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THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE THIRD QUARTERLY REPORT COVERING THE PERIOD
1ST JULY, 2016 TO 30TH SEPTEMBER, 2016

PREAMBLE

The Ethics and Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports setting out the number of reports made to the 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 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 the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The report covers the ThirdQuarter and is for the period commencing 1st July, 2016 to 30th September, 2016.

INVESTIGATION REPORT COVERING THE PERIOD 1ST JULY, 2016 TO 30TH SEPTEMBER, 2016

1. EACC/ISL/FI/INQ/1B/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR EMPLOYMENT OF STAFF IN THE OFFICE OF THE GOVERNOR, ISIOLO COUNTY

The EACC commenced investigations on receipt of allegations of irregular employment of staff in the office of the Governor, Isiolo County.

Investigations revealed that the Governor, the acting and substantive County Secretaries of the Isiolo County Government employed eleven persons to the County without involving the County Public Service Board in terms of section 74 of the County Government Act, No: 17 of 2012.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 1st July, 2016 recommending that the Governor, the then acting and substantive County Secretaries of the County Government be charged separately with the offence of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 11th October, 2016, the DPP returned the file for further investigations.

2. EACC/FI/INQ/11/2014

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST MEMBERS OF THE PARLIAMENTARY DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND CO-OPERATIVES

EACC commenced investigations on receipt of a report alleging the former Managing Director of Mumias Sugar Company Ltd had bribed members of Parliamentary Departmental Committee on Agriculture, Livestock and Co-operatives that had been assigned the task to investigate the cause(s) of problems bedeviling the sugar industry with a view to compiling a favourable report.

Investigations revealed no evidence to support the said claim against the former Managing Director.

A report was compiled and forwarded to the DPP on 1st July, 2016 recommending that the inquiry file be closed for lack of culpatory evidence.

On 17th August, 2016 the DPP accepted the recommendation that the file be closed with no further action.

3. EACC/MSA/FI/INQ/04/2014

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF KPA TENDER NO. 117/2013-14/TE FOR DESIGN, MANUFACTURING, COMMISSIONING AND SUPPLY OF THREE (3) SHIPS TO SHORE GANTRY CRANES

EACC commenced investigations upon receipt of a complaint that Kenya Ports Authority (KPA) irregularly awarded the tender for design, manufacturing, installation, supply and commissioning of three (3) ships to shore gantry cranes to a company that was allegedly not the most responsive bidder.

Investigations established that KPA followed the law in the procurement process and resultantly awarded this tender to the successful bidder. Investigations further established that one dissatisfied bidder unsuccessfully challenged the subject award both at the Public Procurement Administrative Review Board and the High Court of Kenya.

A report was compiled and forwarded to the DPP on 8th July, 2016 recommending that the inquiry file be closed with no further action for lack of culpatory evidence.

On 6th October, 2016 the DPP raised issues for further investigations.

4. EACC/FI/INQ/59/2015

INQUIRY INTO ALLEGATIONS THAT THE CHIEF EXECUTIVE OFFICER OF YOUTH ENTERPRISE DEVELOPMENT FUND IN COLLUSION WITH BOARD MEMBERS SCHEMED TO DEFRAUD THE FUND OF KSHS. 180.9 MILLION BETWEEN FEBRUARY, 2015 AND APRIL, 2015

Investigations revealed that the acting Chief Executive Officer (CEO) of Youth Enterprise Development Fund (Fund), the Chairman of the Fund Board and Quorandum Ltd together with its two Directors, colluded to misappropriate the Fund's money totaling to Kshs. 180.9 million purporting to be payment for services rendered by Quorandum Ltd to the Fund; Quorandum Ltd paid some of this money to acting CEO of the Fund and Chairman of the Fund Board; and both the acting CEO of the Fund and one of the Directors of Quorandum Ltd forged contract documents purporting to show that Quorandum Ltd and the Fund had entered into such contracts.

Investigations further established that the company rendered no services to the Fund to warrant payment of Kshs. 180.9 million.

