

# ANNEX 29



**A REPORT  
TO THE HON. ATTORNEY GENERAL  
BY  
THE TEAM ON THE REVIEW OF POST  
ELECTION VIOLENCE RELATED CASES  
IN  
WESTERN, NYANZA, CENTRAL, RIFT  
VALLEY, EASTERN, COAST AND NAIROBI  
PROVINCES**

**FEBRUARY, 2009**

**NAIROBI**

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The Hon. S.A.WAKO, EGH, FCI Arb, SC, MP  
 Attorney General of the Republic Of Kenya  
 State Law Office  
NAIROBI

Through,  
 MR. KERIAKO TOBIKO  
 The Director of Public Prosecutions

*Hon. AG.*

Dear Sir,

*Forwarded to Hon. AG. for final  
 3 sets of the Report by the  
 Team of Review of Post-election  
 violence cases. 27/12/09.*

WHEREAS, in exercise of powers conferred upon you by Section 26 of the Constitution of Kenya, you directed Mr. Keriako Tobiko, the Director of Public Prosecutions to constitute a team of State Counsels to undertake a nationwide review of cases related to the 2007 post election violence in liaison with the Director of Criminal Investigations Department, and to make a Report and recommendations thereon to the Hon. Attorney General;

AND WHEREAS, the Director of Public Prosecutions nominated : Mr. Patrick M. Gumo, Assistant Deputy Public Prosecutor, Mr. Nicholas K. Mutuku, Senior Principal State Counsel, Mr. Jacob N. Ondari, Assistant Deputy Public Prosecutor, Mr. Paul M. Ndemo, Principal State Counsel, and Mr. Muteti A. Muasya, Senior State Counsel on 18<sup>th</sup> June, 2008 to undertake the said exercise; NOW therefore, we the members of the Team, hereby respectfully confirm to the Hon. Attorney General that we have dutifully undertaken the exercise and discharged our mandate.


We thank you, the Hon. Attorney General for bestowing this responsibility on us; We thank Mr. Keriako Tobiko, the Director of Public Prosecutions for nominating us to undertake this momentous assignment; We thank Mr. Wanjuki Muchemi, the Solicitor General for facilitating the Team throughout the exercise; We thank Major General Hussein Ali, the Commissioner of Police, and Mr. Gatiba Karanja , Director of Criminal Investigations Department, for their cooperation whilst undertaking this assignment.

We have the singular pleasure therefore to forward herewith our Report:

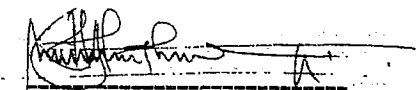
We remain,

Your Obedient Servants,

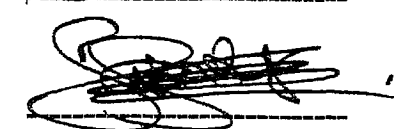
**PATRICK M. GUMO**  
Asst. Deputy Public Prosecutor (ADPP)



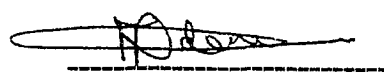
**NICHOLAS K. MUTUKU**  
Snr. Principal State Counsel (SPSC)



**JACOB. N. ONDARI**  
Asst. Deputy Public Prosecutor (ADPP)



**PAUL M. NDEMO**  
Principal State Counsel (PSC)



**MUTETI A. MUASYA**  
Snr. State Counsel (SSC)



DATED AT NAIROBI THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2009

## CHAPTER ONE

### INTRODUCTION

#### I. APPOINTMENT OF TEAM BY THE HON. ATTORNEY GENERAL

Following the Hon. Attorney General's directions to the Director of Public Prosecutions to constitute a team of State Counsel to undertake a nationwide review of cases related to the 2007 post election violence, the Director of Public Prosecutions nominated the following to undertake the said exercise:-

- |                |   |      |
|----------------|---|------|
| 1. P.M. Gumo   | - | ADPP |
| 2. J.N. Ondari | - | ADPP |
| 3. N. Mutuku   | - | SPSC |
| 4. P. Ndemo    | - | PSC  |
| 5. A. Muteti   | - | SSC  |

The team of State Counsel worked alongside senior police officers drawn from the CID, to wit;

- |                        |   |                  |
|------------------------|---|------------------|
| 1. Mohamed Amin (SACP) | - | PCIO Rift Valley |
| 2. F. Mwachai (SACP)   | - | PCIO Eastern     |
| 3. B. Mate (ACP)       | - | PCIO Coast       |

4. G. Mbuvi (ACP) - D/PCIO Coast

The Team was supported in its operations by:

1. Victoria Njoha - Secretary
2. Joseph Otuoma - Principal Driver
3. Frederick Oyugi - Driver

The Director of Public Prosecutions convened a meeting of the members of the entire team on the 18<sup>th</sup> June, 2008, where the terms of reference and the working definition of a post election violence offence were agreed upon.

The Hon. Attorney General's approval for the commencement of the exercise was subsequently sought and granted on 21<sup>st</sup> June, 2008.

The details of the said Hon. Attorney General's approvals are contained in **"Appendix 1"**

## **II. TERMS OF REFERENCE**

The Terms of Reference were agreed upon and approved by the Hon. Attorney General as follows:

1. The Team is to review all cases as per the list titled **"POST ELECTION VIOLENCE SUSPECTS FOR SERIOUS AND PETTY OFFENCES IN OUR RESPECTIVE PRISONS – 2008"** hereinafter referred to as "The Reference List"



The details and particulars of the Reference List are contained in "**Appendix 1A**".

2. The Team shall determine whether the cases on the Reference List fall within the working definition of a post-election violence case.
3. The Team shall isolate cases from the Reference List that do not fall within the working definition and mark them as such.
4. Where a case is determined as falling within the working definition of post election violence case, then the team shall proceed to review and re-evaluate the case and:
  - a. Determine whether there is sufficient evidence in support of the charges preferred.
  - b. Recommend on the basis of the sufficiency of the evidence, whether the case should proceed to full trial.
  - c. Where the evidence is found to be insufficient, recommend that such case be withdrawn or otherwise terminated.

