It was established that the suspect misled the Regional Coordinator for the region into irregularly appointing the Assistant Chief.

A report was compiled and forwarded to the DPP on 22<sup>nd</sup> May, 2018 recommending that the suspects be charged with the offences of Abuse of office contrary to section 46, Knowingly using a misleading document to one's principal contrary to section 41(1) as read with section 48(1) of ACECA and providing false information to EACC contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act, 2012.

On 12<sup>th</sup> June, 2018, the DPP accepted the recommendation for prosecution.

#### **81. EACC/ISL/EL/INQ 18/2017**

##### **INQUIRY INTO ALLEGATIONS OF DIVERSION OF RELIEF FOOD BY AN EMPLOYEE OF THE NATIONAL DROUGHT MANGEMENT AUTHORITY, (NDMA)**

Investigations revealed that an employee of NDMA (driver) had on the instruction of the Principal Leparuka Mixed Day Secondary School delivered food meant for Leparuka Mixed Day Secondary School at Towfiq timber yard within Isiolo Town so that

it could be collected at a later date. The principal also stated that he had made plans for storage of the food and its transport if the driver was unable to deliver it.

A report was compiled and forwarded to the DPP on 27<sup>th</sup> April, 2018 recommending that the file be closed and administrative action be taken against the principal of Leparuka Mixed Day Secondary School and the driver of NDMA.

On 12<sup>th</sup> June, 2018, the DPP accepted the recommendation that the file be closed with no further action.

#### **82. EACC/EL/INQ/119/2015**

##### **INQUIRY INTO ALLEGATIONS OF FALSIFICATION OF ACADEMIC PAPERS TO SECURE EMPLOYMENT AS A PUBLIC OFFICER WITH THE MINISTRY OF AGRICULTURE.**

Investigations established that a public officer had secured employment and had been working therein since 1989 at the Ministry of Agriculture using false documents. It was found that the suspect had falsified documents and had been working at the Ministry of Agriculture.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April 2018 recommending that the suspect be charged with offences under the Penal Code namely; uttering false document contrary to section 353 as read with section 349 and personation of a person named in a certificate contrary to section 384, of the Penal Code.

On 30<sup>th</sup> June 2018, the DPP returned the inquiry file recommending further investigations on the matter.

#### **83. EACC/EL/INQ/25/2016**

##### **INQUIRY INTO ALLEGATIONS OF UNETHICAL CONDUCT AGAINST OFFICERS OF MIGORI COUNTY GOVERNMENT AND KENYA DEFENCE FORCES SHARING BOTH KCPE AND KCSE CERTIFICATES.**

Investigations established that two officers were sharing similar certificates. Investigations revealed that one of the suspects falsely represented himself to gain employment at the National Police Service. He presented documents belonging to an officer working at Kenya Defence Forces.



A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending administrative action against the suspect by the Kenya Police Force and further that the suspect be charged with the offence of personation of a person named in a certificate contrary to Section 384 of the Penal Code.

On 9<sup>th</sup> May, 2018, the DPP accepted the recommendation for prosecution.

#### **84. EACC/KIS/EL/INQ/5/2017**

##### **INQUIRY INTO ALLEGATIONS OF FORGERY AND UTTERING OF FALSE ACADEMIC DOCUMENTS AGAINST A WARD ADMINISTRATOR AT MASIGE EAST WARD IN KISII COUNTY TO SECURE EMPLOYMENT.**

EACC commenced investigations following a report that the Ward Administrator forged and uttered false documents with the intention of securing employment at the County Government of Kisii.

Investigations revealed that he was successfully employed in the said County Government using forged documents.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that the suspect be charged with the offences of forgery of a document contrary to Section 349 of the Penal Code and uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code. The Commission further recommended recovery of the salary amounting to Kshs. 3,162,452.90/= he had irregularly earned.

On 9<sup>th</sup> May, 2018 the DPP accepted the recommendation for prosecution of the suspect.

#### **85. EACC/ISL/EL/INQ/09/2017**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR EMPLOYMENT OF HEALTH OFFICERS BY MERU COUNTY EXECUTIVE COMMITTEE MEMBER FOR HEALTH.**

EACC commenced investigations following a report that there were irregularities in the appointment of three officers at the Meru County Government by the County Service Board.

Investigations established that the appointments were irregular as alleged and that the officers had not been introduced to the county payroll yet they continued to serve.

A report was compiled and forwarded to the DPP on 13<sup>th</sup> April, 2018 recommending that one of the suspects being the County Executive Committee Member for Health be charged with offence of abuse of office contrary to section 46 as read with section 48 of ACECA.

On 23<sup>rd</sup> May, 2018, the DPP accepted the recommendation for prosecution.

**86. EACC/OPS/INQ/92/2017**

**INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST AN OPERATIONS OFFICER OF PERIMETER PROTECTION LIMITED AT KENYATTA MARKET.**

Investigations established that an Operations Officer was demanding for a benefit of Kshs. 3,000/= so as to renew a contract of employment of one of the employees of Perimeter Protection Limited.

Investigations established that the suspect solicited for Kshs. 3,000/= and received Kshs. 2,000/= through his colleague in the office.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the suspect be charged with the offence of receiving a bribe contrary to section 6 (1) as read with section 18 of the Bribery Act.

On 29<sup>th</sup> June, 2018 the DPP accepted the recommendation for prosecution.

