



## THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4<sup>TH</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> OCTOBER, 2017 TO 31<sup>ST</sup> DECEMBER, 2017






## **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.

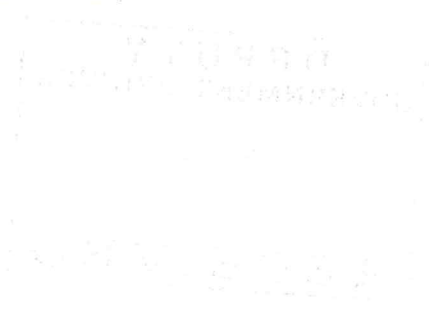


Section 36 of ACECA provides that:

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 Fourth Quarter and is for the period commencing 1<sup>st</sup> October, 2017 to 31<sup>st</sup> December, 2017.



**INVESTIGATION REPORT COVERING THE PERIOD 1<sup>ST</sup> OCTOBER, 2017 TO 31<sup>ST</sup> DECEMBER, 2017**

**1. EACC/FI/INQ/7/2016**

**INQUIRY INTO ALLEGATIONS OF TAX EVASION BY THE PROPRIETOR OF A PRIVATE FIRM AWARDED CONTRACTS BY THE NATIONAL YOUTH SERVICE.**

Investigations jointly conducted by the Commission and the Kenya Revenue Authority (KRA) established that the suspect had done substantial business through contracts with the National Youth Service and received substantial taxable but failed to pay pre-requisite taxes and remit annual income returns as required by the Income Tax Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspect be charged with three counts of failure to pay taxes contrary to section 45(1) (d) as read with section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003, failure to register for VAT contrary to section 34(1) (a) as read with section 37 of the Value Added Tax Act No. 35 of 2013 and failure to furnish returns contrary to section 52B(1) (b) as read with section 109(c) and section 107 of the Income Tax Act chapter 470 laws of Kenya.

On 31/01/2018 the DPP returned the inquiry file recommending further investigations.

**2. EACC/FI/INQ/50/2016**

**INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF THREE MITSUBISHI TIPPER TRUCKS BY KITUI COUNTY GOVERNMENT**

Investigations revealed that the Interim County Secretary and the Head of Supply Chain Management, County government of Kitui irregularly presided over the purchase of three (3) Mitsubishi Tipper Trucks from Simba Colt Motors Limited in the financial year 2013/2014.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspects be charged with two counts of willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 (1) and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> January, 2018 the DPP returned the file for further investigations.



### **3. EACC/PI/INQ/383/2017**

#### **INQUIRY INTO ALLEGATIONS OF FRAUD AND IRREGULAR PROCUREMENT IN THE TENDER FOR SUPPLY, DELIVERY AND INSTALLATION OF ASPHALT PLANT AT NAIROBI COUNTY**

Investigations revealed that various Nairobi county government officials had engaged in fraudulent activities in respect of tender for supply, delivery and installation of asphalt plant at Nairobi county.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspects be charged with the following offences: two counts of Conspiracy to commit an economic crime contrary to section 47A as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; two counts of Committing a fraudulent act contrary to section 176(1) (i) as read with section 176(2) of the Public Procurement and Asset Disposal Act No. 33 of 2015; willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 (1) and two counts of deceiving principal contrary to section 41(2) as read section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31<sup>st</sup> December, 2018, the DPP accepted the recommendation for prosecution.

### **4. EACC/MSA/FI/INQ/08/2013**

#### **INQUIRY INTO ALLEGATIONS THAT A VEHICLE INSPECTION COMPANY BASED IN JAPAN HAS BEEN ISSUING COMPLIANCE CERTIFICATES TO OVER AGE VEHICLES PURPORTING THEM TO BE TO BE OF LESS THAN EIGHT YEARS OLD.**

Investigations revealed that some car importers had failed to pay taxes due in request of the imported motor vehicles and other companies had imported over age vehicles which was occasioned by irregularities at the source of the motor vehicles. It was further established that the inspection company had been issuing compliance certificates for over age motor vehicles purporting that they were less than 8 years. In some of the cases, the motor vehicles ages were understated so as to evade paying taxes.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7<sup>th</sup> November, 2017 recommending that the suspects be charged with the following offences: Unlawful failure to pay taxes contrary to section 45 (1) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. and two counts of willful disobedience of statutory duty contrary to section 130 of the penal code by importing overage motor vehicles.