5. Where there is sufficient evidence in appropriate cases, depending on the nature and gravity of offence charged, the team may recommend admission into bail/bond or review of the bail/bond terms.
6. In carrying out its mandate, the Team shall:
  - a. Review all the files in the Reference List.
  - b. Pay particular attention to cases involving the following offences:
    - (i) Preparation to commit a felony
    - (ii) Possession of offensive weapons in public
    - (iii) Incitement to violence
    - (iv) Taking part in riots
    - (v) Unlawful assembly
    - (vi) Promoting war like activities
    - (vii) Creating disturbance

### **III. WORKING DEFINITION OF A POST ELECTION OFFENCE**

After careful deliberation, the Team settled on the following definition of what constituted a post election violence offence:

***"Such an offence arising from, connected with or related to the December 2007 presidential elections."***

#### **IV.METHODOLOGY**

In order to achieve the desired objective of the exercise in line with the Terms of Reference, the Team developed a methodology as outlined hereunder:

- 1) To procure relevant details from prisons on the remandees on the Reference list.
- 2) To proceed to Courts and get the case file numbers to enable the Team obtain the relevant case files from police stations.
- 3) To obtain the files from the police stations and bring them to the operation bases in Nakuru, Eldoret, Kisumu, Kakamega, Nyeri, Embu and Mombasa.
- 4) To peruse the files and classify them as follows:-
  - a) Cases related to post-election violence that are on the Reference list.
  - b) Cases related to post-election violence pending the arrest of known suspects.
  - c) Cases related to post-election violence that have been concluded.
  - d) Inquest files.

- 5) To peruse and forward with the Team's recommendations, files related to post-election violence to the Hon. Attorney General for appropriate directions.

Having agreed on the methodology, the Team commenced the exercise on 21<sup>st</sup> June, 2008.

#### **V.OBSERVATIONS ON THE REFERENCE LIST**

During its first visit to the Rift Valley Province on **24<sup>th</sup> June, 2008**, the Team made the following observations with regard to the Reference List:

- 1) **THAT** the Reference List was wanting in certain material respects, in that:-
  - a) It provided only numbers of remandees without providing the relevant details, viz:
    - ❖ Accused's Name,
    - ❖ Court File Case Number; and
    - ❖ Police Case Reference number.
  - b) It did not disclose the date the data on the List was generated.
- 2) **THAT** during the visit to the prisons, most remandees had claimed that they were in custody in connection with post-

election violence and therefore ended up on the Reference List.

3) **THAT** following that representation in (2) above, the Team called for the files of the remandees and upon perusal established that most of those cases were not related to post election violence.

The same problem was replicated in all the relevant provinces. The details on unrelated cases are contained in "**Appendix 1B and 1C**".

Following the above observations, the team noted that it was neither practical nor feasible to rely on the Reference list as the basis for the review exercise, and proceeded to request all the relevant provincial CID heads to avail all files related to post election violence.

## CHAPTER TWO

### THE RIFT VALLEY PROVINCE

The Team visited the Rift Valley Province between **24<sup>th</sup> June 2008** and **7<sup>th</sup> July, 2008**, and **26<sup>th</sup> September, 2008** and **10<sup>th</sup> October, 2008**. During these visits, the Team was based both in Nakuru and Eldoret State Law Offices. Upon perusal of the files forwarded from the respective police divisions in the Province, the Team made the following findings:

#### **A.CASES PENDING BEFORE COURT RELATED TO POST ELECTION VIOLENCE**

The Team received, perused and forwarded with their comments and recommendations thereon to the Hon. Attorney General through the Director of Public Prosecutions , a total of **106 (one hundred and six)** files involving **504(five hundrend and four) accused persons** in respect of cases in this category.The Hon. Attorney General in turn perused the same and issued directions as follows:

- i) In respect of **42 (forty two)** cases involving **123(one hundred and twenty three)** accused persons, the Hon.

Attorney General directed that the respective trials proceed to their logical conclusion.

ii) In respect of **48 (forty eight)** cases involving **196 (one hundred and ninety six)** accused persons, the Hon. Attorney general directed that the cases be withdrawn and files closed for lack of evidence.

iii) In respect of **16 (sixteen)** cases involving **185 (one hundred and eighty five)** accused persons, the Hon. General directed that the cases be withdrawn to allow further investigations be conducted and the files to be re-submitted for further directions.

The details and particulars of the said files are contained in "**Appendix 2**".

#### **B.CONCLUDED CASES RELATED TO POST ELECTION VIOLENCE**

The Team received a total of **29(twenty nine)** files involving **58 (fifty eight)** accused persons where the cases had been finalized in Court, as follows:

<b>NATURE OF OFFENCE</b>	<b>NO. OF FILES</b>	<b>NO. OF ACCUSED</b>
1. Robbery with violence	2	2
2. Arson	5	7
3. Attempted arson	1	1
4. Stealing	3	2

5. Burglary & Stealing	1	3
6. Malicious Damage*	1	1
6. Creating Disturbance*	1	1
7. Taking part in a Riot	2	5
8. Kiosk breaking & stealing	1	2
9. Possession of weapon	1	1
10. Obstructing Police Officer	1	9
11. Shop breaking & stealing	3	8
12. Being armed in public	1	2
13. Breaking into a Building &	1	1
Committing a felony		
14. Bond to keep peace**	1	6
15. Stock Theft	3	4
16. House breaking	2	3
<b>TOTAL</b>	<b>29</b>	<b>58</b>

The details and particulars of the said files are contained in  
**"Appendix 3"**.

\*File where Accused was charged with more than 1(one) offence.

\*\* Not an offence but a preventive action by police for which suspects were arraigned in court.



### **C. INQUESTS**

Under this category the Team received, perused a total of **158(one hundred and fifty eight)** files upon which the Hon. Attorney General through the Director of Public Prosecutions directed that further investigations be undertaken in all the files and the same be re-submitted for appropriate directions.

The details and particulars of cases in this category are contained in "**Appendix 3A**".

### **D. CASES UNDER FURTHER INVESTIGATIONS**

Under this category, there were files where complainants named particular suspects or groups of suspects. In another category, no suspects have been named. The Team perused the files and forwarded them to the Hon. Attorney General with their comments as reflected hereunder:

#### **I. CASES WHERE SUSPECTS HAVE BEEN NAMED**

In this category, **302 (three hundred and two)** files were submitted to the Team. Upon perusal of the files, the Team noted that the investigations were incomplete and recommended to the Hon. Attorney General through the Director of Public Prosecutions that the following areas needed to be covered by way of further investigations:

- Investigation diaries be prepared for each file

- Investigating officers to record their statements
- Scenes of Crime Officers to include their statements and photographs where applicable
- Sketch plans of scenes of crime be included in the files
- Covering reports be prepared
- The list of intended witnesses be drawn
- The list of exhibits be drawn
- Further statements be taken where necessary
- Corroborating evidence be gathered where complainants have alluded to eye witnesses as their source of information as to possible suspects.
- Recovery attempts on stolen items be made
- Where Complainants have given a single name of a suspect, further investigations be undertaken for better particulars
- Where identification is alleged to have been made under difficult circumstances by Complainants, corroborative evidence be gathered
- Intended charge sheets be prepared
- Where in a particular file, statements refer to different incidents, these should be sorted out, and categorized in accordance with related incidents and appropriate files be opened
- The statements be typed

This was necessitated by the fact that most files in this category only contained the complainant's statement.

The Team therefore recommended to the Hon. Attorney General through the Director of Public Prosecutions that upon completion of investigations, the files be re-submitted to the Hon. Attorney General for appropriate directions.

