



# **ANNUAL REPORT**

## **2003-2004**

**Tuangamize Ufisadi**



## **KACC is housed at Integrity Centre, Nairobi**

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# MEMBERS OF THE KENYA ANTI-CORRUPTION ADVISORY BOARD



*Allan N. Ngugi - Chairman*



*Shehnaz N. Sumar- Vice Chair*



*Prof. A.V. Otieno*



*Prof. Miriam Were*



*Mariamu El-Maawy*



*K.K. Bett*



*Francis Atwoli*



*Richard Boro Ndungu*



*Anna Muchungu*



*Charles Kariuki Wambugu*



# KENYA ANTI-CORRUPTION COMMISSION MANAGEMENT TEAM



*Justice (Rtd) A. G. Ringera*  
**Director**



*Dr. Smokin Wanjala*  
**Asst. Director, Research,  
Education, Policy and  
Preventive Services**



*Ms. Fatuma Sichale*  
**Asst. Director, Legal Services**



*Dr. John P. Mutonyi*  
**Asst. Director, Investigations  
and Asset Tracing**



# ABBREVIATIONS

ACPU	-	Anti-Corruption Police Unit
BFID	-	Banking Fraud Investigation Department
CID	-	Criminal Investigations Department
CPC	-	Corruption Prevention Committees
CRA	-	Corruption Risk Assessment
DANIDA	-	Danish International Development Agency
DCIO	-	Divisional Criminal Investigation Officer
DPM	-	Directorate of Personnel Management
EDC	-	Ethics Development Centre
ENI	-	Education for National Integrity
I & PA	-	Investigation & Police Administration
IAOs	-	Integrity Assurance Officers
KACA	-	Kenya Anti-Corruption Authority
KACC	-	Kenya Anti-Corruption Commission
KBC	-	Kenya Broadcasting Corporation
KPC	-	Kenya Police College
KRB	-	Kenya Roads Board
MOU	-	Memorandum of Understanding
NSIS	-	National Security Intelligence Service
PAC	-	Public Accounts Committee
PIC	-	Public Investment Committee
PSIP	-	Public Service Integrity Programme
RACC	-	Report Assessment & Classification Committee
RIPE	-	Research, Information and Public Education
SACCO	-	Savings and Credit Co-operative
TRAG	-	Training, Research, Advocacy & Governance
TSC	-	Teachers Service Commission
UNDP	-	United Nations Development Program



# PREAMBLE



The Kenya Anti-Corruption Commission (KACC) was established in May 2003. This necessitated the transition from Anti-Corruption Police Unit (ACPU) to the KACC. However, activities, which were programmed under ACPU, continued under the banner of KACC. The Head of ACPU took over as the Temporary Director of the Commission in accordance with the provisions of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. This report covers the activities carried out by the Commission during the year 2003/2004. The report is pursuant to Section 15 of the Anti Corruption and Economic Crimes Act.

## The Kenya Anti-Corruption Advisory Board

The Kenya Anti-Corruption Advisory Board was established in August 2003. The Board is an unincorporated body consisting of thirteen members, twelve of whom are nominated by interest groups and professional organizations. The Director of the Commission is the Secretary to the Board.

## The Director and Assistant Directors

The Anti-Corruption and Economic Crimes Act creates the position of a Director who is the Chief Executive of KACC. The Act also creates positions of up to four (4) Assistant Directors who assist the Director in the execution of KACC's mandate.

During the report period, the Temporary Director was assisted by five (5) heads of sections. These sections were:

- Investigation and Police Administration
- Crime Intelligence
- Research, Information and Public Education
- Preventive Services
- Finance and administration

## Functions of the Kenya Anti-Corruption Commission

Section 7 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 spells out the functions of the Commission as follows:

- a) To investigate any matter that, in the Commission's opinion, raises suspicion that any of the following have occurred or are about to occur-
  - i) Conduct constituting corruption or economic crime;
  - ii) Conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
- b) To investigate the conduct of any person that, in the opinion of the Commission, is conducive to corruption or economic crime;
- c) To assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
- d) At the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices;
- e) To examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of works or procedures that in the opinion of the Commission, may be conducive to corrupt practices;
- f) To advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- g) To educate the public on the dangers of corruption and economic crime and to enlist and foster public support in combating corruption and economic crime;
- h) To investigate the extent of liability for the loss of or damage to any public property and:-
  - i) To institute civil proceedings against any person for the recovery of such property or for compensation; and
  - ii) To recover such property or enforce an order for compensation even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya; and
- i) To carry out any other functions conferred on the Commission by or under this Act or any other law.



## MESSAGE FROM THE CHAIRMAN



Allan N. Ngugi  
- Chairman

The Anti-Corruption and Economic Crimes Act, No. 3 of 2003 established the Kenya Anti-Corruption Commission (KACC). The Commission has powers to investigate and prevent conduct constituting corruption and economic crimes, recover misappropriated public funds and educate the public on the dangers of corruption. The past attempts to fight corruption in Kenya, which date back to the pre-independence era, were largely a mirage. The move to provide a new platform from which to fight corruption through a new legislation provides a fresh start and a new hope to Kenyans.