A report was compiled and forwarded to the DPP on 8th July, 2016 recommending that the acting CEO of the Fund be charged with two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act (ACECA), two counts of fraudulent making payment contrary to section 45 (2) (a)(iii) as read with section 48 of ACECA, dealing with suspect property contrary to section 47 (1) as read with

section 48 of ACECA, acquisition of proceeds of crime contrary to section 4 as read with section 16 (1)(a) of Proceeds of Crime and Anti-Money Laundering Act (POCAMLA); the Chairman of the Fund Board be charged with two counts of abuse of office contrary to section 46 as read with section 48 of ACECA, two counts of dealing with suspect property contrary to section 47 (1) as read with section 48 of ACECA, two counts of acquisition of proceeds of crime contrary to section 4 as read with section 16 (1)(a) of POCAMLA; Quorandum Ltd and its two directors be charged with unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of ACECA, one of the Directors of Quorandum Ltd and the acting CEO of the Fund with two counts of making a false document contrary to section 347(a) as read with section 349 of the Penal Code and all the above mentioned suspects be charged with conspiracy to commit an economic crime contrary to section 47A as read with section 48 of ACECA.

On 23rd August, 2016 the DPP accepted the recommendation for prosecution.

5. EACC/ISL/FI/INQ. 31/2015

INQUIRY INTO ALLEGATIONS OF ALTERATION OF APPROPRIATION BILL, 2013 OF THE COUNTY GOVERNMENT OF MARSABIT

Investigations revealed that the County Assembly of Marsabit County Government on 26/6/2013 received from the County Executive for Finance and Planning the budget estimates for the Financial Year, 2013/2014; that the County Assembly forwarded these estimate to its Budget and Appropriation Committee for scrutiny and the Committee proposed some amendments that were finally adopted by the Assembly after which the estimates were submitted to the Governor for assent and thereafter to the Government Printer for publication.

Investigations established that the Executive, including the Governor, was not notified of the changes in the said estimates and there was no evidence that the Governor altered the said budget estimates in terms of Appropriation Bill, 2013 as alleged.

A report was compiled and forwarded to the DPP on 8th July, 2016 recommending that the file be closed with no further action.

On 27th September, 2016 the DPP accepted the recommendation that the file be closed with no further action.

6. EACC/FI/INQ/64/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 50 MILLION FOR THE PURCHASE OF A VIP LIFT AT THE OFFICE OF THE DEPUTY PRESIDENT

Investigations established that the former Office of the Prime Minister which subsequently transformed into the Office of the Deputy President, tendered for

the supply and installation of VIP lift in the building housing the subject office; that the accounting officer in that office however issued a notification of award letter way past the validity period; that the head of procurement failed to maintain and securely safeguard procurement records in respect of this tender; that the head of procurement received payment of Kshs. 193,426/= as travel allowance and per diem for a trip to the manufacturer's factory in China which he never undertook.

A report was compiled and forwarded to the DPP on 8th July, 2016 recommending that both the then Accounting Officer and the Head of Procurement be charged separately with the offence of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of ACECA and the Head of Procurement be additionally charged with the offence of abuse of office contrary to section 46 as read with section 48 (1) of ACECA.

On 18th August, 2016 the DPP returned the file for further investigations.

7. EACC/FI/INQ/121/2015

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF A GOVERNMENT GRANT OF KSHS. 700 MILLION INITIALLY MEANT FOR CARRYING OUT FEASIBILITY STUDIES OF THE STANDARD GAUGE RAILWAY (SGR) PROJECT BETWEEN MOMBASA-NAIROBI-MALABA/KISUMU

EACC commenced investigations upon receipt of allegations that a sum of Kshs. 700 million set aside for carrying out feasibility study for SGR Project had been misappropriated.

Investigations revealed that there was no misappropriation of funds. That part of that money, in the sum of Kshs. 4,257,948/=, was spent for advertisement for international tenders, bidders' conference and evaluation. This is before the Government of Kenya and that of the People's Republic of China entered into a Memorandum of Understanding, whereby the latter government offered to carry out the feasibility study ex gratia, through one its state companies.

Investigations further established that part of the allocated money, Kshs. 415,958,560.80/=, was used to pay off claims submitted by the Concessionaire in respect of damage caused to the railway line as per the concession agreement; that Kenya Railways Corporation holds the balance of Kshs. 279,875,283.65/= in its pool account.