On 11<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.



## **5. EACC/KSM/EL/INQ/19/2016**

### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST A NOMINATED SENATOR ALLEGED TO HAVE DEFRAUDED KISUMU EAST COTTON FARMERS SACCO.**

Investigations revealed that the SACCO organized a fund raiser to boost its finances with the assistance of the Senator. A fund raiser took place on 23<sup>rd</sup> October 2016 where Kshs. 2,260,880 was raised. The Senator took custody of the money after the fundraiser and later handed the same to G4S officers who banked the money in an account held at the CFC Bank without the consent of the officials of the SACCO. It was further established that the officials of the SACCO pursued her for the cash prompting her to hand over Kshs. 500,000 and later two cheques of Kshs. 950,000 and Kshs. 350,000, cheques which were not honored.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offences of stealing and issuing bad cheques contrary to section 275 and 316A (1) of the penal code respectively.

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

## **6. CR.444/132/2017 CF. ACC. 3/2017**

### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TRAFFIC POLICE OFFICERS BASED AT KANGUNDO TRAFFIC BASE.**

Investigations revealed that the suspects, Police Officers based at Kangundo traffic base corruptly solicited for a benefit of Kshs. 20,000/- from the complainant as an inducement to issue him with a police abstract over anon-injury accident involving his Motor Vehicle; a trap operation was organized 6<sup>th</sup> June 2017 when he was arrested after receiving Ksh. 20,000 treated money from the complainant.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the suspects be charged with 5 counts of Receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016 and concealing evidence contrary to section 66(1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

On 20<sup>th</sup> November, 2017, the DPP accepted the recommendation for prosecution.

## **7. EACC/NKR/INQ/OPS/7/2016**

### **INQUIRY INTO ALLEGATIONS OF SOLICITING FOR AND RECEIVING A BENEFIT BY A TRAFFIC BASE COMMANDER AT KERICHO COUNTY**

Investigations revealed that the suspect demanded for and received a benefit of Kshs. 5,000/- in order to forebear charging the complainant in court and to release his taxi which he had impounded. The suspect was arrested after he corruptly received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the suspect be charged with the offence of corruptly receiving a benefit contrary to section 39(3) as read with section 48(1) (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

On 10<sup>th</sup> November, 2017, the DPP accepted the recommendation for prosecution.

## **8. CR.148/08/2017 CF.ACC.2097/2017**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO THIKA TRAFFIC BASE.**

Investigations revealed that Traffic Police Officers manning Thika-Garissa road were collecting bribes and harassing motorists. A sting operation was organized on 15<sup>th</sup> March 2017 when the two officers were arrested.

A report was compiled and forwarded to the Director of Public Prosecutions (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(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 7<sup>th</sup> November, 2017, the DPP accepted with the recommendation for prosecution.

## **9. EACC/OPS/INQ/159/2016**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO MUTHANGARI TRAFFIC POLICE SUB-BASE**

Investigations revealed that police officers attached at Muthangari Traffic Police Base demanded for Kshs. 3,000/- from the complainant, a Manager of a bus Management Company as an inducement to release a matatu detained by the officers for allegedly plying the Kawangware Route in contravention with the road



service license. A trap operation was laid that led to the arrest of the officer after he received Kshs. 3,000 via Mpesa.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspects be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

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

#### **10. EACC/NYR//OPS/INQ/22/2017**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRAFFIC POLICE OFFICERS BASED AT NYERI POLICE STATION**

Investigations through surveillance revealed that Traffic Police Officers were soliciting and extorting bribes from motorists along the Nyeri-Othaya Road, in Nyeri County. A sting operation was conducted leading to their arrest on 9<sup>th</sup> June 2017.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspects be charged with the following offences: Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 as read with section 48 thereof and obstruction contrary to section 66(1)(a) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003