The Act also establishes the Kenya Anti-Corruption Advisory Board. The mandate of the Board is to advise KACC generally on the exercise of its power and the performance of its functions. The first Board was appointed in August 2003. The members were nominated by various organisations as follows:

- Mr. Allan Njoroge Ngugi (Kenya Association of Manufacturers)
- Mr. Ahmednassir Maalim Abdullahi (Law Society of Kenya)
- Mrs. Shehnaz N. Sumar (Federation of Kenya Employers)
- Mr. Richard Boro Ndung'u (Certified Public Accountants of Kenya)
- Mr. K.K. Bett (Kenya Bankers Association)
- Mrs. Anna Muchungu (Professional Societies of East Africa)
- Ms. Mariamu El-Maawy (Architectural Association of Kenya)
- Prof. A.V. Otieno (Institution of Engineers of Kenya)
- Prof. Miriam K. Were (Kenya Medical Association)
- International Federation of Women Lawyers (FIDA) Kenya Chapter
- Mr. Francis Atwoli (Central Organisations of Trade Unions)

- Mr. Charles Kariuki Wambugu representing the Joint Forum for Religious Organisations was appointed to the Board with effect from 8<sup>th</sup> September 2004.
- The Director, Kenya Anti-Corruption Commission

The Board has the mandate to recommend to Parliament the persons to be appointed as Director and Assistant Directors. This being the first year of KACC, the Board's first task was to put in place the right structures for the organisation. The priority was to identify the Director and Assistant Directors. This was effectively done and although there was a time lapse before the names were tabled in Parliament, the process was finally concluded and the recommended names were approved. The appointees were subsequently gazetted on 10<sup>th</sup> September 2004.

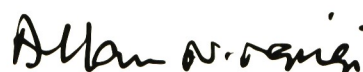
The new management has now assumed office and comprises:

- Justice (Rtd.) A.G. Ringera (Director/Chief Executive)
- Dr. John P. Mutonyi (Asst. Director, Investigations and Asset Tracing)
- Ms. Fatuma Sichale (Asst. Director, Legal Services)
- Dr. Smokin Wanjala (Asst. Director, Research, Education, Policy and Preventive Services)

As I reflect on the past year, I take delight in the fact that we have created an institution that is determined to carry out its mandate and which has the necessary resources to do so. Although corruption perception index reported by the Transparency International indicates improved performance in the fight against corruption, the war is far from being won-in truth, the war has just began.

I wish the Advisory Board and the Management the best of success in their endeavour to steer KACC to perform its mandate effectively. The ultimate goal is to have a country that is free of corrupt practices.

I invite all Kenyans to join in the struggle to build up a country that promotes excellence in all processes and systems of public and corporate governance for our benefit and that of the future generations.



Mr. Allan N. Ngugi, OGW  
CHAIRMAN  
Kenya Anti-Corruption Advisory Board



# DIRECTOR'S MESSAGE



*Justice (Rtd) A. G. Ringera*  
**Director**

I took office as the Director of Kenya Anti-Corruption Commission on 10<sup>th</sup> September 2004 from Mr. Gideon Mutua the then Temporary Director who steered the organisation from 19<sup>th</sup> February 2003 to 9<sup>th</sup> September 2004. This report therefore covers the period under Mr. Mutua's stewardship.

During the period under review, the Kenya Anti-Corruption Commission continued to implement its functions through a three-pronged approach of Enforcement, Prevention and Public Education. This is in line with its mandate as spelt out in the Anti-Corruption and Economic Crimes Act, 2003. The following is an overview of the Commission's programmes and activities for the year 2003/2004.

## **Enforcement**

During the year, a total of 3,552 complaints were received. Out of these, KACC instituted investigations on 242 complaints. These were the complaints that fell within the KACC's mandate. The other complaints were handed over to the relevant agencies for further action while no action was taken on 229 complaints. Additionally, overt and covert surveillance continued throughout the year.

## **Preventive Services**

The section carried out examinations into the systems, policies, procedures and practices of six public organisations and advised these organisations on ways and means of sealing corruption loopholes. Additionally, 150 Chief Executives, Board Members and Senior Managers of public organisations were trained on the principles and practices of corporate governance.

## **Research Information and Public Education (RIPE)**

The section produced and distributed Information, Education and Communication (IEC) materials. It also carried out the Annual Corruption Perception Survey and a Public Service Integrity Programme implementation survey. A number of anti-corruption training and sensitisation seminars took place within the following programmes.

- The Public Service Integrity Programme (PSIP)
- Education for National Integrity (ENI)
- Training, Research, Advocacy and Governance (TRAG) Programme

The section also drew up a 5-year plan.

## **Legal Advisory Centre**

The Legal Advisory Centre coordinated the institution of two major cases in an attempt to recover millions of public funds lost through corruption. These are HCCC No. 1111 of 2003, Kenya Anti-Corruption Commission Vs Kamlesh M.D. Pattni and 16 others and HC Misc. Appl. NO. 559 of 2004, Kenya Anti-Corruption Commission Vs L.Z. Engineering Construction Ltd and five others. The Centre also prepared four quarterly reports for the period May 2003 to June 2004. This is pursuant to the provisions of section 35 and 36 of the Anti Corruption and Economic Crimes Act.

## **Challenges**

KACC continued to work with a very limited number of staff especially at the technical departments. This was further compounded by shortage of resources especially computers and other equipment required for surveillance. Due to the fact that KACC activities are centralized at the headquarters, members of the public were unable to effectively report corruption cases. Although some cases coming from the rural areas were referred to the regional Criminal Investigation Department offices, there was hardly any feedback.



## Appreciation

I am very grateful to all government departments, which supported KACC in various programmes. I wish to single out the Office of the President, the Ministry of Justice and Constitutional Affairs, Directorate of Personnel Management, the Department of Governance and Ethics and the Office of the Attorney General for the specific roles they played in providing support to the fight against Corruption.

I wish to thank the development partners especially the United Nations Development Program (UNDP) and the Danish Development Agency (DANIDA) for providing KACC with funds to support the Training, Research, Advocacy and Governance (TRAG) programme.

Many thanks to members of the Kenya Anti-Corruption Advisory Board who worked tirelessly to steer the transition and provided guidance in the overall management of the Commission.

Finally, I wish to thank all the staff members who in spite of many challenges worked tirelessly to keep the fight against corruption aflame.