The Hon. Attorney General in turn perused the files alongside the recommendations by the Team, and directed that the identified areas of investigations be covered and the files re-submitted for further directions.

The details and particulars in these files are contained in **"Appendix 4A"**.

## **II. CASES WHERE THERE ARE NO KNOWN SUSPECTS**

The Team received and perused a total of **3325 (three thousand three hundred and twenty five)** files in this category. It was observed that most files contained only the statement of the complainant and therefore no meaningful recommendations could be made.

In view of this, the Team made recommendations to the Director of Public Prosecutions that further investigations be undertaken, completed and the files be re-submitted to the Hon. Attorney general for further directions.

The Director of Public Prosecutions then perused the files alongside the recommendations by the Team and directed that investigations be completed within 30 days and the files be re-submitted **TO THE ATTORNEY GENERAL FOR FURTHER DIRECTIONS.**

The details and particulars of the said files are contained in **"Appendix 5"**

## **CHAPTER 3**

### **WESTERN PROVINCE**

The Team conducted its work in Western Province from **11<sup>th</sup> July 2008** to **25<sup>th</sup> July, 2008**, and **12<sup>th</sup> September 2008** to **18<sup>th</sup> September, 2008**. The Team was based in the Kisumu State law Office. On perusal of the files forwarded from the respective police divisions in the Province, the Team made the following findings:

#### **A.CASES PENDING BEFORE COURT RELATED TO POST ELECTION VIOLENCE**

The Team received, perused and forwarded with their comments and recommendations thereon to the Hon. Attorney General through the Director of Public Prosecutions , a total of **23 (twenty three)** files involving **51(fifty one)** accused persons in respect of cases in this category. The Hon. Attorney General in turn perused the same and issued directions as follows:

i) In respect of **16 (sixteen)** cases involving **29 (twenty nine)** accused persons, the Hon. Attorney General directed that the respective trials proceed to their logical conclusion.

ii) In respect of **7(seven)** cases involving **22 (twenty two)** accused persons, the Hon. Attorney general directed that the cases be withdrawn and files closed for lack of evidence.

The details and particulars of the said files are contained in "**Appendix 6**".

#### **B.CONCLUDED CASES RELATED TO POST ELECTION VIOLENCE**

The Team received a total of **19 (nineteen)** files involving **58 (fifty eight)** Accused persons where the cases had been finalized in Court, as follows:

<b>NATURE OF OFFENCE</b>	<b>NO. OF FILES</b>	<b>NO.OF ACCUSED</b>
1. Arson	1	2
2. Attempted Arson	1	1
3. Stealing	3	7
4. Malicious Damage	1	1
5. Shop Breaking and stealing	1	5
6. Incitement to violence	2	5
7. House Breaking & Stealing	3	8
8. Offensive Conduct	1	6

9. Stock theft and Stealing	1	2
10. Breaking into building	2	5
11. Conveying Suspected		2
Stolen property	1	
12. Store Breaking and Stealing	1	11
13. Hotel Breaking	1	3
<b>TOTAL</b>	<b>19</b>	<b>58</b>

The details and particulars of the said files are contained in "Appendix 7".

### C. INQUESTS AND INQUIRIES

Under this category the Team received and perused a total of **18 (eighteen)** files. Out of these, the Team returned **6 (six)** to the police for further investigations and forwarded with their comments, the remaining **12 (twelve)** to the Hon. Attorney General through the Director of Public Prosecutions, whereupon the Hon. Attorney General issued the following directives:

- i) In respect of **8 (eight)** case files, to further investigations to be undertaken since these were incomplete, and the files be re-submitted for appropriate directions.
- ii) In respect of **4 (four)** case files, the matters be disposed of by way of public inquest before a competent court.

The details and particulars in this category are contained in **"Appendix 8A" and "Appendix 8B"**.

#### **D.CASES UNDER FURTHER INVESTIGATIONS**

The Team inquired from the PCIO Western province whether there were any files in this category in the province. In response, the PCIO informed the Team that there were none.

A copy of the PCIO's letter dated 5<sup>th</sup> October, 2008 is contained in **"Appendix 9"**.



## CHAPTER FOUR

### NYANZA PROVINCE

The Team visited Nyanza Province from **11<sup>th</sup> July, 2008** to **25<sup>th</sup> July, 2008**, and **12<sup>th</sup> September 2008** to **18<sup>th</sup> September, 2008**. During these visits, the Team was based in Kisumu State Law Office. Upon perusal of the files forwarded from the respective police divisions in the Province, the Team made the following findings:

#### **A.CASES PENDING BEFORE COURT RELATED TO POST ELECTION VIOLENCE**

The Team received, perused and forwarded with their comments and recommendations thereon to the Hon. Attorney General through the Director of Public Prosecutions , a total of **21 (twenty one)** files involving **42 ( forty two)** Accused persons in respect of cases in this category. The Hon. Attorney General **in turn** perused the same and issued directions as follows:

- i)** In respect of **11 (eleven)** cases involving **18 (eighteen)** accused persons, the Hon. Attorney General directed that the respective trials proceed to their logical conclusion.

ii) In respect of **9 (nine)** cases involving **18 (eighteen)** accused persons, the Hon. Attorney General directed that the cases be withdrawn and files closed for lack of evidence.

iii) In respect of **1 (one)** cases involving **1 (one)** accused person, the Hon. General directed that the cases be withdrawn to allow further investigations be conducted and the files to be re-submitted for further directions.

The details and particulars of the said files are contained in **"Appendix 10"**.

#### **B.CONCLUDED CASES RELATED TO POST ELECTION VIOLENCE**

The Team received a total of **23 (twenty three)** files involving **113 (one hundred and thirteen)** accused persons where the cases had been finalized in Court, as follows:

<b>NATURE OF OFFENCE</b>	<b>NO. OF FILES</b>	<b>NO. OF ACCUSED</b>
1. Robbery with violence*	5	80
2. Arson	1	1
3. Burglary& Stealing	1	2
4. Breaking into Building	1	1
5. Taking part in a Riot	3	7
6. Kiosk breaking & stealing	1	3
7. Incitement to violence	2	3

8. Bar breaking & stealing	1	1
9. Having Suspected Stolen Property	3	6
10. Conveying Suspected Stolen Property	2	3
11. Preparation to commit Felony	1	1
12. Riotously interfering With vehicles	2	5
<b>TOTAL</b>	<b>23</b>	<b>113</b>

The details and particulars of cases in this category are contained in "**Appendix 11**".

\* All the **5 (five)** cases were withdrawn under S.87 (a) of CPC and the Accused persons discharged.

### **C.INQUESTS AND INQUIRIES**

Under this category the Team received a total of **51 (fifty one)** files. Out of these, the Team returned **38 (thirty seven)** files to the police for further investigations and forwarded the remaining **13 (thirteen)** to the Hon. Attorney General through the Director of Public Prosecutions. The Hon. Attorney General in turn directed that further investigations be undertaken in all the files and the same be re-submitted for appropriate directions.