A report was compiled and forwarded to the DPP on 14th July, 2016 recommending that the file be closed but advisory be issued to the KRC and National Treasury to come up with watertight systems that would ensure safety of the public funds.

On 12th October, 2016, the DPP accepted recommendation for closure of the inquiry file.

8. EACC/FI/INQ/90/2014

INQUIRY INTO ALLEGATIONS THAT THE DIRECTORS OF SMITH AND OUZMAN LTD (S & O) A FIRM INCORPORATED IN THE UK CORRUPTLY AGREED TO MAKE PAYMENTS AMOUNTING TO APPROXIMATELY KSHS. 46 MILLION TO PUBLIC OFFICIALS AT THE THEN INTERIM INDEPENDENT ELECTORAL COMMISSION (IIEC) THROUGH THEIR LOCAL AGENT SO AS TO INFLUENCE AWARD OF PRINTING CONTRACTS TO THEIR FIRM IN THE PERIOD RUNNING FROM MAY 2009 TO 31ST AUGUST, 2011

Investigations revealed the IIEC contracted S&O to supply election materials to be used in electoral processes during the period 2009 to 2010. That S&O supplied the said materials at an inflated costs after paying some corrupt benefit (so-called "chicken") through its local agent, a private citizen, to some of the IIEC officials to facilitate the said procurement. That the method of procurement used was direct procurement which was not the applicable procurement method in the said procurement processes. That there was no evidence implicating the IIEC Commissioners in the award of these tenders to S&O; that out of these benefits paid out the S&O and its two directors were charged and convicted at South wark Crown Court, UK of corruptly agreeing to make payments amounting to 0.5 million pounds with a view to influencing the award of contracts both in Kenya and Mauritania. The evidence further established that the private citizen and a number of public officials were engaged in a number of corrupt dealings.

A report was compiled and forwarded to the DPP on 19th July, 2016 recommending that the private citizen be charged with twelve counts of corruptly soliciting for and corruptly receiving a benefit contrary to section 39 (3)(a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA); the then Chief Executive Officer of IIEC be charged with two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (b) as read with section 48 (1) of ACECA and one count of corruptly receiving a benefit contrary to section 39 (3)(a) as read with section 48 (1) of ACECA with an alternative count of dealing with suspect property contrary to section 47 (2) (b) as read with section 48 (1) of ACECA; a person known to the then CEO with corruptly soliciting for and corruptly receiving a benefit contrary to section 39 (3)(a) as read with section 48 (1) of ACECA with an alternative count of dealing with suspect property contrary to section 47 (2) (b) as read with section 48 (1) of ACECA and the then Senior Procurement Officer at IIEC be charged, in the alternative, with the offence of corruptly soliciting for and corruptly receiving a benefit contrary to section 39 (3)(a) as read with section 48 (1) of ACECA. It was also recommended that there is need to apply for Mutual Legal Assistance (MLA) with a view to establishing if the other public

officials of IIEC (the Commissioners) who travelled to UK to proof read and approve printing of referendum ballot papers were compromised in any way.

On 5th September, 2016 the DPP returned the file for further investigations.

9. EACC/MCKS/FI/INQ/13/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF MOBILE PHONES BY THE COUNTY GOVERNMENT OF KAJIADO

Investigations established that the County Government of Kajiado procured mobile phone handsets in the financial year 2013/2014 for its County Executive Committee Members, Chief Officers and County Public Service Board members, as per the relevant procurement laws. The investigations further established that the prices for handsets however were over and above the cap of maximum value of Kshs. 30,000/= per handset, in terms of a Presidential Circular Ref number OP/CAB/15 issued on 5/3/2010. That the beneficiaries however on being notified of this circular refunded the extra money. The investigations also established that the Circular was issued prior to the devolved government coming into being and that it was not gazetted or in any way brought to the attention of the County Government.

A report was compiled and forwarded to the DPP on 2nd August, 2016 recommending that the file be closed with no further action as there was no breach of any law.

On 12th October, 2016 the DPP accepted the recommendation for closure of the inquiry file.