On 28<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

#### **11. CR. 148/19/2017 CF. 3228/2017**

##### **INQUIRY INTO ALLEGATIONS DEALING WITH SUSPECT PROPERTY AND ABUSE OF OFFICE AGAINST TRAFFIC POLICE OFFICERS MANNING WITEITHIE AREA ALONG THE THIKA SUPERHIGHWAY.**

Investigations through surveillance revealed that the suspects were stopping motor vehicles and receiving money from them without conducting any traffic checkups. A sting operation was conducted on 22<sup>nd</sup> June 2017 where three police officers were arrested.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 15<sup>th</sup> November, 2017 recommending that the suspects be charged with the offence of dealing with suspect property contrary to section 47(2) as read with section 48 (8) of the Anti-corruption and Economic Crimes Act No.3 of 2003. It was

further recommended that administrative action be taken against those who were captured by the video footage collecting bribes from motorists.

On 1<sup>st</sup> December, 2017, the DPP accepted the recommendation for prosecution.

## **12. CR.148/21/2011 CF.NO.ACC. 12/2017**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ADMINISTRATION POLICE (AP) OFFICER BASED AT THE LIKONI ROAD AP CAMP.**

The investigation revealed that the suspect arrested the complainant a motorcycle rider on allegations that he had failed to display a life saver jacket. The officers detained his driving license and demanded for a bribe of Kshs. 1,000/- before releasing the driving license. The suspect was arrested after receiving the bribe during an operation organized by the Commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspects be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 1<sup>st</sup> December, 2017, the DPP accepted the recommendation for prosecution.

## **13. CR.973/57/2017 KISUMU ACC.NO. 2/79/2017**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST, POLICE OFFICERS ATTACHED TO KABRAS SUB-BASE KAKAMEGA COUNTY**

Investigations established that traffic police officers from Kabras Sub-base were demanding for a benefit of Kshs. 20,000/- from the complainant before releasing his motor cycle which had been detained at the Kabras Police Station for unspecified traffic offences. The suspect was arrested upon receiving Kshs.5000/- treated money on 30<sup>th</sup> January 2017 during an operation organized by the Commission

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offences of requesting and 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> December, 2017, the DPP accepted the recommendation for prosecution.



#### **14. EACC/OPS/INQ/136/2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT MAKONGENI POLICE STATION.**

Investigations revealed that a police corporal at Makongeni Police Station, was solicited for a benefit of Kshs. 6000/- as an inducement to facilitate the arrest of the complainant's debtor and guarantor respectively. He corruptly received a bribe and unsuccessfully attempted to escape having concealed the trap money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 (1) of the Bribery Act No. 47 of 2016 and concealing evidence contrary to Section 66 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 10<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

#### **15. EACC/OPS/INQ/128/2016**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT ATHI RIVER TRAFFIC BASE.**

Investigations established that, a Police Corporal attached to the Athi-River Traffic Police Base had solicited for a bribe of Kshs. 5,000/- from a complainant in order to release a driving license that had been confiscated from him on allegations that his car had defective break lights. It was further established that the suspect received Kshs. 3,000/- from the complainant but declined to release the license demanding a further Kshs. 2,000/-. The suspect corruptly received Kshs. 2,000/- when an operation was planned leading to his arrest.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27<sup>th</sup> November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 10<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

**16. CR. EACC/313/130/2017, EACC/MLD/OPS/09/2017**

**INQUIRY INTO ALLEGATIONS THAT A POLICE OFFICER CORRUPTLY RECEIVED A FINANCIAL ADVANTAGE AS AN INDUCEMENT TO FACILITATE RELEASE OF A MOTORCYCLE AND A NATIONAL ID CARD WHICH HAD BEEN DETAINED AT MALINDI POLICE STATION.**

Investigations revealed that the Complainant's boyfriend was arrested by police officers from Malindi Police Station and that the said officers who had detained his motorcycle were demanding for Kshs. 20,000 as an inducement to release to it.; a trap operation was organized and the suspect was arrested after he received Kshs. 10,000/- treated money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27<sup>th</sup> November, 2017 recommending that the suspect be charged with the offences of requesting and receiving a benefit contrary to section 6(1) as read with section 18 (1) of the Bribery Act No. 47 of 2016 and for failing to record an arrest in the Occurrence Book contrary to section 50(4) as read with section 129 of the National Police Service Act.

On 22<sup>nd</sup> December, 2017, the DPP accepted the recommendation for prosecution.

**17. EACC/FI/INQ/244/08/2017**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICERS OF THE KENYA FOREST SERVICE BASED IN NYANDARUA COUNTY.**

Investigations revealed that the suspects stationed at the Kipipiri Sub-County Forest Office demanded for and received a benefit of Kshs. 5,000/- in order to assess the damage done to a complainant's crops and prepare a report accordingly. An operation was mounted which led to their arrest on 1<sup>st</sup> February 2017 after they had received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7<sup>th</sup> November, 2017 recommending that the suspects be charged with the offences of requesting and receiving a benefit contrary to Section 6 (1) as read with section 18 (1) of the Bribery Act No,47 of 2016.

On 29<sup>th</sup> November, 2017, the DPP accepted the recommendation for prosecution.

**18. CR.973/192/2017 CF. ACC.2/2017**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR CLERICAL OFFICER AT BUTALI LAW COURTS.**



Investigations revealed that the suspect requested for a financial benefit of Ksh. 1,000/- from a complainant so as to process court proceedings in a Criminal Case heard at the Butali Law Courts. The suspect was arrested after receiving the benefit during an operation mounted by the commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 11<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

#### **19. EACC/NKR/INQ/OPS/16/2016**

##### **INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BENEFIT BY A KENYA REVENUE AUTHORITY OFFICER BASED AT THE KERICHO OFFICE.**

Investigations revealed that a Kenya Revenue Authority (KRA) Officer demanded for a benefit of Kshs. 20,000/- from the complainant in order to forebear charging him for not using an Electronic Tax Register (ETR) Machine in his business. A trap operation was laid and it led to the arrest of the KRA officer after he received Kshs. 20,000 treated trap money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 20<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

#### **20. EACC/NKR/OPS/INQ/31/2016**

##### **INQUIRY INTO ALLEGATIONS OF SOLICITING FOR AND RECEIVING A BENEFIT BY PUBLIC OFFICERS AT THE MINISTRY OF EDUCATION BASED AT THE OFFICE OF THE DIRECTOR OF EDUCATION, NAROK COUNTY**

Investigations established that there was evidence of soliciting and receiving of a benefit of Kshs. 18,000/- from the complainant who owned a school within the county in order to facilitate the registration of his school. A trap operation mounted by the Commission led to the arrest of the officers after they corruptly received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 20<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

## **21. CR.671/84/2017 CF. ACC. (MIGORI) 2/2017**

### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY A SENIOR EXECUTIVE ASSISTANT AT KEHANCHA LAW COURTS.**

Investigations revealed that the complainant had been charged at the Kehancha Law Courts with the offence of assault. His late brother stood surety for him by depositing his title deed as security for his release on bond. Upon conclusion of the case his brother died before collecting the title and when he went to collect it the Senior Executive Assistant demanded for Kshs. 10,000/- as an inducement to release the title. It was further established that the demand was negotiated down to Kshs. 5,000/-. The suspect was arrested upon receiving Kshs.5000/- treated money on 4<sup>th</sup> September 2017 during an operation organized by the Commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 28<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

## **22. CR. NO.24/24/2017**

### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST, A CONSTITUENCY DEVELOPMENT FUND (CDF) CHAIRMAN, KINANGOP CONSTITUENCY.**

Investigations revealed that the CDF Chairman Kinangop Constituency solicited for a bribe from the complainant whose land had been set aside for construction of a road by the government. The Chairman solicited for Kshs. 300,000/- as an inducement to release a cheque of Kshs. 1,670,000/- being compensation from the CDF for the land acquired for the road construction. The suspect was arrested during an operation organized by the Commission after he corruptly received Kshs. 200,000/- bribe.



A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 28<sup>th</sup> December, 2017, the DPP accepted the recommendation for prosecution.

### **23. CR. EACC/EL/INQ/71/2017**

#### **INQUIRY INTO ALLEGATIONS THAT A MEMBER OF PARLIAMENT FILLED A FALSE SELF DECLARATION FORM IN RELATION TO HIS ACADEMIC QUALIFICATIONS.**

Investigations revealed that a Member of Parliament (MP) from Meru County had in the year 2013, submitted to the Independent Electoral and Boundaries Commission (IEBC), a false self-declaration form to the effect that he held a Bachelor of Commerce Degree from the University of Nairobi obtained in the year 2001. It was further established that the MP never graduated from Nairobi University and he also had a forged KCSE certificate.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspect be charged with the following offences: Forgery contrary to section 349 of the penal code, uttering a false document contrary to section 353 as read with section 349 of the penal code, making false statutory declaration contrary to section 11 of the oaths and statutory declaration act and providing false information to the IEBC contrary to section 46(1) (d) as read with section 46 (2) of the Leadership and Integrity act, 2012.

On 1<sup>st</sup> March, 2018, the DPP returned the file as directions could not be given in light of the pending Constitutional Petition **No. 7 of 2018**, filed by the Member of Parliament seeking prohibitory orders.

### **24. EACC/EL/INQ/77/2017**

#### **INQUIRY INTO ALLEGATIONS THAT AN ASPIRANT FOR SUNA EAST CONSTITUENCY PARLIAMENTARY SEAT NEVER FINISHED SECONDARY SCHOOL AND HE HAS BEEN USING CERTIFICATES BELONGING TO ANOTHER PERSON.**

Investigations revealed that the suspect used fake certificates to fraudulently apply for nomination under the Amani National Congress party using another person's KCSE result slip from Songhor Secondary School to get employment at the Kenya Police. He also used the said result slip in his application for admission at the Presbyterian University of East Africa and the Kenya Institute of Criminal

Justice and to also pursue his Diploma in Personnel Management and Higher Diploma in Human Resource Management.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the suspect be charged with the offence of Personation of a person named in a certificate contrary to section 384 as read with section 349 of the penal code.

On 7<sup>th</sup> November, 2017, the DPP accepted the recommendation for prosecution.

## **25. CR.345/373/2017 CF. NO. ACC. MSA.2 /INQ/2/2017**

### **INQUIRY INTO ALLEGATIONS OF IMPERSONATING AN EACC OFFICER AND REQUESTING A BRIBE.**

Investigations revealed that the suspect, had impersonated an EACC officer and demanded for a benefit from County Officials in Kilifi County. An operation was conducted leading to his arrest.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18<sup>th</sup> December, 2017 recommending that the suspect be charged with the following offences; Impersonating an Investigator contrary to section 34(1) as read with section 34(2) and hindering Ethics and Anti-Corruption Officers acting under the act contrary to section 66(1) (a) and (2) of the Anti-corruption and Economic Crimes Act No.3 of 2003.

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

## **26. EACC/ISL/INQ/NO/2/2017 CR NO. 421/79/2017**

### **INQUIRY INTO ALLEGATIONS THAT A PRIVATE CITIZEN OFFERED AND GAVE KSHS. 3,000 TO A POLICE OFFICER ATTACHED TO NTSA TO FORBEAR CHARGES AGAINST HIS BROTHER WHO WAS ARRESTED FOR FLOUTING TRAFFIC RULES.**

Investigations revealed that the suspect's brother was arrested on the night of 10<sup>th</sup> February, 2017 for flouting traffic rules along Meru-Nkubu road. The suspect offered Kshs. 3,000 to a National Transport and Safety Authority Officer to forebear charging his brother with the offence of driving under the influence of alcohol.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the suspect be charged with the offence of offering and giving a bribe contrary to sections 5(1) 6(1) (a) as read with section 18(1) of the Bribery Act No. 47 of 2016.

On 1<sup>st</sup> December, 2017 the DPP accepted the recommendation for prosecution.