The details and particulars of the said files are contained in **"Appendix 12"**.

#### **D.CASES UNDER FURTHER INVESTIGATIONS**

The Team inquired from the PCIO Nyanza province whether there were any files in this category in the province. In response, the PCIO informed the Team that there were none.

A copy of the PCIO's letter dated 15<sup>th</sup> September, 2008 is contained in **"Appendix 13"**.

## **CHAPTER FIVE**

### **CENTRAL PROVINCE**

The Team visited Central Province between **19<sup>th</sup> September 2008** and **26<sup>th</sup> September, 2008**.

Only **two (2)** files were availed for perusal to the Team by the area PCIO who informed the Team that the **2 (two)** case files were the only reported and investigated cases in connection with post election violence in the entire Province.

The submitted files were:

**a) LIMURU INQUIRY NO. 2 OF 2008**

**ACCUSED PERSON: ANTONY KANGAU GITHU & 2 OTHERS**

**b) CID NYANDARUA 242/6/08 [inquest] DECEASED: GEORGE ODHIAMBO**

The Team perused the 2 files and forwarded the same with their recommendations to the Hon. Attorney General through the Director of Public Prosecutions. The team recommended withdrawal of charges against the accused persons in the first case, who were charged with the offence of participating in a riot.

With regard to the inquest file, the Team recommended that further investigations be undertaken and the file be re-submitted to the Hon. Attorney General for directions. The Hon. Attorney General in turn perused the files and concurred with the Team's recommendations in both cases.

Copies of the PCIO's letter dated 18<sup>th</sup> September, 2008, and 23<sup>rd</sup> September, 2008 are contained in "**Appendix 14 & 15**" respectively.

## CHAPTER SIX

### EASTERN PROVINCE

The Team visited the Eastern Province between **23<sup>rd</sup> October 2008** and **30<sup>th</sup> October, 2008**, and was informed by the PCIO, Eastern Province, vide a letter dated 23<sup>rd</sup> October 2008 that there were no post election violence related cases reported and investigated in the entire province.

A copy of the PCIO's letter dated 15<sup>th</sup> September, 2008 is contained in "**Appendix 16**".

## CHAPTER SEVEN

### NAIROBI PROVINCE

The Team called and wrote to the Provincial Police Officer, Nairobi on the 4th November, 2008 calling for the files. However, as at the date of this report, the Team had not received any file or response to the letter.

As such the team is unable to comment on the status of cases in the Nairobi Province.

For details refer to our letter marked "**Appendix 17**"



## **CHAPTER EIGHT**

### **COAST PROVINCE**

The Team visited Coast Province from **3<sup>rd</sup> August 2008** to **17<sup>th</sup> August, 2008**, and **12<sup>th</sup> November 2008** to **19<sup>th</sup> November, 2009**. During these visits, the Team was based in Mombasa State Law Office. Upon perusal of the files forwarded from the respective police divisions in the Province, the Team made the following findings:

#### **A.CASES PENDING BEFORE COURT RELATED TO POST ELECTION VIOLENCE**

The Team received, perused and forwarded with their comments and recommendations thereon to the Hon. Attorney General through the Director of Public Prosecutions , a total of **6( six) files involving 79(seventy nine)**

The details and particulars of the said files are contained in **"Appendix 18"**.

## **B.CONCLUDED CASES RELATED TO POST ELECTION VIOLENCE**

The Team received a total of **13 (thirteen)** files involving **51 (fifty one)** Accused persons where the cases had been finalized in Court, as follows:

<b>NATURE OF OFFENCE</b>	<b>NO. OF FILES</b>	<b>NO.OF ACCUSED</b>
1. Arson	1	2
2. Shop Breaking and stealing	3	3
3. Incitement to violence	1	29
4. Breaking into building	3	4
5. Having suspected stolen Property	1	3
6. Hotel Breaking & stealing	1	1
7. Bar breaking & Committing a Felony	1	5
8. Creating Disturbance	1	1
9. Taking Part in a Riot	1	3
<b>TOTAL</b>	<b>13</b>	<b>51</b>

The details and particulars of the said files are contained in "Appendix 19".

## **C.INQUESTS AND INQUIRIES**

Under this category the Team received a total of **19 (nineteen)** inquest files and **5(five)** inquiry files respectively.

The Team having perused the files and found the investigations far from complete, re-submitted **all** the files to the police for further investigations and closure in **1 (one)** inquiry file.

The details and particulars of cases in this category are contained in "**Appendix 20A**" and "**Appendix 20B**".

#### **D.CASES PENDING FURTHER INVESTIGATION**

The PCIO Coast confirmed that there were no files in this category.

A copy of the PCIO's letter is marked "**Appendix 21**".

## CHAPTER NINE

### STATISTICAL ANALYSIS

Under this chapter, the Team has prepared a statistical summary of cases in all the relevant provinces in the following categories:

- I. Cases Pending before Court
- II. Attorney General's directives on Cases Pending before Court.
- III. Attorney General's directives on Cases Pending Further Investigation.
- IV. Concluded cases
- V. Inquests and Inquiries

#### I. STATISTICAL SUMMARY ON CASES PENDING BEFORE COURT

OFFENCES	R/VALLEY		WESTERN		NYANZA		COAST		CENTRAL		EASTERN		NBI	
	No. Of Cases	No. of Acc-used	No. Of Cases	No. of Acc-used	No. of Cases	No. of Acc-used	No. Of Cases	No. of Acc-used	No. Of Cases	No. of Acc-used	No. Of Cases	No. of Acc-used	No. Of Cases	No. of Acc-used
Robbery with violence	18	75	-	-	-	-	-	-	-	-	-	-	-	-
Murder	5	14	-	-	-	-	-	-	-	-	-	-	-	-
Arson	28	57	6	12	3	14	-	-	-	-	-	-	-	-
Attempted	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Arson														
Stealing	5	15	2	5	-	-	1	2	-	-	-	-	-	-
Burglary & Stealing	4	5	-	-	2	4	-	-	-	-	-	-	-	-
Malicious Damage to property	4	16	-	-	2	2	-	-	-	-	-	-	-	-
Taking Part In Riot	1	3	1	6	2	2	-	-	-	-	-	-	-	-
Possession Of offensive weapon	3	172	1	1	-	-	-	-	-	-	-	-	-	-
Possession of illegal firearm	2	4	1	2	-	-	-	-	-	-	-	-	-	-
Obstructing free flow of traffic	1	9	-	-	-	-	-	-	-	-	-	-	-	-
Assaulting a police officer	-	-	1	1	1	1	-	-	-	-	-	-	-	-
Shop Breaking & Stealing	1	1	1	1	-	-	1	1	-	-	-	-	-	-
Shop & Theft	2	18	-	-	-	-	-	-	-	-	-	-	-	-
Assault causing actual bodily harm	1	1	-	-	-	-	-	-	-	-	-	-	-	-
House breaking & Stealing	2	4	1	1	2	2	-	-	-	-	-	-	-	-
Breaking into Building & Committing Felony	1	1	1	12	-	-	1	63	-	-	-	-	-	-