Justice (Rtd) A. G. Ringera  
DIRECTOR/CHIEF EXECUTIVE  
Kenya Anti-Corruption Commission



# CRIME INTELLIGENCE SECTION



This section has three subsections namely the Report Centre, the Surveillance and Technical Service Centre and the Data Centre.

The Report Centre receives complaints and/or information either directly from the public who come in person, through letters, telephone/fax, media, Parliamentary reports (i.e. Public Investment Committee and Public Accounts Committee reports). The information collected is analysed and reduced into an intelligence summary, which guides the decision of the Report Assessment and Classification Committee (RACC) on the matter. Thereafter the subsection drafts the letters forwarding the matter to various investigative agencies.

The Surveillance and Technical Service Centre collects intelligence on corruption and economic crimes. It also helps investigators with forensic and technical expertise in the collection of evidence on corruption and economic crimes. The information collected is also useful in asset tracing.

The Data Centre stores all corruption related complaints received and processed by the Commission.

## Statistics

As shown in the table below, the number of corruption and corruption related reports made to KACC have been rising steadily from 2,507 in the year 2002, 3,392 in the year 2003, and, 3,552 in the year 2003/4. This is a demonstration of an increased level of anti-corruption awareness and a desire to see corruption dealt with. The scenario can be attributed to the atmosphere created by the government's stand and onslaught against corruption: an onslaught that KACC has maintained.

## Summary of Complaints

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
406	391	330	323	168	143	224	148	393	303	277	256	3,552



*Surveillance Officers being shown how to use a polygraph while undergoing training in Israel*



The table below shows how various reports were evaluated, analysed and assigned

	Nature of Cases and Action Taken	2002	2003	2003/4
1.	Cases retained by KACC for investigation	254	303	242
2.	Referred to other investigative agencies	909	1332	1322
3.	Referred to relevant Public Service Organisation	439	890	1149
4.	Complainants advised to seek civil remedy	340	413	460
5.	Referred to complainants for more details	18	20	32
6.	Referred to Advocates Complaints Commission	16	51	106
7.	Referred to NGO Council	2	0	0
8.	No further action required	529	371	229
9.	Anti-Corruption & Integrity Committee of Judiciary	-	12	12
	<b>TOTAL</b>	<b>2507</b>	<b>3392</b>	<b>3552</b>

### Staff Training

Officers from Surveillance and Technical Services attended a one- month course on operational intelligence in Israel. The officers learned how to use various tools for collecting intelligence, how to manage intelligence-gathering operations and how to analyse and process information. Other officers from the Section have also attended various workshops and seminars.



*Surveillance Officers on a tour of the finger print forensic lab in Jerusalem*



Investigation and Police Administration Section (I & PA) consists of two divisions, namely Investigations and Security and Police Administration.

The Investigation division investigates corruption and economic crimes, conduct liable to allow, encourage or cause conduct constituting corruption or economic crime, and conduct of any person that is conducive to corruption or economic crime. The division also investigates the extent of liability for the loss of or damage to any public property for purposes of recovery or compensation. The division is further mandated to assist any law enforcement agency in Kenya in the investigation of corruption or economic crime.

The Investigation division comprises a multi-disciplinary team of officers composed of Police Officers (career detectives), Engineers, Quantity Surveyors, Auditors, Accountants, Systems Analysts and Valuers. The teams complement each other's competencies when investigating complex cases of corruption and economic crime. As at the close of the year, the total establishment in this division stood at 21 officers.

Security and Police Administration division's main task is to provide security to the Integrity Centre Building, staff, witnesses, KACC's assets and clients. The division consists of Police officers drawn from the regular Police, General Service Unit and Administration Police.

The section carried out the following activities as at 30<sup>th</sup> June 2004

Inquiry files opened between October 1999 and June 2004

Inquiry files opened under	Year	No. of files opened	Cumulative No. of files
KACA	1999	53	164
	2000	111	
ACPU	2001	13	346
	2002	129	
	2003	40	
KACC	2003	58	465
	2004	61	

## Status of the cases investigated

All the 164 inquiry files opened by the defunct KACA were taken over by ACPU. ACPU in turn opened 182 inquiry files, which, together with KACA files were taken over by KACC. As at 30<sup>th</sup> June 2004 KACC had opened 119 inquiry files making a cumulative number of 465 inquiry files.

The status of the inquiry files is as follows:

- 13 files were partially investigated and later referred to other investigative agencies.
- 29 cases were closed for lack of sufficient evidence.
- 33 cases were forwarded to respective organizations for administrative action.
- 4 cases were consolidated with others with similar particulars.
- 1 case was stopped by a prohibition order.
- 32 files were forwarded to the Attorney General, 18 of which were recommended for prosecution while 14 were recommended for closure.
- 256 cases are still under investigation.

- 97 cases involving 206 accused persons were taken to Court with the following outcomes:
  - Acquitted - 7 cases involving 21 accused persons.
  - Convictions - 8 cases involving 10 accused persons.
  - Withdrawn pending re-introduction in Court following repeal of the Prevention of Corruption Act - 31 cases involving 46 accused persons.
  - Discharged under 'Nolle Prosequi' - 4 cases involving 11 accused persons.
  - Stopped by order of prohibition - 1 case involving 3 accused persons.
  - Pending before Court - 46 cases involving 115 accused persons.

### Other Activities

Officers from the Investigation Section delivered lectures and presented papers in various seminars on the subjects of corruption, investigation and the law. These included:

- Inspectors Course at CID Training School in February 2004.
- Certificate Course in Training, Research, Advocacy and Governance at Egerton University.