10. EACC/FI/INQ/05/2015

INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF KSHS. 3 MILLION ALLOCATED TO THE COUNTY ASSEMBLY OF TRANS NZOIA BY THE TREASURY

Investigations revealed that thirty eight Members of the County Assembly, a driver and the County Clerk, all of Trans Nzoia County Government with the connivance of the Speaker of the County Assembly fraudulently misappropriated public money on the guise of being paid money as per diem for attending funeral service in Nairobi for a colleague who had passed on.

Investigations further revealed that the MCAs did not travel to Nairobi and failed to surrender the money.

A report was compiled and forwarded to the DPP on 2nd August, 2016 recommending that the suspects, the Speaker of the County Assembly and the thirty eight MCAs be individually charged with a count of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA); the driver and County Clerk be jointly

charged with fraudulent acquisition of public property contrary to section 45 as read with section 48 (1) of ACECA.

On 21st October, 2016 the DPP accepted the recommendation for prosecution.

11. EACC/JKIA/FI/INQ/02/2015

INQUIRY INTO ALLEGATIONS OF EXCESSIVE MONTHLY SERVICE CHARGE PAYMENTS PURSUANT TO PROCUREMENT OF PASSANGER TRANSFER SERVICES (APRON BUS SERVICE) AT JOMO KENYATTA INTERNATIONAL AIRPORT.

Investigations established that Kenya Airport Authority had the need to procure Apron Buses Service and conducted the subject procurement process within the applicable law, the repealed Public Procurement and Disposal Act, 2005 and there was no evidence of excessive monthly service charge as alleged.

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending that the file be closed with no further action.

On 12th October, 2016 the DPP accepted the recommendation for closure of the inquiry file.

12. EACC/FI/INQ/24/2015

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN RESPECT OF TOP HOLING SERVICES AT THE MENENGAI GEOTHERMAL WELLS BY THE GEOTHERMAL DEVELOPMENT COMPANY (GDC)

Investigations established that Geothermal Development Company (GDC) identified the need for top holing services in the process of well drilling. That GDC budgeted for this need in the two financial years 2012/2013 and 2013/2014 and fully followed the law namely the repealed Public Procurement and Disposal Act, 2005 in the procurement process that eventually resulted to the award of the Tender to the resultant successful bidder. The investigations therefore established no breach of any law

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending that the Inquiry file be closed with no further action.

On 6th October, 2016 the DPP accepted the recommendation for closure of inquiry file.

13. EACC/KSM/INQ/FI/10/2014

INQUIRY INTO ALLEGATIONS AGAINST OFFICERS OF THE COUNTY GOVERNMENT OF MIGORI IN IRREGULAR PROCURING FURNITURE FOR THE GOVERNOR'S RESIDENCE FROM A PRIVATE LIMITED COMPANY AT KSHS. 20,973,230/=

Investigations revealed that the County Government of Migori in the year 2014 set out to procure furniture for the Governor's residence but that the Tender

Committee contrary to the applicable procurement laws irregularly awarded the contract to a company that had not been prequalified. The investigations further revealed that the company duly supplied the furniture but the County Government officials in charge of processing payment declined to approve any payment; that resultantly the Governor took possession of the furniture and entered into a private arrangement with the company to pay up for the cost of the furniture.

A report was compiled and forwarded to the DPP on 22nd September, 2016 recommending that the County Head of Supply Chain Management and the Tender Committee membership involved in this procurement be charged respectively with a count of wilful failure to comply with the law of procurement contrary to section 45 (2) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 12th October, 2016, the DPP accepted the recommendation for prosecution.

14. EACC/FI/INQ/120/2015

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE SUPPLY AND DELIVERY OF TRAINING MATERIALS VIDE AUTOMATIVE ENGINEERING CONTRACT NO. NYS/RT/29/2014-2015 (4) BY A PRIVATE ENTERPRISE AT A COST OF KSHS. 46,600,000/=

Investigations established that there were a number of breaches of law in the procurement process that led to the award of contract to supply of training materials to Blue Star and other companies namely: there was no budget factored in the relevant financial year for this procurement; there was no requisite market survey done to ensure that NYS received value for money spent on the materials supplied; the private enterprise was not properly qualified for the award of this tender; the user department did not issue any requisition for this procurement; the use of restricted tendering method was not the applicable one in the subject procurement.