Incitement to Violence	1	1	1	1	3	3	2	11	-	-	-	-	-	-
Breaking & committing Felony	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Taking part in unlawful Assembly	5	24	-	-	-	-	-	-	-	-	-	-	-	-
Handling Stolen Property	6	13	1	1	2	2	-	-	-	-	-	-	-	-
Breach of peace	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Conveying suspected stolen property	1	2	3	3	-	-	-	-	-	-	-	-	-	-
Store Breaking & Stealing	-	-	1	4	-	-	-	-	-	-	-	-	-	-
Stealing motor vehicle	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Publishing false rumour	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Preparation to commit a Felony	8	62	-	-	3	7	-	-	-	-	-	-	-	-
Bond to keep peace	2	3	-	-	-	-	-	-	-	-	-	-	-	-
Threatening to kill	-	-	-	-	-	-	1	2	-	-	-	-	-	-
Threatening violence	-	-	-	1	-	-	-	-	-	-	-	-	-	-
Setting fire on cultivated	-	-	-	-	1	5	-	-	-	-	-	-	-	-

crop														
Inquest	-	-	1	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>106</b>	<b>504</b>	<b>23</b>	<b>51</b>	<b>21</b>	<b>42</b>	<b>6</b>	<b>79</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

## II. STATISTICAL SUMMARY ON ATTORNEY GENERAL'S DIRECTIVES ON CASES PENDING BEFORE COURT

	CASES TO PROCEED TO LOGICAL CONCLUSION	CASES TO BE WITHDRAWN & FILES CLOSED	CASES TO BE WITHDRAWN TO ALLOW FURTHER INVESTIGATIONS
<b>R/VALLEY</b>	<b>42</b>	<b>48</b>	<b>16</b>
<b>WESTERN</b>	<b>16</b>	<b>7</b>	<b>-</b>
<b>NYANZA</b>	<b>11</b>	<b>9</b>	<b>1</b>
<b>COAST</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>CENTRAL</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>EASTERN</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>NAIROBI</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>TOTAL</b>	<b>69</b>	<b>64</b>	<b>17</b>

**III. STATISTICAL SUMMARY ON ATTORNEY GENERAL'S DIRECTIVES  
ON CASES PENDING FURTHER INVESTIGATION**

	NO. OF CASE FILES	ATTORNEY GENERAL'S DIRECTIVES
<b>R/VALLEY</b>	<b>3627</b>	Further investigations be undertaken and files be re-submitted to the Attorney General within 30 days for appropriate directions
<b>WESTERN</b>	-	-
<b>NYANZA</b>	-	-
<b>COAST</b>	-	-
<b>CENTRAL</b>	-	-
<b>EASTERN</b>	-	-
<b>NAIROBI</b>	-	-
<b>TOTAL</b>	<b>3627</b>	



## IV. STATISTICAL SUMMARY ON CONCLUDED CASES

OFFENCES	R/VALLEY		WESTERN		NYANZA		COAST		CENTRAL		EASTERN		NBI	
	No. Of Case s	No.of Acc- used	No. Of Case s	No.of Acc- Used	No. of Case s	No.of Acc- used	No. Of Case s	No.of Acc- used	No. Of Case s	No.of Acc- used	No. Of Case s	No.of Acc- used	No. Of Case s	No. Of Acc- used
Robbery with violence	2	2	-	-	5	80	-	-	-	-	-	-	-	-
Arson	5	7	-	-	-	-	1	2	-	-	-	-	-	-
Attempted Arson	1	1	1	1	-	-	-	-	-	-	-	-	-	-
Stealing	3	2	3	7	-	-	-	-	-	-	-	-	-	-
Burglary & Stealing	1	3	-	-	1	2	-	-	-	-	-	-	-	-
Malicious Damage	1	1	1	1	-	-	-	-	-	-	-	-	-	-
Creating Disturbance	1	1	-	-	-	-	1	1	-	-	-	-	-	-
Taking Part In Riot	2	5	-	-	3	7	-	-	-	-	-	-	-	-
Kiosk Breaking	1	2	-	-	1	3	-	-	-	-	-	-	-	-
Possession Of weapon	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Obstructing Police	1	9	-	-	-	-	-	-	-	-	-	-	-	-
Shop Breaking & Stealing	3	8	2	4	-	-	3	3	-	-	-	-	-	-
Stock Theft	3	4	1	2	-	-	-	-	-	-	-	-	-	-
Being armed In Public	1	2	-	-	-	-	-	-	-	-	-	-	-	-

House breaking	2	3	2	4	-	-	-	-	-	-	-	-	-	-
Breaking into Building & Committing Felony	-	-	2	4	1	1	3	4	-	-	-	-	-	-
Incitement to Violence	1	-	2	5	2	3	1	29	-	-	-	-	-	-
Bar breaking & committing Felony	-	-	-	-	1	1	1	5	-	-	-	-	-	-
Having suspected stolen property	-	-	-	-	3	6	1	3	-	-	-	-	-	-
Hotel breaking	-	-	1	3	-	-	1	1	-	-	-	-	-	-
Taking part in unlawful Assembly	-	-	-	-	-	-	1	3	-	-	-	-	-	-
Handling Stolen Property	-	-	1	4	-	-	-	-	-	-	-	-	-	-
Breach of peace	-	-	1	5	-	-	-	-	-	-	-	-	-	-
Conveying suspected stolen property	-	-	1	2	2	3	-	-	-	-	-	-	-	-
Store Breaking & Stealing	-	-	1	2	-	-	-	-	-	-	-	-	-	-
Preparation to commit a Felony	-	-	-	-	1	1	-	-	-	-	-	-	-	-

Riotously Interfering with vehicles	-	-	-	-	2	5	-	-	-	-	-	-	-	-
Bond to keep peace	1	6	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>28</b>	<b>60</b>	<b>19</b>	<b>44</b>	<b>23</b>	<b>112</b>	<b>13</b>	<b>51</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

#### V. STATISTICAL SUMMARY ON INQUEST FILES PERUSED BY TEAM

R/VALLEY	WESTERN	NYANZA	COAST	CENTRAL	EASTERN	NBI	
No.of Files	No.of Files	No.of Files	No.of Files	No.of Files	No.of Files	No.of Files	ATTORNEY GENERAL'S DIRECTIVES
158	18	51	19	-	-	-	Further investigations be undertaken and the files be re-submitted to Attorney General

## CHAPTER TEN

### CONCLUSION

#### A. CHALLENGES

1. It was observed during the visit to the various provinces that the police were not able to avail the files in time since the time within which they were required to do so was short, given the fact that various police stations were involved in investigating the crimes.
2. Due to personnel constraints in the Department, the members of the Team had to undertake the exercise besides discharging their prosecutorial, administrative and other duties. It should be noted that the Department is highly understaffed with some stations being manned by a single Counsel.
3. Considering the nature, and urgency of the exercise, members of the Team were constrained to work long hours into the night including weekends.
4. Considering the nature of the exercise and the security concerns of the Team, the per diem allowance paid, which

incidentally was the only allowance given to the members, was grossly insufficient.

