



THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE THIRD QUARTERLY REPORT FOR THE YEAR 2011
COVERING THE PERIOD
1ST JULY TO 30TH SEPTEMBER, 2011**

PREAMBLE

The Ethics and Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports setting out the number of reports made to the Attorney General under section 35.

Section 35 provides that:

1. Following an investigation, the Commission shall report to the Attorney General on the results of the investigation.
2. The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General 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 not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the third quarter of the year 2011 and is for the period commencing 1st July 2011 to 30th September 2011.

INVESTIGATIONS COVERING THE PERIOD 1ST JULY TO 30TH SEPTEMBER 2011

1. KACC/FI/INQ/11/2011

Inquiry into allegations that the Ministry of Water and Irrigation irregularly procured the services of a private contractor for the purposes of equipping five boreholes in Machakos and Makueni Districts under the Emergency Drought Programme in 2009. It was further alleged that during the implementation, there were irregular contract variations and payments of up to Kshs. 26 million by the Tanathi Water Services Board (TAWSB) for work not done. Investigation revealed that following severe drought that engulfed parts of the country during the period 2008-2009, an inter-ministerial committee met and set up a budget of Kshs.678,680,000.00 to mitigate the effects of the drought in the affected areas. The Ministry of Finance approved the release of a sum of Kshs.500 million to the Ministry of Water and Irrigation to facilitate the implementation of the government's initiative. Investigations revealed that following the release of the said funds, the Ministry of Water and Irrigation invited bidders to tender for a total of 58 contracts for drilling and equipping boreholes located all over the country. One of the tenders to equip 9 boreholes located in Machakos and Makueni Districts was awarded to a contractor at a corrected tender sum of Kshs.43,421,783.75.

Investigations further revealed that the contractor awarded the said contract was the least qualified, since they did not meet all the requirements. It was also established that officials of the Ministry and the Tana Athi Water Services Board approved advance payments to the said contractor whereas no works had been carried out. The payments were based on fraudulent certificates contrary to laid down financial procedures. Investigations also revealed that one of the boreholes was commissioned by the Minister for Water and Irrigation whereas the project was not complete to serve the intended purpose.

The file was forwarded to the Director of Public Prosecutions on 18th August, 2011, with the recommendations that the suspects including the directors of the contractor company be charged with the offences of conspiracy to commit an economic crime contrary to section 47 A (3) as read with section 48 of the Anti-Corruption & Economic Crimes Act, No.3 of 2003, conspiracy to defraud contrary to section 317 of the Penal Code; the Minister for Water and Irrigation be charged with abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3

of 2003 and breach of trust contrary to section 127(1) as read with section 127(2) of the Penal Code; the officials of the Ministry of Water and Irrigation and Tanathi Water Services Board be charged with wilful failure to comply with the applicable procedures and guidelines relating to the tendering of contracts contrary to section 45(2)(b), fraudulently making payment from public revenues contrary to section 45 (2) (a) (ii) and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, No.3 of 2003.

It was further recommended that a financial audit be carried out to ascertain the proper costs incurred in the implementation of all the five borehole projects and thereafter the Commission to recover overpayments (if any) made to the contractor; and the Commission to carry out an examination of systems and procedures at the Ministry of Water and Irrigation in order to streamline its procurement process.

On 23rd September, 2011, the DPP accepted the recommendation for prosecution of the officials of the Ministry of Water and Irrigation and Tanathi Water Services Board; and the Directors of the contractor company that was awarded the tender to drill the boreholes. With regard to the recommendations to prosecute the Minister for Water and Irrigation, the DPP advised that further investigations be carried out. The DPP also accepted the recommendation to carry out a financial audit to ascertain the proper costs incurred in the implementation of the boreholes and an examination of systems and procedures at the Ministry of Water be carried out in order to streamline the Ministry's procurement process.