Investigations further established that one of the firms that was awarded the contract to supply the training materials was not one of those approved for the said procurement.

A report was compiled and forwarded to the DPP on 22nd September, 2016 recommending that the Accounting Officer of NYS be charged with two counts, one of engaging in a project without prior planning contrary to section 45 (2)(c) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), and another of wilful failure to comply with the law relating to procurement contrary to section 45 (2)(b) as read with section 48 (1) of ACECA; the Head of Supply Chain Department with two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2)(b) as read with section 48 (1) of ACECA; the members of Ministerial Tender

Committee, Ministry of Devolution and Planning to be charged jointly with two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2)(b) as read with section 48 (1) of ACECA; the NYS Supply Chain Assistant to be charged with the count of fraudulent practice in a procurement contrary to section 40 of the Public Procurement and Disposal Act, 2005 (Repealed).

On 4th November, 2016, the DPP accepted the recommendation for prosecution.

15. EACC/MKS/OPS/INQ/05/2015

INQUIRY INTO ALLEGATIONS OF OFFERING A BENEFIT TO A POLICE OFFICER BY PRIVATE CITIZEN ON 28TH OCTOBER, 2014 ALONG MOMBASA ROAD AT MAKUTANO JUNCTION

Investigations revealed that the suspect corruptly offered a benefit of Kshs. 1,000/= to an officer attached to the National Transport and Safety Authority who together with police officers were manning a road block along Mombasa Road at Makutano Junction as an inducement so as not to be subjected to a Breathalyzer test to gauge the alcohol level in his body.

A report was compiled and forwarded to the DPP on 1st July, 2016 recommending the suspect be charged with the offence of corruptly offering a benefit contrary to section 39 (3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 11th July, 2016, the DPP accepted the recommendation for prosecution.

16. EACC/ INQ/OPS/23/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO RUARAKA POLICE STATION

Investigations revealed that the suspect, a Police Corporal at Ruaraka Police Station corruptly solicited for a benefit of Kshs. 2,000/= but later on reduced the demand to Kshs. 1,000/= as an inducement so as to facilitate the release of an employee of the complainant held in custody at the Ruaraka Police Station. Investigations further established that the suspect did not receive the bribe, directing that the bribe be given to another person.

A report was compiled and forwarded to the DPP on 1st July, 2016 recommending that the suspect be charged with two counts of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 9th July, 2016 the DPP accepted the recommendation for prosecution.

17. CR. 148/8/2016 CF. 5/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT KIKUYU POLICE STATION

Investigations revealed that the suspect, a police officer stationed at Kikuyu Police Station, solicited from the Complainant for a benefit of Kshs. 10,000/= but later on reduced the demand to Kshs. 8,000/= as an inducement so as to fast track investigation of a case of forgery involving land.

Investigations further established that the suspect received the bribe in the sum of Kshs. 8,000/= which the investigators recovered on his arrest.

A report was compiled and forwarded to the DPP on 1st July, 2016 recommending that the suspect be charged with two counts of corruptly soliciting for 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 11th July, 2016 the DPP accepted the recommendation for prosecution.

18. EACC/INQ/OPS/22/2016

INQUIRY INTO ALLEGATION OF CORRUPTION AGAINST AN ASSISTANT CHIEF AND THE CHIEF OF LEKKURUKI LOCATION FOR CORRUPTLY SOLICITING FOR A BENEFIT

Investigations revealed that an Assistant Chief stationed at Upper Matasia within Lekkuruki Location corruptly solicited for a benefit of Kshs. 20,000/= from the complainant as an inducement so as not to close down the complainant's bar business. That later on a different day the Assistant Chief in the company of the Chief of Lekkuruki Location met the complainant, and the Chief at the behest of the Assistant Chief solicited for a reduced benefit of Kshs. 10,000/=. The bribe was however not paid.

A report was compiled and forwarded to the DPP on 14th July, 2016 recommending that the suspects be charged with offences of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) of ACECA and conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48 (1) of ACECA.

On 26th September, 2016 the DPP accepted the recommendation for prosecution.