5. The Department of Public Prosecutions has an acute shortage of equipment such as printers, laptop computers and photocopiers, which considerably compromised the speed and efficiency of the Team in discharging its mandate.

6. The Department of Public Prosecutions lacks proper library facilities thus rendering research extremely difficult. It should be noted that the Department has no internet connection, which is crucial not only for research, but also for communication with relevant agencies and partners.

7. The exercise was not budgeted for in the financial year thus the A.I.E. allocated to the Department of Public Prosecutions under travel and subsistence votes was exhausted.

### **B.OBSERVATIONS**

At the conclusion of the exercise, the Team observed the following:-

1. That, the agencies involved in fighting crime were ill prepared for a crisis of the magnitude witnessed.

2. That there was a lack of coordination by agencies dealing with the crisis.
3. The police, in particular, were overwhelmed by the number of cases reported to them as demonstrated by the high number of cases pending further investigations.
4. There is a very high number of cases reported, specifically in the Rift Valley that require further investigations since most of these had only the complainant's statement in the file, apparently recorded in the Internally Displaced Persons (IDP) camps, with no subsequent follow up.
5. That the inquest files opened in all the affected provinces were far from complete in as far as investigations were concerned.
6. That considering the high number of deaths reported there should have been more inquest files opened or murder files forwarded to the Team for onward transmission to the Hon. Attorney General.

## **RECOMMENDATIONS**

In view of the challenges and observations noted above, the Team recommends the following:-

- i) That, the Commissioner of Police be directed by the Hon. Attorney General in exercise of his power under S.26 (3) of the Constitution to have investigations in cases marked as pending further investigations undertaken or concluded within a specific time frame.
- ii) That in those cases where deaths were reported, specific attention be paid to their speedy investigation.
- iii) That upon conclusion of the investigations, the files be submitted to the Hon. Attorney General for appropriate directions.
- iv) That post election violence related case files in Nairobi province be availed to the Hon. Attorney General for review and directions.
- v) That the agencies involved in fighting crime make budgetary provisions in their financial estimates to cater for emergency situations in future to avoid the situation

witnessed in the early part of the year 2008 in responding to the crisis.

- vi) That there is need to develop a common response approach by all the agencies concerned to avoid duplication of efforts.
- vii) That there is a critical need to urgently address the issue of staff capacity in the Department of Public Prosecutions.
- viii) That the terms and conditions of service of State Counsels need to be reviewed as a matter of priority so as to attract and retain competent staff.
- ix) That there is an urgent need to equip the Department of Public Prosecution's library with the necessary research material, including the provision of internet service.
- x) That there is need to provide equipment such as printers, photocopiers, and laptop computers to the Department of Public Prosecutions so as to enhance the delivery of service.

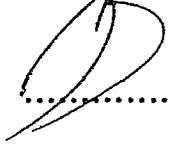
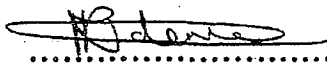


Submitted for your perusal and directions.

Dated at Nairobi this 26<sup>TH</sup> Day of **FEBRUARY, 2009**

**OFFICER**

**SIGNATURE**

1. PATRICK M. GUMO Asst. Deputy Public Prosecutor (ADPP) -	
2. NICHOLAS K. MUTUKU Snr. Principal State Counsel (SPSC) -	.....
3. JACOB. N. ONDARI Asst. Deputy Public Prosecutor (ADPP) -	.....
4. PAUL M. NDEMO Principal State Counsel (PSC) -	
5. MUTETI A. MUASYA Snr. State Counsel (SSC) -	.....

MICROFILM

AG/CR/2014/2819

URGENT

HON. ATTORNEY GENERAL

- Approved as requested in (i) to (v).
- Endeavour - actually complete the exercise for R.V. by 30<sup>th</sup> June to enable me make decisions during the first week of July 2008.
- Slt. Kindly facilitate urgently as requested in this Memo.
- In respect of Section V, the exercise should include para(b) (i), (iii) and (v).

 21/06/08.

RE: REPORT OF MEETING BETWEEN DPP AND CID ON POST ELECTION VIOLENCE CASES

The above captioned matter refers.

MEETING ON 16<sup>TH</sup> June, 2008

Following a meeting held on 16<sup>th</sup> June, 2008 between the Hon. Attorney General, the Director of CID, the Deputy Director CID, and the Officer in charge of investigations CID, where you briefed us on the deliberations and resolutions of the National Security Committee in relation to post election violence cases, you directed that a joint team of CID officers and state counsel be constituted to undertake a thorough review and re-evaluation of cases relating to post election violence as per the list discussed in the National Security Committee, and make recommendations to the Hon. Attorney General within 2 weeks.

MEETING ON 18<sup>TH</sup> JUNE, 2008

Following the meeting hereinabove referred to, I convened a meeting on 18<sup>th</sup> June, 2008 in the DPP's Boardroom to determine what constitutes a post election violence offence, methodology of operation of the team and logistical arrangements necessary for the execution of the team's mandate.

The meeting was attended by the following:

**CID TEAM**

- |                      |   |                            |
|----------------------|---|----------------------------|
| 1. Mr. Okonya        | - | Deputy DCI                 |
| 2. Mr. Mohammed Amin | - | PCIO Rift Valley Province  |
| 3. Mr. F. Mwachai    | - | PCIO Eastern Province      |
| 4. Mr. Mbuvi         | - | D/PCIO Coast Province      |
| 5. Mr. Kimilu        | - | I/c investigations CID Hqs |

**DPP'S TEAM**

- |                  |   |      |
|------------------|---|------|
| 1. Mr. K. Tobiko | - | DPP  |
| 2. Mr. P. Gumo   | - | ADPP |
| 3. Mr. J. Ondari | - | ADPP |
| 4. Mr. N. Mutuku | - | ADPP |
| 5. Mr. P. Ndemo  | - | PSC  |
| 6. Mr. A. Muteti | - | SC.  |

**I. WORKING DEFINITION**

It was agreed that post election violence offence for purposes of the team's mandate will be "*such offences arising from, connected with, and/or related to the December 2007 presidential elections*".