**87. EACC/KSM/ EL/ INQ /2/2016**

**INQUIRY INTO ALLEGATIONS OF RAPE, DEFILEMENT AND CHILD PROSTITUTION BY TWO KISII COUNTY ASSEMBLY MEMBERS.**

Investigations established that two members of County Assembly had defiled school going girls hence their conduct was contrary to the Leadership and Integrity Act. It was established that they had already been charged with sexual offences for infringement of children's rights to protection from sexual exploitation, rape and defilement against three school going girls.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed since the accused are no longer state officers and that the criminal matter pending in court against them be pursued to finality.



On 29<sup>th</sup> June, 2018 the DPP noted that EACC should hold the file in abeyance pending outcome of the criminal case against the suspects for the charge of defilement.

**88. EACC/ELD/ EL/ INQ /5/2015**

**INQUIRY INTO ALLEGATIONS THAT THE CHIEF KOILOT LOCATION FAILED TO ASSIST THE NANDI EAST DISTRICT SURVEYOR EXECUTE A COURT ORDER WITHIN HIS JURISDICTION.**

The Commission commenced investigations following a report that the chief had failed to assist the Nandi East District Surveyor execute a court order dated 2<sup>nd</sup> August, 2011 which required the said surveyor to sub-divide a parcel of land.

It was established that the suspect did not hinder the subdivision of the suit property since every time there was an attempt to subdivide the suit property the suspect would sent his assistant chief to represent him.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed for lack of evidence.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for closure.

**89. EACC/MLD/ EL/ INQ /7/2017**

**INQUIRY INTO ALLEGATIONS THAT THERE WAS LACK OF TRANSPARENCY AND FAIRNESS IN THE RECRUITMENT OF DRIVERS BY KILIFI COUNTY PUBLIC SERVICE BOARD.**

EACC commenced investigations following a report that there was lack of transparency and fairness in the recruitment of drivers by the Kilifi County Service Board. It was established that the Board had advertised for the vacancies of drivers and 57 were successful for the position. The recruitment process having been conducted by the County Service Board was established to have followed the right procedure and that there was no evidence of breach of ethical conduct on the part of the members of the Service Board.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed for lack of evidence.

On 30<sup>th</sup> June, 2018 the DPP accepted the recommendation for closure.

**90. EACC/ EL/ INQ /96/2015**

**INQUIRY INTO ALLEGATIONS THAT A WOMEN REPRESENTATIVE REFUSED TO SERVICE A LOAN REPAYMENT OF KSHS. 8,605,908.40/= A LOAN SHE HAD TAKEN FROM UNSACCO WHILE IN THE EMPLOY OF UNWFP.**

Investigations established that the suspect had taken a loan of Kshs. 8,605,908 .40. from UNSACCO while she worked at UN World Food Programme and that she defaulted in repayment after she resigned and joined politics in 2013.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed with no further action for lack of evidence.

On 30<sup>th</sup> June 2018, the DPP returned the inquiry file and recommended further investigations.

**91. EACC/MCKS/ EL/ INQ /7/2016**

**INQUIRY INTO ALLEGATIONS OF PAYMENT OF PER DIEM TO OFFICERS FOR A TWO DAY WORKSHOP AT KENYA SCHOOL OF GOVERNMENT NAIROBI WHICH WAS NEVER ATTENDED BY THE OFFICERS OF KITUI COUNTY GOVERNMENT.**

EACC commenced investigations following a report that there was embezzlement of funds in Kitui County Government through false per diem claims for a training that was never attended.

Investigations revealed that four representatives of Kitui County Government attended a meeting at KSG in April 2016 were not paid per diem. The group that was paid Kshs 167,300/= were staff members who had gone for an inspection exercise which was carried out in March 2016. Evidence obtained showed that all payments made for the March 2016 were supported by the required documents.

Investigations established that the there was no false claim for per diem and hence no breach of any law or procedure and or regulations.

A report was compiled and forwarded to the DPP on 19<sup>th</sup> June, 2018 recommending that the file be closed.

On 30<sup>th</sup> June, 2018, the DPP accepted the recommendation to close the file.



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

Total No. of files forwarded to the Director of Public Prosecutions	91
No. of files recommended for prosecution	66
No. of files recommended for administrative or other action	7
No. of files recommended for closure	18
No. of files recommended for prosecution and the cases are already lodged before Court	15
No. of files where recommendation to prosecute accepted	53
No. of files where recommendation for administrative or other action accepted	4
No. of files where recommendation for closure accepted	16
No. of files returned for further investigations	10
No. of files where recommendation to prosecute not accepted	2
No. of files where recommendation for administrative or other action not accepted	3
No. of files where closure not accepted	0
No. of files in abeyance awaiting the DPP's advice	0
No. of files where prosecution declined but administrative action recommended	3

DATED AT NAIROBI THIS

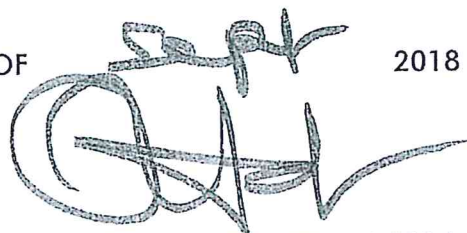
21<sup>st</sup>

DAY OF

2018



ARCH. (RTD) ELIUD WABUKALA  
CHAIRMAN  
/ry/wcr



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