19. EACC/INQ/38/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST FOUR PARKING ATTENDANTS AT THE NAIROBI CITY COUNTY GOVERNMENT

Investigation established that the four suspects, all employees of the Nairobi City County Government, on 14/8/2015 received money from undercover EACC officers as parking fees but failed to issue receipt for the same. Investigations revealed that this action on the part of the said officers did not amount to criminal offence, but raised issues regarding their integrity at work place.

A report was compiled and forwarded to the DPP on 2nd August, 2016 recommending that administrative action be taken against the suspects.

On 24th August, 2016 the DPP accepted the recommendation for administrative action be taken against the suspects.

20. EACC/OPS/INQ/24/2015

INQUIRY INTO ALLEGATION THAT A FORMER PRINCIPAL MAGISTRATE KIBERA LAW COURTS FAILED TO DECLARE HER WEALTH AND RECEIVED A BENEFIT OF KSHS. 2.4 MILLION AS AN INDUCEMENT TO AWARD A FAVOURABLE JUDGEMENT TO SUSPECTS FACING DRUG TRAFFICKING CHARGES AT KIBERA LAW COURTS

Investigations revealed that the suspect, a former Principal Magistrate at Kibera Law Courts, handled a criminal case involving three accused persons charged with the offences of drug trafficking. The investigations further established that the Magistrate concluded the matter by discharging all the accused persons for lack of evidence. The investigation also established no evidence of the alleged bribe money having been given to the Magistrate and further that the Magistrate actually filed the relevant wealth declarations as required.

A report was compiled and forwarded to the DPP on 2nd August, 2016 recommending that the inquiry file be closed with no further action.

On 27th September, 2016 the DPP accepted the recommendation for closure of the inquiry file with no further action.

21. CR. 212/409/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTLY OFFERING A BENEFIT AGAINST A DRIVER OF UTAWALA SACCO

Investigations established that an officer with the National Transport and Safety Authority in collaboration with the Traffic Police Officers arrested the suspect for driving a public service vehicle KBT 952Z along Nairobi Mai-Mahiu Road without a valid Short Road Service License. Although it was alleged that the driver had offered a benefit to the arresting personnel, there was no cogent evidence in support thereof.

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending that the inquiry file be closed.

On 1st September, 2016 the DPP accepted the recommendation for closure of the inquiry file.

22. CR. 374/28/2016

INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BRIBE OF KSHS. 1,000/= BY A MEMBER OF KENYA POLIC RESERVIST IN MPEKETONI IN LAMU COUNTY

Investigations revealed that the suspect, a Kenya Police Reservist attached to Mpeketoni Police Station arrested the complainant who was said to be felling trees on government land and thereafter solicited for and Kshs. 1,000/= as an inducement to release the timber to the complainant.

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending that the suspect be charged with offences of corruptly soliciting for 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 25th August, 2016 DPP accepted the recommendation for prosecution.

23. CR. 313/436/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF MAGARINI SAND SACCO AND A KILIFI COUNTY REVENUE OFFICER

Investigations revealed that the complainant failed to pay relevant cess due to the Kilifi County Government. That the complainant then left his national identity card as a security as he left to look for money to pay. That on the complainant's return, the suspects solicited for Kshs. 8,500/= which later on they reduced to Kshs. 2,000/= with an additional Kshs. 500/= as fare, so as they could return to the complainant his identity card.

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending that the suspects be charged with offences of corruptly soliciting for 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 25th August, 2016 DPP accepted the recommendation for prosecution.

24. CR. 030/08/2015 CF. NAKURU ACC. 2/2015

INQUIRY INTO ALLEGATIONS OF DEMAND AND RECEIPT OF BRIBES FROM MOTORIST BY TRAFFIC POLICE OFFICERS ALONG THE NAIROBI NAKURU HIGHWAY

Investigations established four police officers attached to Salgaa Traffic Base were covertly videotaped receiving money from a number of motorists plying the Nakuru-Salgaa Highway and letting them drive on. Upon search they were found in possession of money totaling to Kshs. 1,000/=.

A report was compiled and forwarded to the DPP on 15th August, 2016 recommending the prosecution of the four police officers on the basis of charges of dealing with suspect property contrary to section 47 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 proceeds to the very logical conclusion.