**II. TERMS OF REFERENCE**

The team then proceeded to draft the Terms of Reference as hereunder:

1. The team is to review all cases as per the list titled "POST ELECTION VIOLENCE SUSPECTS FOR SERIOUS AND PETTY OFFENCES IN OUR RESPECTIVE PRISONS- 2008" hereinafter referred to as " the Reference List" (a copy of which is herewith attached).

2. The team shall determine whether the cases on the Reference List fall within the working definition of a post election violence case.

3. The team shall isolate cases from the Reference List that do not fall within the working definition and mark them as such.

4. Where a case is determined as falling within the working definition of post election violence case, then the team shall proceed to review and re-evaluate the case and:

(a) Determine whether there is sufficient evidence in support of the charges preferred.

(b) Recommend on the basis of the sufficiency of the evidence, whether the case should proceed to full trial.

(c) Where the evidence is found to be insufficient, recommend that such cases be withdrawn or otherwise terminated.

5. Where there is sufficient evidence in appropriate cases, depending on the nature and gravity of offence charged, the team may recommend admission into bail/bond or a review of the bail/bond terms.

6. In carrying out its mandate, the team:

(a) Shall review all the files in the Reference List.

(b) Shall pay particular attention to the following cases:

---

(i) Preparation to commit a felony

(ii) Possession of offensive weapons in public

(iii) Incitement to violence

- (iv) Taking part in riots
- (v) Unlawful assembly
- (vi) Promoting war like activities.
- (vii) Creating disturbance
- (viii) Those involving multiple accused persons.

### III. COMPOSITION AND OPERATIONAL STRUCTURE OF THE TEAM

The exercise shall be undertaken by 4 teams drawn from the State Law Office and the CID as hereunder:

- (i) The Nyanza and Western Provinces team
- (ii) The Coast Province team
- (iii) The South Rift team
- (iv) The North Rift team

#### THE NYANZA AND WESTERN PROVINCES TEAM

This team shall comprise the following:

- 1. Mr. Nicholas K. Mutuku (SPSC), State Law Office - Team Leader
- 2. Mr. G.S.Mbuvi (ACP), CID - Investigations Overseer

#### THE COAST PROVINCE TEAM

The team shall comprise the following:

- 1. Mr. Jacob Ondari (ADPP), State Law Office - Team Leader
- 2. Mr. Bernard Mate (S/ACP), CID - Investigations Overseer

#### THE SOUTH RIFT TEAM

This team shall comprise the following:

- 1. Mr. Paul Ndemo (PSC), State Law Office - Team Leader
- 2. Mr. Alexander Muteti(SC), State Law Office

3. Mr. Mohammed Amin (S/ACP), CID

-Investigations Overseer

#### THE NORTH RIFT TEAM

This team shall comprise the following:

~~1. Mr. Patrick Gumo (ADPP), State Law Office~~

~~- Team Leader -~~

2. Mr. John Mwachai (S/ACP), CID

- Investigations Overseer

#### IV. METHODOLOGY

In the execution of its mandate, the team shall:

- (a) Visit the prisons, the courts and the police stations to obtain relevant details and particulars of the cases in the Reference List.
- (b) Compare the data on the Reference List with that contained in the relevant police records and harmonize the same.
- (c) Call for the relevant police files from the respective police stations for purposes of review and re- evaluation of the evidence.
- (d) Upon review of the files, make appropriate recommendations thereon.
- (e) Submit the file and the recommendations thereon to the Hon. Attorney General through the Director of Public Prosecutions for perusal and appropriate directions.

#### V. POST ELECTION VIOLENCE CASES NOT COVERED IN THE REFERENCE LIST

Upon discussion members observed that the reference list was not exhaustive in that:

- (a) It relates only to persons in prison custody
- (b) It does not cover the following:
  - i) Cases of persons charged but are out on bail

- ii) Cases under investigations
- iii) Cases pending arrest of known suspects
- iv) Cases pending further investigations on the directives of the Hon. Attorney General
- v) Cases of persons in police custody but not yet charged.

It was therefore agreed subject to your concurrence that:

- (a) Cases falling under (i) above do not fall within the mandate of the team but should be considered at an appropriate time.
- (b) Cases falling under (ii), (iii), and (iv) above, should be acted on by the police expeditiously.
- (c) Cases falling under (v) above should be dealt with within the period prescribed by law.

## VI. LOGISTICAL ISSUES

Members observed that for the teams to effectively and expeditiously discharge their mandate, it is critical that adequate logistical arrangements and facilitation be made as a matter of urgency, in particular including the provision of:

- 1. A functional secretariat for each team.
- 2. Transport arrangements.
- 3. Accommodation and subsistence allowances.
- 4. Mobile telephone credit.

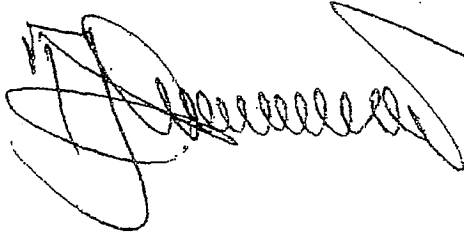
In this regard, it was recommended that the State Law Office be responsible for the logistical arrangements and facilitation of its officers while CID does likewise for its own officers.

VII. APPROVALS & DIRECTIVES SOUGHT FROM ATTORNEY  
GENERAL

In view of the above, I request that you:

- (i) Approve the structure and composition of the teams as proposed above.
- (ii) Approve the Terms of Reference and Working Methodology of the teams as proposed above.
- (iii) Direct the Solicitor General to make urgent arrangements to provide the necessary logistical requirements and facilitation for the officers of the State Law Office involved in the exercise.
- (iv) Give directions on the cases not covered in the Reference List.
- (v) Issue such other directives as you may deem necessary for the expeditious and effective discharge of the mandates of the teams.

Submitted for your approval and directions.