2. KACC/FI/INQ/13/2011

Inquiry into allegations that a private company was irregularly registered as a contractor in the Ministry of Water and Irrigation. The investigation revealed that the officer tasked with registration of contractors registered the company as a contractor without evaluating the competence and capability of the personnel in the said company. The recommendation letters attached to the application for registration by the contractor were also found to be false.

The file was forwarded to the Director of Public Prosecutions on 10th August, 2011 with the recommendation that the directors of the irregularly registered contractor and the

company be charged with the offence of uttering a false document contrary to Section 353 of the Penal Code, and administrative action be taken against the public officers who registered the contractor for failing to discharge their duties as required.

On 21st September, 2011, the DPP accepted the recommendation for prosecution.

3. KACC/FI/INQ/29/2010

Inquiry into allegations that a Senior Clerical Officer, Ministry of Education misappropriated Kshs.1,650,00/= received by him as imprest while carrying out workshops on Education Management Information System (EMIS) staff capacity building on data management at Egerton University and Nairobi. It was further alleged that he surrendered the imprest using false receipts and falsified payment schedules. The investigations revealed that the workshops in respect of which the suspect received the imprest were held in Nairobi and Egerton University. The suspect paid allowances to the participants and facilitators. However, the investigations revealed that he falsified the payment schedules and inflated the sums purportedly paid out, in a bid to justify expenditure of the imprest received.

The file was forwarded to the Director of Public Prosecutions on 4th July, 2011 with the recommendation that the suspect be charged with the offence of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code.

On 7th July, 2011, the DPP accepted the recommendation for prosecution.

4. KACC/FI/INQ/67/2010

Inquiry into allegations that a Quality Assurance Officer, Ministry of Education embezzled a sum of Kshs.2,934,600 received by him as imprest to facilitate Provincial/Regional Capacity Building Workshops on Management of Instructional Materials for Secondary Schools. It was further alleged that he surrendered the imprest using false documents. The money was part of the funds drawn from the World Bank funded kitty meant for the Kenya Education Sector Support Project (KESSP).

The investigations revealed that, whereas the suspect received the imprest, no workshop was held and he purported to account for the imprest received by surrendering it using forged documents.

The file was forwarded to the Director of Public Prosecutions on 13th July, 2011 with the recommendations that suspect be charged with the offences of knowingly giving a false document to a principal contrary to Section 41(2) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act and in the alternative, false accounting by a public officer contrary to Section 331(1) as read with Section 331(2) of the Penal Code.

On 25th July, 2011, the DPP accepted the recommendation for prosecution.

5. KACC/FI/INQ/142/2010

Inquiry into allegation that the Billing and Collection System of the Kenya Power and Lighting Company (KPLC) is being manipulated by some KPLC staff by crediting the accounts of some customers without any payment being received by KPLC. Investigations revealed that on 25th and 30th June, 2010, an account of one of the KPLC customers was credited with a total sum of Kshs.2 million yet KPLC did not receive any money towards the settlement of the account. The investigations revealed that the Chief Systems Analyst at KPLC had used his knowledge of the KPLC Billing System and Information Technology (IT) expertise to manipulate the system. He would conceal his identity and execute illegal and irregular transactions on the system. The investigation further revealed that it was the said officer who executed the suspect transactions on the 25th and 30th June, 2010 in which the account of a KPLC customer was credited with a sum of Kshs.1 million on each of the said dates without any money being received by KPLC.

The file was forwarded to the Director of Public Prosecutions on 11th July, 2011 with the following recommendations; the Chief Systems Analyst and the Directors of the company whose account was credited with the irregular amount and its Directors be charged with the offence of conspiracy to commit an economic crime contrary to Section 47A(3) as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, the Chief Systems Analyst should also be charged with the offence of abuse of office contrary to Section 46 as read with Section 48(1) of the Anti-Corruption and Economic Crimes Act,

2003, access with intent to commit an offence contrary to section 83V(1) of the Kenya Information Communications Act, Chapter 411A and fraudulently causing loss of property to another contrary to Section 84B(a) of the Kenya Information Communications Act, Chapter 411A.