On 26th September, 2016 the DPP accepted the recommendation for prosecution.

25. EACC/OPS/INQ/NYR/1/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER ATTACHED TO KERUGOYA POLICE STATION ALONG KERUGOYA-KUTUS ROAD

Investigations established that the suspect, a police officer, amongst other police officers attached to Kerugoya Police Station was arrested as he received bribes from motorists along Kagio/Kutus/Gichugu/Embu road. Upon search he was found in possession of Kshs. 7,500/=. Investigations further revealed that the suspect assaulted one of the EACC officers in course of his arrest.

A report was compiled and forwarded to the DPP on 9th September, 2016 recommending that the police officer be charged with one count of dealing with suspect property contrary to section 47 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and assaulting a person acting under the Anti-Corruption and Economic Crimes Act, 2003 (ACECA) contrary to section 66 (1)(a) as read with section 66 (2) of (ACECA).

On 29th September, 2016 the DPP accepted the recommendation for prosecution.

26. CR. 148/12/2016 ACC. MILIMANI 7/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A LEGAL ASSISTANT, UNIVERSITY OF NAIROBI

Investigations revealed that the suspect corruptly solicited for a benefit of Kshs. 150,000/= and received Kshs. 90,000/= from the two complainants as an inducement so as to expedite their swearing in as University of Nairobi Campus Representatives, KNH/Medical School and Finance Secretary.

A report was compiled and forwarded to the DPP on 9th September, 2016 recommending the suspect be charged with offences of corruptly soliciting for 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 12th October, 2016 the DPP accepted the recommendation for prosecution.

27. CR. 760/322/2016-NAKURU ACC. CF 5/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN EMPLOYEE OF THE NATIONAL LAND COMMISSION BASED IN NAKURU AS THE SECRETARY TO NAKURU COUNTY LAND MANAGEMENT BOARD

Investigations revealed that the suspect corruptly solicited for Kshs. 900,000/= from the complainant with a view to registering the names of to be beneficiaries in a land register for the National Land Commission to consider for allocation of land within Oljorai Farm in Nakuru County. Investigations further established that the suspect reduced this claim for a benefit to Kshs. 750,000/= and sent another person to collect the benefit for him. The investigations established that through this third party the suspect finally corruptly received a benefit of Kshs. 140,000/= for the aforesaid reason.

A report was compiled and forwarded to the DPP on 9th September, 2016 recommending that the suspect be charged with two counts of corruptly soliciting for a benefit and one count of corruptly 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 12th October, 2016 the DPP accepted the recommendation for prosecution.

28. EACC/AT/INQ/11/2015

INQUIRY INTO ALLEGATIONS OF CONCEALMENT OF DOCUMENTS/EVIDENCE IN AN INVESTIGATION BY THE COUNTY SECRETARY, THE CHIEF FINANCE OFFICER, THE HEAD OF TREASURY AND THE HEAD OF BUDGET, ALL OF NAIROBI CITY COUNTY GOVERNMENT

Investigations revealed that EACC officers sought in writing from the suspects, all employees of Nairobi City County Government, crucial documents that were required for purposes of another subsisting investigation relating to other top officials of the said County Government. Investigation established that the suspects endeavoured to provide some of the documents, committing in writing to provide others that were not readily traceable on some later days as and when they are available. The investigations did not reveal that the suspects concealed the documents as alleged.

A report was compiled and forwarded to the DPP on 9th September, 2016 recommending that the inquiry file be closed with no further action for lack of culpatory evidence.

On 10th October, 2016 the DPP returned the inquiry file for further investigations.

29. EACC/OPS/INQ/NYR/4/2015

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TWO POLICE OFFICERS ATTACHED TO KARATINA TRAFFIC POLICE SUB-BASE ALONG KARATINA SAGANA ROAD

Investigations established that two police officers attached to Karatina Traffic Police Sub-Base were covertly videotaped receiving money from a number of motorists plying the Karatina-Sagana Road and letting them go without inspection. Upon arrest and search they were found in possession of money totaling to Kshs. 1,400/=. Investigations further established that the two suspects had transacted through their respective mobile phones Mpesa accounts; suspect colossal sums of money whose source they could not satisfactorily explain.