KERIAKO TOBIKO  
DIRECTOR OF PUBLIC PROSECUTIONS

19<sup>th</sup> June, 2008



# Reference List

## POST ELECTION VIOLENCE SUSPECTS FOR SERIOUS AND PETTY OFFENCES IN OUR RESPECTIVE PRISONS- 2008

### RIFT VALLEY PROVINCE

OFFENCES	Nakuru GK Prison	Kericho GK Prison	Eldoret GK Prison	Naivasha GK Prison	Kitale GK Prison	Narok GK Prison	TOTAL
Murder	17	0	6	0	4	0	27
Arson	29	3	7	0	12	8	59
Robbery	0	11	6	2	76	2	97
Defilement	0	0	2	0	19	0	21
Rape	0	0	0	0	11	0	11
Possession of firearm	0	0	0	0	1	0	1
Malicious Damage	0	0	7	0	4	0	11
Creating Disturbance	0	0	8	0	4	3	15
Promoting warlike activities	0	0	0	0	82	0	82
Preparation to commit a felony	52	3	52	150	0	0	257
Possession of offensive weapons	27	0	0	0	0	0	27
Handling suspected stolen goods	5	5	1	2	0	0	13
General Stealing	5	0	43	2	0	0	50
Stock Theft	5	0	16	0	0	0	21
Assault	4	0	23	0	0	0	27
House Breaking	2	0	32	2	0	1	37
Taking part in a riot	0	0	0	0	82	0	82
Burglary	0	0	6	0	0	0	6
Obtaining money by false pretence	0	0	3	0	0	0	3
Grievous harm	0	0	4	0	0	0	4
Attempted Arson	0	0	1	0	0	0	1
Stealing M/v Parts	0	0	3	0	0	0	3
Making a false document	0	0	1	0	0	0	1
Theft by servant	0	0	1	0	0	0	1
Cruelty to animals	0	0	1	0	0	0	1
Failing to prevent a felony	0	0	1	0	0	0	1
Unnatural offence	0	0	1	0	0	0	1
Incest	0	0	1	0	0	0	1
Theft by Agent	0	0	1	0	0	0	1
Stealing from a person	0	0	1	0	0	0	1
Handling stolen goods	2	5	1	2	0	0	10
Attempted rape	0	0	0	4	0	0	4
Shop Breaking	0	0	0	1	0	0	1
Simple Robbery	0	11	6	0	0	0	17
Unlawful Assembly	0	25	0	0	0	6	31
Total	148	63	235	165	295	20	926

# YANZA PROVINCE

OFFENCES	HOMABAY GK PRISON	KIBOS GK PRISON	KODIAGA MAIN PRISON	RONGO MAIN PRISON	KISII GK PRISON	TOTAL
Murder	-	-	3	-	1	4
Robbery	3	-	1	-	-	4
Robbery with violence	-	-	22	1	-	23
Manslaughter	2	-	-	9	-	11
Arson	1	-	3	1	-	5
Assaults	6	-	-	-	-	6
Defilement	5	1	-	-	-	6
Rape	3	-	-	-	-	3
Breaking	-	-	-	1	-	1
House breaking	-	1	-	-	-	1
stealing	-	-	-	1	-	1
Breaking and stealing	-	1	-	-	-	1
Burglary and stealing	-	-	2	-	-	2
House Breaking and Stealing	-	-	6	-	-	6
Kiosk Breaking and Stealing	-	-	3	-	-	3
Setting fire on farm produce	-	-	1	-	-	1
Malicious Damage	-	-	-	1	-	1
TOTAL	20	3	41	14	1	79

## EASTERN PROVINCE

OFFENCES	GK MAIN PRISON KAKAMEGA	GK PRISON BUSIA	GK PRISON BUNGOMA	TOTAL
Arson	7	-	-	7
Incitement	3	-	-	3
Offensive conduct	4	-	-	4
Theft of M/v parts	1	-	-	1
Shop Breaking and committing a felony	6	-	-	6
Stealing	3	-	-	3
Creating disturbance	1	-	-	1
Burglary and stealing	-	-	-	-
Possession of stolen property	1	-	-	1
Threatening to kill	1	-	-	1
House Breaking and Stealing	1	-	-	1
Interfere and to keep peace	-	1	-	1
<b>TOTAL</b>	<b>28</b>	<b>1</b>		<b>29</b>

## COAST PROVINCE

OFFENCES	SHIMO LA TEWA PRISON	TOTAL
Breaking into a supermarket with intent to commit a felony	63	63
Conveying suspected stolen goods	1	1
Stealing	2	2
Breaking into a building and committing a felony	1	1
Shop breaking and committing a felony	2	2
Incitement to violence	60	60
Arson	1	1
Entering a dwelling house with intent to commit a felony	1	1
Obtaining money by false pretence	1	1
<b>TOTAL</b>	<b>132</b>	<b>132</b>

➤ NO OTHER PRISON HAS PRISONERS HELD IN CUSTODY

## CENTRAL PROVINCE

OFFENCES	KINGONGO PRISON	TOTAL
Arson	7	7

➤ NO OTHER PRISON HAS PRISONERS HELD IN CUSTODY

EASTERN PROVINCE - NIL

## SUMMARY FOR ALL PROVINCES

OFFENCES	RIFTVALLEY	WESTERN	NYANZA	COAST	CENTRAL	TOTAL
Murder	27	-	4	-	-	31
Manslaughter	-	-	11	-	-	11
Arson	59	7	5	1	7	79
Robbery	97	-	4	-	-	101
Defilement	21	-	6	-	-	27
Rape	11	-	3	-	-	14
Possession of firearm	1	-	-	-	-	1
Malicious Damage	11	-	1	-	-	12
Creating Disturbance	15	1	-	-	-	16
Promoting warlike activities	82	-	-	-	-	82
Preparation to commit a felony	257	-	-	-	-	257
Incitement	-	3	-	60	-	63
Possession of offensive weapons	27	-	-	-	-	27
Handling suspected stolen goods	13	-	-	-	-	13
General Stealing	50	3	1	2	-	56
Stock Theft	21	-	-	-	-	21
Assault	27	-	6	-	-	33
House Breaking	37	1	1	-	-	39
House Breaking and Stealing	-	-	6	-	-	6
Taking part in a riot	82	-	-	-	-	82
Burglary	6	-	-	-	-	6
Obtaining money by false pretence	3	-	-	1	-	4
Grievous harm	4	-	-	-	-	4
Attempted Arson	1	-	-	-	-	1
Stealing M/v Parts	3	1	-	-	-	4
Making a false document	1	-	-	-	-	1
Theft by servant	1	-	-	-	-	1
Cruelty to animals	1	-	-	-	-	1
Failing to prevent a felony	1	-	-	-	-	1
Unnatural offence	1	-	-	-	-	1
Incest	1	-	-	-	-	1
Theft by Agent	1	-	-	-	-	1
Stealing from a person	1	-	-	-	-	1
Receiving stolen goods	10	1	-	-	-	11
Conveying suspected stolen goods	-	-	-	1	-	1
Attempted rape	4	-	-	-	-	4
Shop Breaking	1	-	-	-	-	1
Kiosk Breaking and	-	-	3	-	-	3

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Shop Breaking and committing a felony	-	6	-	2	-	8
Breaking	-	-	1	-	-	1
Breaking and stealing	-	-	1	-	-	1
Breaking into a building and committing a felony	-	-	-	1	-	1
Breaking into a supermarket with intent to commit a felony	-	-	-	63	-	63
Entering a dwelling house with intent to commit a felony	-	-	-	1	-	1
Burglary and Stealing	-	-	2	-	-	2
Simple Robbery	17	-	-	-	-	17
Robbery with violence	-	-	23	-	-	23
Offensive conduct	-	4	-	-	-	4
Unlawful Assembly	31	-	-	-	-	31
Threatening to kill	-	1	-	-	-	1
Setting fire on farm produce	-	-	1	-	-	1
Bond to keep peace	-	1	-	-	-	1
Total	926	29	79	132	7	1173