On 20th September, 2011, the DPP accepted the recommendation for prosecution.

6. KACC/MSA/FI/INQ/19/10

Inquiry into allegations that the Head Teacher, Mbwaleni Primary School colluded with officials of the Co-operative Bank, Nkrumah Road Branch, Mombasa, to fraudulently withdraw Kshs.1.8 million Free Primary Education (FPE) funds meant for Mwabila Primary School that had been erroneously remitted by the Ministry of Education to Mbwaleni Primary School instead of Mwabila Primary School. Investigations revealed that in the 2008/2009 financial year, the Ministry of Education disbursed a sum of Kshs.2,500,000/= and credited it in the account of Mbwaleni Primary School. The money was intended for school infrastructure development. However, out of the Kshs.2.5 million, a sum of Kshs.1.8 million was indicated in the schedules by the Ministry to have been meant for Mwabila Primary School. The Ministry deposited the money in an account held by Mbwaleni Primary School at the Co-operative Bank, Nkrumah Road Branch, Mombasa. Attempts by the officials of Mwabila Primary School to have the money transferred from the account of Mbwaleni Primary School to their school were unsuccessful. Investigations further established that Mbwaleni Primary School spent the funds in construction of classrooms, staffroom, fabrication and fixing of a gate as well as construction of latrines. The money was put to proper use and the institution got value for money in the construction of the buildings in question. The evidence obtained did not establish that the head teacher of Mbwaleni Primary School colluded with the bank officials to withdraw the money from the bank. The error to deposit the money in the account of Mbwaleni Primary School was occasioned by officials from the Ministry of Education. No culpability was established against the head teacher.

The file was forwarded to the Director of Public Prosecutions on 2nd August, 2011 with the recommendation that the inquiry file be closed.

On 12th September, 2011, the DPP accepted the recommendation for closure.

7. KACC/FI/INQ/93A/2005

Inquiry into allegations that a former Minister for Energy abused his office by irregularly influencing the Kenya Electricity Generating Company Limited (KenGen) and the Kenya Pipeline Company Limited (KPC) both parastatals under his Ministry to award tenders to a company he had an interest in to provide security services to KenGen premises at Lamu and Kipevu. It was also alleged that the Minister's father had been receiving monthly commission from KenGen and KPC through on behalf of the former Minister and the money was allegedly deposited in a bank account in Nairobi. The investigations revealed that the tenders were advertised publicly in the local dailies, and opened in the presence of all the tendering firms. The investigation further revealed that the tenders were evaluated and the KenGen Tender Committee awarded the tender to the most responsive bidder. There was no evidence to show that the former Minister for Energy influenced the KenGen Tender Committee to award the contract to the successful bidder, nor that the Minister's father received payments on his behalf through the said company.

The file was forwarded to the Director of Public Prosecutions on 2nd August, 2011 with the recommendation that the inquiry file be closed.

On 20th September, 2011, the DPP accepted the recommendation for closure.

8. KACC/FI/INQ/49/2005

Inquiry into allegations that a Businessman and a former District Commissioner Mombasa colluded with Senior KRA officials from the Customs & Excise Department to defraud the Government of revenue by clearing goods destined for foreign countries from the Mombasa Port and then diverting the same to the local market. Investigations confirmed that a motor vehicle which was on transit to a foreign destination was eventually registered locally, and donated to a private secondary school by the former President. However, the evidence obtained did not disclose any culpability of any criminal conduct on the part of the suspects to warrant prosecution.

The file was forwarded to the Director of Public Prosecutions on 26th September, 2011 with the recommendation that the inquiry file be closed. On 3rd October 2011, the DPP accepted the recommendation for closure.