#### **27. EACC/EL/INQ/49/2016**

##### **INQUIRY INTO THE CONDUCT OF MEMBER OF THE NATIONAL ASSEMBLY WHO ARE ALLEGED TO HAVE FOUGHT AT THE OFFICE OF THE CABINET SECRETARY IN THE MINISTRY OF INTERIOR & COORDINATION FOR NATIONAL GOVERNMENT.**

Investigations revealed that an elected member of parliament and a nominated member of parliament from Laikipia County fought at the offices of the Cabinet Secretary for Ministry of Interior and Co-ordination of National Government. The Members of Parliament fought in public and carried themselves in a manner that was inconsistent with the provisions of the Public Officers Ethics Act and the Leadership and Integrity Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7<sup>th</sup> November, 2017 recommending that the Parliamentary Service Commission to issue a warning/Caution to the members of Parliament.

On 30<sup>th</sup> November, 2017, the DPP accepted the recommendation for administrative action.

#### **28. EACC/OPS/INQ/27/2017**

##### **INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE CONSTABLE, ATTACHED TO KAYOLE POLICE STATION NAIROBI COUNTY**

Investigations revealed that police officers from Kayole Police Station had arrested several people within Kayole area and were demanding for a bribe of Kshs. 1,000/- before releasing them. A trap operation was organized by the Commission to apprehend the officer but before the same could be finalized the suspect released the individuals that had been illegally detained at the police station.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27<sup>th</sup> November, 2017 recommending that the suspect and the Officer Commanding Station, Kayole Police Station be subjected to administrative action for contravening provisions of the National Police regulations on detention of suspects and for improper conduct.

On 11<sup>th</sup> December, 2017, the DPP accepted the recommendation for administrative action.

#### **29. EACC/NKR/INQ/E/03/2014**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE FORMER DIRECTOR OF KENYA FOREST SERVICE.**

Investigations revealed that the issuance a special use license to a business man to construction of a petrol pump on a forest land at Sorget/Tendeno ward within Kericho County was procedural. There was no evidence to prove that the Director had abused his office in issuing the same. It was further established that there were no clear policies to guide Kenya Forest Services in issuance of special use licenses.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 29<sup>th</sup> November, 2017, the DPP declined the recommendation for closure and advised that further investigations be conducted.

### **30. EACC/OPS/INQ/35/2017**

#### **INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE OF KENYA REVENUE AUTHORITY REQUESTED FOR A BRIBE OF KSHS. 15,000 FROM A BUSINESSMAN IN ORDER TO FACILITATE VALIDATION OF DOCUMENTS.**

Investigations revealed that the complainant, a businessman was required by law to create of a relevant Kenya Revenue Authority (KRA) account to enable him export fuel from Kenya to Uganda. The suspect, who was responsible for the opening of the account requested for a bribe of Kshs. 20,000/- to facilitate the process. The suspect was arrested upon receiving the said bribe from the complainant. However, a further analysis of the evidence of record did not support the allegation that the officer had requested for the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21<sup>st</sup> November, 2017 recommending that the inquiry file be closed and the matter be referred to KRA for further disciplinary action against the officer pursuant to section 42 (9) of the Leadership and Integrity Act.

On 4<sup>th</sup> December, 2017, the DPP accepted the recommendation for closure.

### **31. KACC/FI/INQ/37/2009**

#### **INQUIRY INTO ALLEGATIONS THAT COUNCILLORS AND THE CHIEF OFFICERS AT MAUA MUNICIPAL COUNCIL ALLOCATED STALLS TO THEMSELVES, FRIENDS AND RELATIVES AND THEREAFTER SOLD THE STALLS BETWEEN KSHS. 50,000 AND KSHS. 150,000/-**

Investigations revealed that the Municipal Council of Maua constructed market stalls to allocate to business owners within the municipality. Upon completion of the stalls the allocation to the intended beneficiaries was done through balloting.



However, the allocation process did not proceed to completion. It was established at the time of investigations that the stalls were yet to be occupied. There was no evidence to link the councilors and chief officers in any form of impropriety in the allocation of the stalls.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 24<sup>th</sup> November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

### **32. EACC/EL/INQ/93/2015**

#### **INQUIRY INTO ALLEGATIONS OF LEGITIMACY OF ACADEMIC CREDENTIALS OF THE MAKUENI COUNTY ASSEMBLY SPEAKER.**

Investigations established that the Makueni County Speaker was qualified for his position and allegations touching on the credibility of his academic credentials was unsubstantiated and insufficient to prove allegations of violation of any of the provisions of the Leadership and Integrity Act and Regulations thereunder, Chapter Six of the Constitution and the Public Officers Ethics Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 3<sup>rd</sup> November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

### **33. EACC/OPS/INQ/42/2016**

#### **INQUIRY INTO ALLEGATIONS THAT MOMBASA COUNTY ASSEMBLY HEALTH COMMITTEE WERE TO RECEIVE BRIBE OF KSHS 1 MILLION FROM COAST BOTTLERS TO FORESTALL INVESTIGATIONS ON SUPPLY OF CONTAMINATED WATER TO THE COUNTY ASSEMBLY.**

Investigation established the Health Services committee (the Committee) of the County Assembly of Mombasa commenced investigations into allegations that Coast Bottlers Limited (The Company) in Mtwapa area within Kilifi County supplied mineral water to the County Assembly which was contaminated. The investigations did not establish any evidence to support allegations that the members of the County Assembly of Mombasa demanded for a bribe of Kshs. 1 million from the company in order to influence the investigations as alleged.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4<sup>th</sup> October, 2017 recommending that the inquiry file be closed for lack of evidence.

On 23<sup>rd</sup> November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

#### **34. EACC/FI/INQ/41/2015**

**INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND MISAPPROPRIATION OF KSHS. 200 MILLION FROM THE OFFICE OF THE DEPUTY PRESIDENT AND KSHS. 100 MILLION FROM THE LEGISLATIVE AND INTER-GOVERNEMENTAL LIASON OFFICE IN MOBILIZING MEMBERS OF PARLIAMENT TO SUPPORT A CENSURE MOTION AGAINST THE FORMER CABINET SECRETARY FOR DEVOLUTION.**

Investigations revealed that a censure motion against the then Cabinet Secretary (the Secretary) for Devolution was filed and debated in Parliament following allegations that the Secretary was involved in the scandals that rocked the National Youth Service. It was further established that Members of Parliament who supported the censure motion did so on their own volition and the allegation of misappropriation of Kshs. 100 million from the Legislative and Inter-Governmental Relations Office and a further 200 million from the Office of the Deputy President to mobilize members of parliament to support the same was unsubstantiated.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 23<sup>rd</sup> November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

#### **35. EACC/FI/INQ/086/2014**

**INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN RESPECT OF THE COMMERCIAL CONTRACT FOR THE CONSTRUCTION OF CIVIL WORKS OF THE MOMBASA-NAIROBI STANDARD GAUGE RAILWAY PROJECT ENGINEERING, PROCUREMENT AND CONSTRUCTION (EPC) TURNKEY CONTRACT BETWEEN A CHINESE CONTRACTOR AND KENYA RAILWAYS CORPORATION FOR USD 2,657,401,776 (KSHS. 220,921,502, 221)**

Investigations established that the tender awarded to a Chinese Contractor for the construction of the Standard gauge railway was done in accordance to the provisions of the Public Procurement and Disposal Act 2005 (repealed). It was further established that the contract sum for the project was not inflated in



comparison to other similar projects as it had been alleged. There was no evidence to implicate any Public Officials involved in the project for any wrong doing during the processing and award of the subject tender.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 15<sup>th</sup> December, 2017, the DPP accepted the recommendation for closure of the inquiry file.

### **36. EACC/EL/INQ/37/2015**

#### **INQUIRY INTO ALLEGATIONS OF FALSE DECLARATION TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BY A MEMBER OF COUNTY ASSEMBLY (MCA) FOR KOLWA EAST IN KISUMU COUNTY DURING THE 2013 GENERAL ELECTIONS.**

Investigations revealed that the MCA was not required to resign as a nominated councilor before contesting in the 2013 general elections and just like the elected councilors he had a right to serve the full term.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 1<sup>st</sup> December, 2017, the DPP accepted the recommendation for closure.