### Achievements

- Several high profile corruption cases were investigated, finalized and suspects arraigned before Court. The cases include the one for the National Aids Control Council in which the former Director Dr. Margaret Gachara was convicted.
- Chief Executives of various parastatals were arraigned in Court on charges of irregular deposits of public funds in the collapsed Euro Bank. The parastatals involved were:

- Kenyatta National Hospital
- Pyrethrum Board of Kenya
- Kenya Tourist Development Corporation
- National Hospital Insurance Fund
- National Social Security Fund
- Kenya Sugar Authority
- Kenya Post Office Savings Bank
- Postal Corporation of Kenya

Although suspects were arraigned in court in respect of the said cases, the cases are yet to take off due to constitutional applications made by the defence.

- Mr. Nathaniel Tum and officials of Kenya Seed Co. Ltd were investigated and charged for fraudulently transferring Government shares in the company to private persons.
- In another matter, four CID officers from Kamukunji Police Station were arrested and arraigned before Court on corruption charges.
- In one case, Kamlesh Pattni was charged for offering an inducement to a High Court Judge to facilitate the release of his passport.



The Legal Advisory Centre's primary function is to recover unexplained assets from public officers and assist public bodies to recover their misappropriated property. It is the Centre's duty to institute civil proceedings against any person for the recovery of such property and enforce any order for compensation, even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya.

Other functions of the Legal Advisory Centre include crime reading of investigation files and preparation of reports on those files, conducting legal research, preparation of quarterly and annual reports. The Centre also provides legal advice to the Commission on issues that are pertinent to its operations.

## Civil Proceedings instituted by Kenya Anti-Corruption Commission

During the report period, the Commission instituted two major cases in an attempt to recover millions of public funds that had been looted from the government. These are *HCCC No. 1111 of 2003, Kenya Anti-Corruption Commission Vs Kamlesh M.D Pattni and 16 others* and *HC Misc. Application No. 599 of 2004, Kenya Anti-Corruption Commission Vs L.Z Engineering Construction Ltd and five others*.

a) HCCC No. 1111 of 2003, Kenya Anti-Corruption Commission Vs Kamlesh M.D Pattni and

16 others.

An application was filed at the High Court of Kenya in Nairobi on 30.10.03 for preservation of Goldenberg related assets worth an estimated value of Kshs. 1, 112, 000,000. *Ex parte* orders preserving the property were granted, but the respondents challenging those orders subsequently filed various constitutional applications. The *ex parte* orders were all vacated on 10.11.03 and the constitutional references were set down for hearing on 8th and 9th December 2003 before a two Judge bench.

The hearing did not proceed and the case was later mentioned before the Honourable Chief Justice on 10.3.04. He set the matter for hearing on 7th and 10th June 2004. The hearing did not proceed during the two days and the same is still pending in Court. A consent order was however entered into and filed in Court on 7th June 2004 between Kenya Anti-Corruption Commission, Uhuru Highway Development Co. Ltd (3rd Respondent) and Mr. Gitari Njeu, the former court appointed Receiver Manager. The parties consented that Mr. Gitari Njeu cease to act as Receiver/Manager and in his place Mr. H. W. Gichohi and Mr. Peter Ndaa be appointed as joint Receiver/Managers.

b) HC Misc. Appl. No. 599 of 2004, Kenya Anti-Corruption Commission Vs L.Z Engineering Construction Ltd, Yaya Tower Ltd, Hon. Kipyator Nicholas Kiprono Biwott, H.Z & Co. (K) Ltd., Ziba



Hon. Robinson Githae Asst. Minister, Ministry of Justice & Constitutional Affairs (third left) with a team of officers mainly consisting of legal officers and investigators attending a course on fraud investigation and prosecution



Management Services Ltd and Greenwood Holding Ltd.

An application for preservation of assets was filed on 14th May 2004 and *ex parte* orders were issued. The matter came up for *Inter partes* hearing on 14th June 2004 and the court set aside the *ex parte* orders. The main application is yet to be heard as the respondents have raised various preliminary objections. The hearing of the preliminary objection was set down for hearing on 27.10.04, 11.11.04 and 22.11.04.

### Quarterly Reports

Legal Advisory Centre prepared four quarterly reports covering the period May to September 2003, October to December 2003, January to March 2004 and April to June 2004. The reports start from the month of May because the Commission was created on 2nd May 2003 when the Anti-Corruption and Economic Crimes Act, 2003 became operational.

Section 35 of the Anti- Corruption and Economic Crimes Act provides as follows:

- Following an investigation, the Commission shall report to the Attorney General on the results of the investigation

- The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

In addition, Section 36 provides as follows:

- 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
- A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted
- The Commission shall give a copy of each quarterly report to the Attorney General
- The Attorney General shall lay a copy of each quarterly report before the National Assembly
- The Commission shall cause each quarterly report to be published in the Gazette.

The quarterly reports are therefore prepared pursuant to the provisions of Sections 35 and 36 of the Anti-Corruption and Economic Crimes Act.

### INVESTIGATIONS CONCLUDED IN THE PERIOD: MAY-SEPTEMBER 2003

No. of files forwarded to the Attorney General	20
No. of files recommended for prosecution	14
No. of files recommended for administrative or other action	1
No. of files recommended for closure	5
No. of files where recommendation to prosecute accepted	0
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	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 where closure not accepted	0
No. of files awaiting Attorney General's action	15



## INVESTIGATIONS CONCLUDED IN THE PERIOD: OCTOBER-DECEMBER 2003

No. of files forwarded to the Attorney General	8
No. of files recommended for prosecution	6
No. of files recommended for administrative or other action	0
No. of files recommended for closure	2
No. of files where recommendation for prosecution accepted	2
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	0
No. of files where recommendation for prosecution not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where recommendation for closure not accepted	0
No. of files awaiting Attorney General's action	6

## INVESTIGATIONS CONCLUDED IN THE PERIOD: JANUARY-MARCH 2004

No. of files forwarded to the Attorney General	5
No. of files recommended for prosecution	4
No. of files recommended for administrative or other action	1
No. of files recommended for closure	0
No. of files where recommendation to prosecute accepted	1
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	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 where closure not accepted	0
No. of files awaiting Attorney General's action	4