9. KACC/FI/INQ/119/2009

Inquiry into allegations of abuse of office against Ministry of State for Special Programmes officials by authorizing payments for services not adequately rendered. The investigations revealed that the Ministry officials procured building materials for internally displaced persons living in various camps through Request for Quotations. The investigations established that there was no urgency to obtain the building materials and therefore the appropriate method of procurement should have been through open tendering. The investigations further revealed that whereas the successful suppliers were to deliver the building materials at the IDP camps, some of the goods were not delivered, yet the suppliers received full payment for services/goods not fully/satisfactorily rendered/delivered.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the Senior Deputy Secretary, Senior Procurement Officer and a Procurement Officer be charged with the offences of wilful failure to comply with the law relating to procurement of goods contrary to section 45 (2) (b) and abuse of office contrary to section 46 as read with section 48 of the Anti- Corruption and Economic Crimes Act.

On 30th September, 2011, the DPP accepted the recommendation for prosecution.

10. KACC/FI/INQ/178/2010

Inquiry into allegations of abuse of office against the Senior Managers of Chemilil Sugar Company Ltd (the CSCL) and the Directors of a private company. It was alleged that CSCL, having failed to secure an overdraft facility with Kenya Commercial Bank Ltd, turned to raising funds through advance sale of its sugar to its major customers including the aforementioned company. The investigations revealed that the Managing Director of the Sugar Company unilaterally entered into a Memorandum of Understanding (MOU) with the private company, for the sale of sugar at subsidized prices. This MOU was entered into without the approval of the Board of Directors as required. Investigations further revealed that whereas the company breached the terms of the MOU, it continued to receive sugar at the discounted price, when the same should have been sold at the prevailing market prices which varied from day to day. As a result

of this irregular sale of sugar to the private company, a loss of Kshs. 128, 770,000 was occasioned on the sugar company.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendations that Managing Director of the Sugar Company be charged with the offence of abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. In addition, it was recommended that Commission's Civil Litigation and Asset Recovery Department institute recovery suit action for the amount lost in the irregular sale of sugar.

On 29th September, 2011, the DPP accepted the recommendation for prosecution.

11. KACC/P1/INQ/60/11

Inquiry into allegations that the Minister of State for Immigration and Registration of Persons unlawfully ordered the release of a South African National, who was due to be charged in court for working in the country without a valid permit. The investigations confirmed that indeed the South African National was working in Kenya without a valid permit. He was to be charged for breach of the immigration requirement. Investigations further revealed that instead of being charged, he was released and advised to regularize his work permit. Whereas it was alleged that the Minister influenced the release of the foreigner, the investigation has not established this fact. There was no culpability established on the part of the Minister.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the inquiry file be closed. The response of the DPP is awaited.

12. KACC CR.141/233/2011 CF NO. NAIROBI ACC. 15/2011

Inquiry into allegations that a Traffic Police Officer attached to Wilson Airport Police Station corruptly solicited for a benefit from the complainant as an inducement to forbear charging the complainant with the offence of driving an uninsured motor vehicle. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offences of

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

The file was forwarded to the Director of Public Prosecutions on 6th July, 2011 with the recommendation that the case be prosecuted to its logical conclusion. The DPP accepted the recommendation for prosecution.

13. KACC CR.412/23/2011 CF EMBU ACC. NO.1/2011

Inquiry into allegations that the Land Adjudication and Settlement Officer, Maua Lands Office, corruptly solicited for a benefit from the complainant as an inducement to enforce a ruling in a land dispute in which the complainant was a party. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Embu Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 11th July, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 15th August 2011, the DPP accepted the recommendation for prosecution.

14. KACC CR.151/300/2011 CF NO. NAIROBI ACC. 21/2011

Inquiry into allegations that a Traffic Police Officer, attached to Industrial Area Police Station corruptly solicited for a benefit from the complainant as an inducement to facilitate the inspection of the complainant's motor vehicle which had been involved in an accident. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 14th July, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 15th August, 2011, the DPP accepted the recommendation for prosecution.