### **37. EACC/FI/123/2014**

#### **INQUIRY INTO ALLEGATIONS OF FAUDULENT PAYMENT BY OFFICIALS OF THE COUNTY GOVERNMENT OF KIAMBU.**

Investigations revealed that a local contractor was awarded the tender for the construction of the Kinenii-Karatina foot bridge in Lari District. It was established that the initial funds allocated for the foot bridge by the Ministry of Works was Kshs. 500,000 before it was taken over by the County government of Kiambu which eventually spent Kshs. 2,535,066 for the project. Investigations did not support the allegations of fraudulent payments of Ksh. 2,535,066 for a non-existent project.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 1<sup>st</sup> December, 2017, the DPP accepted the recommendation for closure.

### **38. EACC/MBSA/FI/INQ/28/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PURCHASE OF A PRINTING MACHINE FOR KSHS. 300 MILLION BY THE KENYA BUREAU OF STANDARDS (KEBS)**

Investigations established that the Kenya Bureau of Standards vide Tender No. KEBS/TO72/14/15 dated 24<sup>th</sup> March 2015 procured for supply and delivery of KEBS quality marks complete with traceability system. It was established that the subject tender was not for a printing machine for import standardization mark stickers. The allegation that the printing machine was procured at a cost of Kshs. 300 million was unsubstantiated.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19<sup>th</sup> October, 2017 recommending that the inquiry file be closed with no further action.

On 23<sup>rd</sup> November, 2017, the DPP accepted the recommendation for closure.

### **39. EACC/GSA/FI/INQ/04/2017**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR DISPOSAL AND ACQUISITION OF MERCEDES BENZ MOTOR VEHICLE BELONGING TO THE DEFUNCT MUNICIPAL COUNCIL OF GARISSA**

Investigations established that the motor vehicle which belonged to Garissa Municipal Council, was declared unserviceable and thus advertised for disposal in accordance to the Public Procurement and Disposal Act. The successful bidder paid for the vehicle and took possession accordingly, the Clerk, the Treasurer and the former mayor were not culpable for any offences during the disposal process.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7<sup>th</sup> November, 2017 recommending that the inquiry file be closed with no further action.

On 1<sup>st</sup> December, 2017, the DPP accepted the recommendation for closure.

### **40. EACC/FI/INQ/1/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 48 MILLION FOR MEDICAL COVER TO A NON FUNCTIONAL ENTITY BY MAKUENI COUNTY ASSEMBLY.**

Investigations revealed that an insurance company which was awarded the tender to provide medical cover in 2014/2015 financial year for Makueni County Assembly staff was a functional entity for medical cover. It was further established that the amount paid to the said entity was Kshs. 17,359,089/- and not Kshs. 48 million as alleged.



A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7<sup>th</sup> November, 2017 recommending that the inquiry file be closed with no further action.

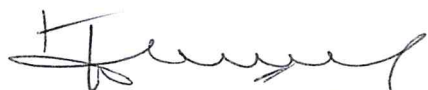
On 20<sup>th</sup> December, 2017, the DPP accepted the recommendation for closure.

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

|  |           |
|--|-----------|
| Total No. of files forwarded to the Director of Public Prosecutions                    | <b>40</b> |
| No. of files recommended for prosecution   | <b>27</b> |
| No. of files recommended for administrative or other action                            | <b>2</b>  |
| No. of files recommended for closure   | <b>11</b> |
| No. of files recommended for prosecution and the cases are already lodged before Court | <b>14</b> |
| No. of files where recommendation to prosecute accepted                                | <b>24</b> |
| No. of files where recommendation for administrative or other action accepted          | <b>1</b>  |
| No. of files where recommendation for closure accepted                                 | <b>10</b> |
| No. of files returned for further investigations                                       | <b>3</b>  |
| No. of files where recommendation to prosecute not accepted                            | <b>0</b>  |
| No. of files where recommendation for administrative or other action not accepted      | <b>0</b>  |
| No. of files where closure not accepted  | <b>1</b>  |
| No. of files awaiting Director of Public Prosecutions' action                          | <b>1</b>  |

DATED AT NAIROBI THIS

12<sup>th</sup>




**ARCH. (RTD) ELIUD WABUKALA  
CHAIRMAN**

/rgnm

DAY OF

March



2018

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