## INVESTIGATIONS CONCLUDED IN THE PERIOD: APRIL-JUNE 2004

No. of files forwarded to the Attorney General	5
No. of files recommended for prosecution	2
No. of files recommended for administrative or other action	1
No. of files recommended for closure	2
No. of files where recommendation for prosecution accepted	0
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	0
No. of files where recommendation for prosecution not accepted	0
No. of files where recommendation for closure not accepted	0
No. of files awaiting Attorney General's action	5

## Staff training

Legal Advisory Centre organised and participated in a one-week course on Fraud Investigation and prosecution. Other officers from Crime Intelligence, Preventive and Investigation and Police Administration attended the seminar. Three legal officers also participated in seminars held on diverse dates at ILI, Uganda on Government Ethics and Anti-Corruption, and Litigation and Advocacy Skills.



*Hon. Robinson Githae (left) keenly follows proceedings during the course on fraud investigations and prosecution. Making a presentation is Mr. Kathurima M'Inoti, Chairman, Kenya Law Reform Commission*

## Other Activities

Legal officers delivered papers and made presentations in various fora. The presentations were mainly geared towards enlightening public officers on the provisions of the Anti-Corruption and Economic Crimes Act and the Public Officer Ethics Act.

Legal officers also participated in the following activities:

- Preparation of the curriculum for TRAG certificate course.
- Sensitisation of law enforcement officers on anti-corruption and ethics.
- Participated in a legal clinic held on 1st May 2004.
- Participated in the writing of the Kenya Police Training Manual on Governance, Ethics and Anti-Corruption.
- Participated in the preparation of the Training manual for the Kenya Prison Service.
- Presented a paper on legal obligations of a Board of Directors during good governance workshops for Chief Executives and Directors.



## PREVENTIVE SERVICES SECTION



The essence of the work of preventive services is to bring about changes in the systems in which the public and private sectors operate in order to minimize opportunities for corruption. The Preventive Services Section uses various strategies such as examination of systems, corruption risk assessment and training on principles and practices of corporate governance, among others. The purpose is to identify corruption loopholes and to advise heads of public organisations on means of preventing corrupt practices. Preventive activities have been carried out in various organisations and recommendations on enhancing integrity and governance in these organisations provided. At the end of every assignment, a report containing findings and recommendations is prepared and handed over to the client organisation for action.

Following are the activities that the section carried out during the period under review.

### EXAMINATION ASSIGNMENTS

**State Law Office - Departments of Administrator General and Registrar General:** This examination was carried out between 5<sup>th</sup> June and 18<sup>th</sup> July 2003 and report forwarded to Permanent Secretary, Ministry of Justice and Constitutional Affairs, on 27<sup>th</sup> October 2003. The key areas of concentration were, revenue collection and management, records management and the general service to clients and customers.

**Department of Immigration:** The examination was carried out between 11<sup>th</sup> August and 17<sup>th</sup> September 2003 and report forwarded to the Chief Officers of the department in October 2003. The examination concentrated on the systems applied in issuance of passports and work permits.

**Kenya Roads Board and its Agencies:** The examination was carried out between 11<sup>th</sup> October and 27<sup>th</sup> November 2003. The target areas were; the collection, distribution and utilization of fuel levy funds by Kenya Roads Board (KRB) and its Agencies. The report was presented to the Director of KRB and the management staff on 19<sup>th</sup> December 2003.

**Kenya Bureau of Standards:** The examination was carried out between 11<sup>th</sup> December 2003 and 23<sup>rd</sup> January 2004. The examination focused on all

aspects of procurement, human resource management, standardization and quality assurance, finance and records management. The report was presented to the Director and Departmental Heads on 18<sup>th</sup> May 2004.

**Directorate of Industrial Training:** The examination was carried out between 2<sup>nd</sup> February and 19<sup>th</sup> March 2004 and the report presented to the Director and Departmental Heads on 21<sup>st</sup> May 2004. Additional reports were forwarded to the Permanent Secretary, Ministry of Labour and Human Resources. The examination focused on the collection and utilization of industrial training levy, administration of reimbursement claims, records management and identification of trainers.



*State of records in most government departments.  
A key pointer to poor governance and corruption*

### CORRUPTION RISK ASSESSMENT

The section carried out a Corruption Risk Assessment at the Harambee Savings and Credit Society Ltd. in January 2004. The report was presented to the management of the SACCO on 14<sup>th</sup> July 2004. The purpose was to identify and profile corruption risk areas in the SACCO and to advise on methods for sealing the loopholes. The assessment touched on all functional areas of the SACCO.



## TRAINING ON THE PRINCIPLES AND PRACTICES OF CORPORATE GOVERNANCE

The Preventive Services Section carried out a series of workshops on good governance for Chief Executives, Directors and Senior Management staff of:

- Parastatals
- Government departments
- Local authorities and
- Savings and Credit Co-operative Societies (SACCOs)

These seminars were carried out in June 2004 and one hundred and fifty participants were trained. The purpose of the seminars is to inculcate the principles of good corporate governance to Directors and Senior Management Staff, as a strategy for corruption prevention and management of change in the work place.



*Mr. John Githongo, Ps- Governance and Ethics delivering a key note address during a seminar on corporate governance for Mayors, Councillors, and senior officers of Mombasa District Local Authorities*

**Table: seminar participants and guest speakers June 2004**

DATE/VENUE	TARGET GROUPS	GUEST SPEAKER
7 <sup>th</sup> – 8 <sup>th</sup> June 2004 Mombasa	Chief Executives, Mayors, Chairmen of various Council Committees and Heads of Departments of the municipal Council of Mombasa and County Council of Wundanyi	Mr. John Githongo PS/Governance and Ethics
10 <sup>th</sup> – 11 <sup>th</sup> June 2004 Mombasa	Trustees, Board Members and Principals of Kenya, Mombasa & Eldoret Polytechnics and Kiambu Institute of Science & Technology	Mr. Brown Ondego MD-Kenya Ports Authority
14 <sup>th</sup> – 15 <sup>th</sup> June 2004 Machakos	Ukulima and Telepost Savings & Credit Co-operative Societies	No guest speaker present
17 <sup>th</sup> – 18 <sup>th</sup> June 2004 Machakos	Chief Executives and Board Members of Retirement Benefit Authority, Pensions Department and National Hospital Insurance Fund	Mr. Jonathan Mturi Chairman –Kenya Railways Board
23 <sup>rd</sup> – 24 <sup>th</sup> June 2004 Kisumu	Chief Executives, Mayors, Chairmen of various Council Committees and Heads of Departments of the Municipal Council of Kisumu & Eldoret	Dr. Evans Kidero MD-Mumias Sugar company





Mayor Taib Ali Taib receiving a certificate after effectively participating in a corporate governance seminar for Mayors, Councillors, and senior officers of Mombasa District Local Authorities. On hand to issue the certificate is Mr. Cyrus Maina, Pc-Coast

## MONITORING AND EVALUATION

The section carried out its first monitoring activity between March and May 2004. This was a performance assessment of various organisations that had been examined. The purpose was basically to assess how far organisations that had been examined were implementing recommendations and what problems they were experiencing in this process. This would help in determining the appropriateness and acceptability of recommendations for corruption prevention at the work place.

This was a qualitative survey and it generally involved guided but not structured interviews with staff and members of the public. Additionally, spot checks and mystery customer surveys were carried out in order to verify the accuracy of progress reports collected from the organisations.

The assessment that revealed recommendations, such as, strengthening of internal audit, improvement of internal controls on revenue collection, methods of recruitment, transfer and deployment of staff, improvement of remuneration (in some organizations) were being implemented. It was also noted that recommendations on records management were not being adequately addressed. However, implementation was being done haphazardly as there were no implementation plans in all the organizations visited.

The assignment covered seven institutions namely:

- a) Kenyatta National Hospital
- b) Ministry of Lands and Settlement;
- c) State Law Office – Administrator General and Registrar General Departments
- d) Sony Sugar Company Limited
- e) Municipal Council of Kisumu
- f) Ministry of public works – Weighbridges Department and
- g) Traffic Police Department

## STAFF TRAINING

During this period, several officers were trained in different study areas. In July 2003, all the officers from the Section were trained at the British Council on two critical areas, namely, Leadership and Team Building, and Report writing. This was a necessary input in the enhancement of the quality of the work of the Section, which is carried out in teams.



## RESEARCH, INFORMATION & PUBLIC EDUCATION SECTION

The key objective of the Section is to enlist public support in the fight against corruption. This is achieved through public education, research and development and dissemination of anti-corruption materials. During the period under review the Section carried out the programmes and activities summarized below:

### THE PUBLIC SERVICE INTEGRITY PROGRAMME

The Public Service Integrity Programme (PSIP) seeks to restore and sustain transparency, accountability and integrity in the public service in order to achieve zero tolerance for corruption. This is a joint programme with the Directorate of Personnel Management (DPM) and is currently being implemented in all public service organizations. The PSIP Steering Committee provides direction and guidance in programme implementation. The programme targets the individual public servant, and promotes methods of improving systems, procedures and practices for better service delivery.

#### PSIP training workshops and seminars

ACTIVITY	TARGET GROUP	DATES	NO. TRAINED
Training	Integrity Assurance Officers	Nov 2003 & May 2004	610
	NSIS field Officers	27 <sup>th</sup> Oct 2003 – 1 <sup>st</sup> Nov 2003	44
Refresher Training Workshop for PSIP Facilitators	PSIP Facilitators	16 <sup>th</sup> to 20 <sup>th</sup> Feb. 2004	17
Training of Trainers /Instructors	Trainers/Instructors from all pre and in-service government training institutions	22 <sup>nd</sup> Feb. to 6 <sup>th</sup> Mar 2004 and 7 <sup>th</sup> to 20 <sup>th</sup> Mar 2004	137
PSIP Implementation seminars	Local Authorities – Embu, Malindi and Kisumu	1 <sup>st</sup> , 11 <sup>th</sup> and 18 <sup>th</sup> Jul 2003	236
	Govt. Ministries and Depts. Parastatals	3 <sup>rd</sup> Jul 2003 to 2 <sup>nd</sup> Apr 2004	1181
	KACC Staff	11 <sup>th</sup> Feb. 2004	123
PSIP one day anti-corruption sensitisation seminars (colleges and 17 districts)	Kenya Police, Administration Police, Kenya Prisons, Probation Department and National Youth Service	13 <sup>th</sup> May - 25 <sup>th</sup> Jun 2004	1721
Technical support to prepare Corruption Prevention Plans	Nairobi City Council	22 <sup>nd</sup> to 26 <sup>th</sup> September 2003	
	Ministry of Environment, Natural Resources and Wildlife	5 <sup>th</sup> to 10 <sup>th</sup> August 2003	
	Administration Police	1 <sup>st</sup> to 5 <sup>th</sup> June 2004	
		<b>TOTAL</b>	<b>4069</b>





*L-R Mr. G.M Muketha, the late Simon Motogwa, Mr. B. Rotich, Deputy Pc, Rift Valley during the opening of IAO seminar. Mr. Motogwa was until his death a member of the PSIP Steering Committee and the PSIP main Co-ordinator, DPM*

One activity conducted during the sensitisation seminars was to have participants simulate the conduct of Corruption Risk Assessment (CRA) to demonstrate how to analyse the problems affecting Public Service Organizations. The CRA is the basis for preparing organizational Corruption Prevention Plans.

### **PSIP Implementation Survey**

As part of the PSIP monitoring and evaluation, the Section conducted a survey aimed at evaluating the extent of implementation of the programme in the public service and was conducted in Ministry Headquarters, Provinces and Districts. Among officers interviewed were Chief Executive Officers, Heads of Department, Integrity Assurance Officers and randomly selected staff.

Phase I of the PSIP implementation survey took place from 23<sup>rd</sup> May to 25<sup>th</sup> June 2004. Tentative results show evidence of poor leadership, lack of effective supervision, laxity, absenteeism and unmanned receptions in many public service

institutions, among other symptoms of poor governance.

### **EDUCATION FOR NATIONAL INTEGRITY PROGRAMME**

The Education for National Integrity Programme seeks to promote, instill and enhance integrity and anti-corruption attitudes and behaviour in learners, teachers and stakeholders in the education and training sector by:

Making relevant anti-corruption information available for the education sector through print and electronic media.

Empowering all stakeholders to prevent and fight corruption, to act with integrity at all times and to become change agents in society.

Building teachers' capacity to include, integrate and infuse anti-corruption messages in their teaching programmes.



The following activities were carried out under this programme:

Activity	Participants	Dates	Remarks
Anti-Corruption sensitisation	Key stakeholders in the education and training sector	04.12.2003	60 trained
Anti-Corruption sensitisation	Chief Executives, publishing and Editorial Managers of various publishing firms	09.12.2003	15 trained
Anti-Corruption sensitisation	Editors and Authors of primary and secondary school carrier subjects	10 -11.12.2003	60 trained
Development of outlines for radio programmes and messages for posters and banners	Ministry of Education, Kenya Institute of Education, Teachers Service Commission, University of Nairobi, Kenyatta University and Kenya National Association of Parents	12-14.6.2004	Ready for production
Preparation of 3 anti-corruption booklets for 3 levels - pupils, teachers and school managers	Ministry of Education, Kenya Institute of Education, Teachers Service Commission, University of Nairobi and Kenyatta University and Kenya National Association of Parents	16-21.6.2004	Ready for printing

## TRAINING, RESEARCH, ADVOCACY AND GOVERNANCE PROGRAMME

The overall objective of Training, Research, Advocacy and Governance Programme (TRAG) is to build the capacity of public and private sector organisations to effectively reduce corrupt practices through training. This programme is carried out jointly with Egerton University. The programme was partly funded by Danish International Development Agency (DANIDA) though the United Nations Development Programme (UNDP).

The following activities were carried out;

- Memorandum of Understanding between Egerton University and KACC was signed
- Sensitisation seminar for TRAG facilitators took place in September 2003
- Three TRAG Certificate courses on Investigation, Prosecution, Research, Governance and Ethics and Contemporary Issues were conducted between 15th September and 17th December 2003

- External evaluation of programme was carried out in December 2003 and report presented in February 2004
- Proposal for a diploma course has been drafted and is awaiting approval



An anti-corruption declaration at the NSSF Building, Nairobi



## RESEARCH

The Annual Corruption Perception Survey was carried out jointly with Egerton University and it took place between 4th and 23rd December 2003. The number of respondents was 2,079 drawn from all the Provinces.

The study indicates that in the year 2003, **97%** of Kenyans were aware of what constitutes corruption and its causes as compared to **84%** in 2002. This means interventions should be more for empowerment as opposed to awareness creation.

This survey also found that most people are willing to report corruption offences (**74%**), while those who would not report are mainly discouraged by inappropriate reporting structures and/or perceived ineffectual punishment modes, but **81%** of the respondents strongly feel that corruption can be eradicated in Kenya.

The respondents identified the main forms of corruption as bribery and embezzlement of government resources, abuse of power, extortion, nepotism and tribalism. Those interviewed cited the main causes as emanating from economic mismanagement, erosion of values and poor governance.

## PUBLIC RELATIONS

The Communications and Public relations activities seek to inform, educate and influence members of the public on the mandate, programmes and activities of KACC and other anti-corruption initiatives. Activities carried out included:

- Participated in the 40th Independence Anniversary celebrations in all provinces and mounted anti-corruption clinics, song and drama.
- Produced 2004 calendars and distributed them to ministries, departments, parastatals, local authorities, development partners, civil and religious sectors and professional associations country wide.
- Prepared special pull-out supplement in the local dailies on "The Campaign Against Corruption"
- Participated in the International Women's Day activities
- Participated in Labour Day Celebrations through song, drama, materials display and legal clinic
- Facilitated various Radio and TV programmes on anti-corruption and ethics.
- Media liaison and Press Releases

## Planning

In August 2003 the section compiled a draft consolidated plan, the basis for projected activities for the next 5 years.

## Staff Training

A number of staff participated in various seminars, workshops, conferences and other training both locally and abroad to enhance their skills and performance.



Members of the public pinning anti-corruption badges on their lapels at the KACC stand, Nakuru ASK show



## Other Activities

The Section made presentations on invitation from a wide range of stakeholders as shown in the table below:

TOPIC	TARGET AND VENUE	DATES
Public Integrity/Good ethics	Kenya Police College Kiganjo (Constables squad 1-30//2003	16 <sup>th</sup> Dec. 2003
Prevention of Corruption	SO1P Course CID Training School	14 <sup>th</sup> Oct. 2003
Corruption and its effects on the economy	7 <sup>th</sup> Senior Commandant Course Kenya Police College Kiganjo	28 <sup>th</sup> Jan. 2004
Culture of Public Ethics	S/SO1P 2/2003 S/SO1P 4/2003 KPC Kiganjo	12 <sup>th</sup> Feb. 2003
Culture of Ethics	Traffic Course No. 3& 4. KPC Kiganjo	9 <sup>th</sup> Jan. 2004
Prevention of Corruption	Traffic Course No.1/2004 KPC, Kiganjo	16 <sup>th</sup> March 2004
Ethics and Integrity	District Education Officers, PDEs, Principals of Secondary Schools	April 2004
Prevention of Corruption and Economic Crimes	Inspectors CID Training School	30 <sup>th</sup> March 2004
The Role of KACC	SO1P/2/2004 KPC, Kiganjo	22 <sup>nd</sup> June 2004
Sensitisation on Corruption	PC to CPL promotion courses 1& 2/2004 KPC, Kiganjo	27 <sup>th</sup> May 2004
Impact of Corruption on Crime Prevention 2004	Senior Police Officer "Peace Building" workshop - Nakuru	26 <sup>th</sup> to 30 <sup>th</sup> April
Society/public service Code of Ethics	Station commanders, deputy DCIOs and Base Commanders	4 <sup>th</sup> April 2004
Work Ethics: The Integrity of a staffing Officer	TSC Staffing Officers, Nakuru	2 <sup>nd</sup> – 14 <sup>th</sup> May 2004
Ethics and Integrity in Educational Institutions	Kenya Education Staff Institute: Senior Education Ministry Officers	16 <sup>th</sup> – 22 <sup>nd</sup> May 2004
Anti-corruption measures for good urban governance in Kenya	Good urban governance campaign inter-ministerial committee members	4 <sup>th</sup> –8 <sup>th</sup> April 2004



The Finance and Administration Section is purely a service section composed of:

- Human Resource
- Finance and Accounts
- Procurement and Supplies
- General Office Administration

### Specific Functions

- a) To provide efficient and affective Human Resources Management. This includes Staff Training and Development, Staff Emoluments and General Personnel Administration.
- b) To ensure efficient management of financial resources, which includes budgeting, sourcing of exchequer issues and maintaining of proper books of accounts/records and systems.
- c) To procure all goods and services for the Commission in accordance with the existing procurement and supplies procedures.
- d) To provide general office management, which includes office accommodation, telephone and transport services.
- e) The Internal Audit carries out independent appraisal of all financial activities within the Commission as a service to the management.

### Budget Allocation and Expenditure

During the year under review the Commission was allocated Kshs.389,452,278.00 out of which the actual expenditure was Kshs. 310,345,951.35. There was an under expenditure of Kshs.79,106,326.65 which was returned to Treasury. The under expenditure was caused by, shortage of staff, delays in securing approval to pay the Advisory Board and failure by service providers to forward correct bills for payment. During the period a number of investigators were redeployed to the CID Headquarters thus reducing the personnel emoluments and operational expenditure.

## EXPENDITURES FOR THE YEAR 2003/04

ITEM DESCRIPTION	AMOUNT-KSH.
Personnel Costs .....	147,180,935.75
Transport Operating Expenses .....	10,795,680.85
Travelling and Accommodation .....	8,420,707.50
External Travelling & Accommodation .....	13,687,722.55
Postal and Telegram .....	430,910.00
Telephone .....	3,725,975.00
Official Entertainment .....	224,698.00
Expenses of Boards, Committees and Conferences .....	34,830,921.80
Electricity .....	3,934,508.10
Water and Conservancy .....	808,301.60
Gas/Fuel Expenses .....	28,649.00
Purchase of Consumable stores .....	898,597.70
Publishing and Printing Expenses .....	2,161,615.00
Purchase of Uniforms and Clothes .....	238,814.85
Library Expenses .....	537,742.50
Purchase of Stationary .....	2,493,295.80
Advertising and Publicity .....	2,940,123.40
Purchase of Periodicals .....	15,234.00
Payment of Rent & Rates-Non Residential.....	28,413,180.00
Contracted Professional Services .....	NIL
Computer Expenses .....	3,146,273.40
Vehicle Insurance .....	4,600.00
Miscellaneous other charges .....	684,603.50
Security Operations .....	13,064,456.00
Purchase of Motor Vehicles .....	21,259,867.00
Purchase of Equipment .....	5,161,823.00
Purchase of Furniture .....	425,944.00
Purchase of Security Equipment .....	3,506,206.40
Maintenance of Plant Machinery and Equipment .....	945,163.25
Maintenance of Building and Stations .....	381,407.00
<b>TOTAL .....</b>	<b>310,347,951.25</b>
Miscellaneous Receipts .....	2,000.00
<b>Net Expenditure .....</b>	<b>310,345,951.35</b>
<b>Budget Allocation .....</b>	<b>389,452,278.00</b>
<b>Under expenditure .....</b>	<b>79,106,326.65</b>



## KACC's Fixed Assets



Fixed Assets	Cost (Kshs)	Accumulated Depreciation (Kshs)	Net Book Value (Kshs)
Motor Vehicles	139,470,145.00	108,698,357.00	30,771,788.00
Computers	19,882,378.00	14,756,051.00	5,126,327.00
Furniture, Fixtures & Fittings	23,008,084.00	13,470,020.00	9,538,064.00
Equipment	28,257,347.00	10,632,088.00	17,625,260.00
<b>Total</b>	<b>210,617,954.00</b>	<b>147,556,516.00</b>	<b>63,061,438.00</b>

### Staff Establishment

During this period, the Commission had 146 members of staff against 212 approved posts. There was a variance of 66 posts.

### Staff Training

During the year 41 members of staff from the section were trained in various fields including Fraud Detection and Prevention, Effective Security, Performance Management, Procurement and Auditing, Records Management and Office Management.

### Procurement

In the year under review, the Commission procured various major items including motor vehicles, cameras, LCD projectors, photocopiers, computers, calendars, fireproof cabinets, T-shirts and shredders at a cost of Kshs.51,472,179.00.





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