15 KACC CR. 731/47/2011 CF. NAKURU ACC NO.2/2011

Inquiry into allegations that the District Officer, Namanga Division, corruptly solicited for a benefit from the complainant as an inducement to forbear arresting her for transporting charcoal without a permit. The suspect also solicited for a benefit as an inducement to release to the complainant a battery, sticker and number plates which he had confiscated. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nakuru Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 14th July, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 15th August, 2011, the DPP accepted the recommendation for prosecution.

16 KACC CR. 741/236/2011 CF. KERICHO ACC NO. 1/2011

Inquiry into allegations of corruption against the Chief and the Assistant Chief of Abosi Location respectively corruptly solicited for a benefit from the complainant as an inducement to remove the name of the complainant's son from a list compiled of suspected cattle thieves. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kericho Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 18th July, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 15th August, 2011, the DPP accepted the recommendation for prosecution

17. KACC CR.921/367/2011 CF. KAKAMEGA ACC NO.4/2011

Inquiry into allegations that Medical Personnel at Navakholo Sub-District Hospital in Kakamega corruptly solicited for a benefit from patients as an inducement to prescribe good medicines, take laboratory samples, issue laboratory results and prescribed drugs to patients. The investigation established the solicitation and receipt of the benefit. The

suspects were arrested and charged before the Kakamega Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and stealing by servant contrary to section 281 of the Penal Code.

The file was forwarded to the Director of Public Prosecutions on 2nd August, 2011 with the recommendation that the case be prosecuted to its logical conclusion, but the charges of stealing by servant be withdrawn under section 87(a) of the Criminal Procedure Code.

On 6th September, 2011, the DPP accepted the recommendation for prosecution.

18. KACC (KSM) CR. 911/204/2011 CF BUNGOMA ACC. NO.507/2011

Inquiry into allegations that two employees of the Kenya Power and Lighting Company Ltd corruptly solicited for a benefit from the complainant as an inducement to reconnect the complainant's power supply. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Bungoma Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) and concealing evidence contrary to section 66(2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 4th August, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

On 25th August 2011, the DPP accepted the recommendation for prosecution.

19. KACC CR.142/47/2011 CF. NAIROBI ACC. NO.17/2011

Inquiry into allegations that three employees of the City Council of Nairobi corruptly offered a benefit to the complainant as an inducement so as not to report the suspects to the City Council for licensing malpractices. The investigation established the offering and subsequent giving of a benefit. The suspects were arrested and charged before the Nairobi Anti-Corruption Court with the offences of offering and giving a benefit contrary to section 39(3)(b) as read with section 48(1) of the Anti-Corruption and Economic

Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 16th August, 2011 with the recommendation that the case be prosecuted to its logical conclusion, and the three suspects, together with another be charged with an alternative charge of conspiracy to commit an offence of corruption contrary to section 47A (3) of the Anti- Corruption and Economic Crimes Act, 2003.

On 20th September, 2011, the DPP accepted the recommendation for prosecution.

20. KACC CR.021/35/2011 CF MOMBASA ACC. NO. 8/2011

Inquiry into allegations that a Police Constable attached to the Criminal Investigations Department, Malindi, corruptly solicited for a benefit from the complainant as an inducement so as to forebear charging the complainant with an alleged offence of obtaining money by false pretences. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Mombasa Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 19th August, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

21. KACC/CR.141/109/2011 CF. NAIROBI ACC. NO.8/2011

Inquiry into allegations that a Clerical Officer working at Kenyatta National Hospital (KNH) had corruptly solicited for a benefit from the complainant as an inducement to issue him with an official receipt for Kshs.13,000/= from the Hospital for his mother to undergo a Magnetic Resonance Imaging (MRI) test. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nairobi Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, forgery 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 file was forwarded to the Director of Public Prosecutions on 14th September, 2011 with the recommendation that the case be prosecuted to its logical conclusion.

On 29th September, 2011, the DPP accepted the recommendation for prosecution.