A report was compiled and forwarded to the DPP on 16th September, 2016 recommending that each suspect be charged with the offence of corruptly receiving a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 and in the alternative, a charge of dealing with suspect property contrary to section 47 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 17th October, 2016 the DPP accepted the recommendation for prosecution.

30. EACC/GSA/OPS/INQ/21/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST THE OFFICER COMMANDING DADAAB POLICE DIVISION

Investigations revealed that the suspect corruptly solicited for a benefit of Kshs. 20,000/= and corruptly received Kshs. 17,000/= from the complainant as an inducement so as not to cause arrest of public service vehicles operating within Haghadere area in Garissa County.

A report was compiled and forwarded to the DPP on 22nd September, 2016 recommending that the suspect be charged with two counts of corruptly soliciting for a benefit and one count of corruptly 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 18th October, 2016 the DPP returned the file for further investigations.

31. EACC/GSA/OPS/INQ/27/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE CONSTABLE ATTACHED TO HUDUMA CENTRE WITHIN GARISSA TOWNSHIP

Investigations established that the suspect, while serving at the Huduma Centre at Garissa Town, corruptly solicited for Kshs. 200/= and corruptly received from the complainant a benefit of Kshs. 150/= as an inducement so as to issue the complainant with a police abstract which is normally issued for free.

A report was compiled and forwarded to the DPP on 22nd September, 2016 recommending that the suspect be charged with two counts of corruptly soliciting for a benefit and one count of corruptly 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 27th October, 2016 the DPP accepted the recommendation for prosecution.

32. CR. 641/238/2016 ACC 1881/2016 KISII

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO KISII TRAFFIC BASE

Investigations established that three police officers attached to Kisii Traffic Base were covertly videotaped receiving money from a number of motorists plying the Kisii Highway and letting them go without inspecting them. Upon arrest and search two of the suspects were found in possession of money totaling to Kshs. 25,000/=; no money was recovered from one of the suspects.

A report was compiled and forwarded to the DPP on 30th September, 2016 recommending that two of the suspects be charged with the offence of dealing with suspect property contrary to section 47 (1) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003 whereas administrative action be meted out against the other suspect.

On 27th October, 2016 the DPP accepted the recommendation for prosecution.

33. CR.911/99/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A CRIMINAL INVESTIGATION OFFICER, ATTACHED TO BUNGOMA FLYING SQUAD

Investigations revealed that the suspect, a Criminal Investigating Officer attached at Bungoma Police Station, Flying Squad Division, corruptly solicited from the complainant a sum of Kshs. 45,000/= which he later on reduced to Kshs. 25,000/=, as an inducement so as to release the complainant's motor vehicle registration number KAR 872B which had been detained at the Police Station yard. Investigations further established that the matter was reported to the suspect's superior, the County Police Commander whereupon he was arrested. Investigations therefore only established the aspect of corruptly soliciting for a benefit.

A report was compiled and forwarded to the DPP on 1st July, 2016 recommending that the suspect be charged with offences of corruptly soliciting for a benefit contrary to section 39 (3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 13th July, 2016 the DPP accepted the recommendation for prosecution.

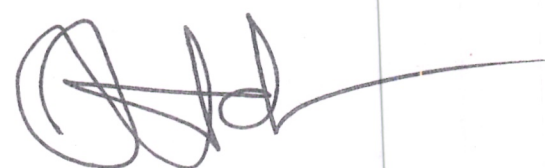
STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	33
No. of files recommended for prosecution	22
No. of files recommended for administrative or other action	1
No. of files recommended for closure	10
No. of files recommended for prosecution and the cases are already lodged before Court	13
No. of files where recommendation to prosecute accepted	17
No. of files where recommendation for administrative or other action accepted	1
No. of files where recommendation for closure accepted	8
No. of files returned for further investigations	6
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 Director of Public Prosecutions' action	0

DATED AT NAIROBI THIS *22nd* NOV DAY OF 2016

Sophia Lepuchirit

SOPHIA LEPUCHIRIT
VICE CHAIRPERSON



HALAKHE D. WAQO (ACI ARB)
SECRETARY/CHIEF EXECUTIVE OFFICER