22. KACC/CR.714/21/2011 CF. NAKURU ACC. NO.3/2011

Inquiry into allegations that two Administrative Police Officers at Olpusimoru Administration Police Camp in Narok North District had corruptly solicited for a benefit from the complainant as an inducement to release a power saw which they had detained. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Nakuru Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and escape from lawful custody contrary to Section 123 of the Penal code.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 28th September, 2011, the DPP accepted the recommendation for prosecution.

23. KACC/CR.831/537/2011 CF. KERICHO ACC. NO.2/2011

Inquiry into allegations that a Clinical Officer at Uasin Gishu East District Hospital had corruptly solicited for a benefit from the complainant as an inducement to facilitate the filling of his P3 form following an alleged assault. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Kericho Anti-Corruption Court with two counts of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 27th September, 2011, the DPP accepted the recommendation for prosecution.

24. KACC/CR.141/229/2011 CF. NAIROBI ACC. NO.16/2011

Inquiry into allegations that an officer working in the Ministry of Immigration, Department of Refugee Affairs had corruptly solicited for a benefit from the complainants as an inducement to process Refugee Passports. The investigation established the solicitation and receipt of the benefit. The suspect was charged before the Nairobi Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003,

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the case be prosecuted to its logical conclusion. On 27th September, 2011, the DPP accepted the recommendation for prosecution.

25. KACC/CR.247/100/2011 CF. NYERI ACC. NO.3/2011

Inquiry into allegations that an officer working as a Secretary at Nyahururu law courts had corruptly solicited for a benefit from the complainant as an inducement to release court proceedings to the complainant. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged before the Nyeri Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and destruction of evidence contrary to Section 66(1) (c) as read with Section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the case be prosecuted to its logical conclusion with some proposed amendments.

On 26th September, 2011, the DPP accepted the recommendation for prosecution.

26. KACC/CR.21/2011 CF. MOMBASA ACC. NO.3/2011

Inquiry into allegations that a Clearing Agent in Mombasa had corruptly solicited for a benefit from the complainant as an inducement to register an imported Motor Vehicle.

The investigation established the solicitation and obtaining money by false pretences. The suspect was arrested and charged before the Mombasa Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) of the Anti-Corruption and Economic Crimes Act, 2003 and an alternative count of obtaining by false pretences contrary to section 313 of the Penal Code. The Commission however established that the suspect was not acting for or behalf of any principal/employer when he solicited for a benefit, and therefore charges under section 39(3) (a) would not be sustained.

The file was forwarded to the Director of Public Prosecutions on 22nd September, 2011 with the recommendation that the charges of soliciting for and receiving a benefit be withdrawn under section 87 (a) of the Criminal Procedure Code, and instead the suspect be charged with two counts of obtaining money by false pretences.

On 27th September, 2011, the DPP accepted the recommendation for withdrawal of charges and prosecution of the suspect with alternative charges.

27. KACC/CR.652/127/2011 CF. KISUMU ACC. NO.247/2011

Inquiry into allegations that the District Officer, Rigoma Divison, and the Chief of Kitutu East Location had corruptly solicited for a benefit from the complainant as an inducement to write a favourable recommendation letter and forbear revealing the criminal records of the complainant's son. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged before the Kisumu Anti-Corruption Court with the offences of soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Director of Public Prosecutions on 26th September, 2011, with the recommendation that the case be prosecuted to its logical conclusion and count three be amended to include the chief as an accused.

On 28th September, 2011, the DPP accepted the recommendation for prosecution and the proposed amendments to the charges.

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

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	23
No. of files recommended for administrative or other action	0
No. of files recommended for closure	4
No. of files recommended for prosecution and the cases are already lodged before Court	22
No. of files where recommendation to prosecute accepted	23
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	0
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files forwarded in previous quarters and received during this quarter	11
No. of files where closure not accepted	1
No. of files awaiting Director of Public Prosecution's action	1

DATED AT NAIROBI THIS DAY OF 2011

JANE MUTHAURA (MRS)
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER