

THE COMMISSION ON ADMINISTRATIVE JUSTICE
"Office of the Ombudsman"



Hata Mnyonge ana Haki

Press Statement for Immediate Release

"Move Fast To Address Impunity in the Police Service," Ombudsman Demands

Nairobi, September 4th 2014: A culture of impunity continues to permeate the National Police Service, in spite of constitutional and institutional reforms that were intended to transform public service, a report of an investigation on police inaction by the Ombudsman has revealed.

Compelling evidence on impunity has often been documented in a number of investigations conducted by the Ombudsman against police officers, the most recent being an investigation on inaction, abuse of power and negligence by officers attached to Nairobi's Industrial Area Police Station within Makadara Police Division, in an assault case involving, Mr. Stephen Mwita Juma, a guard. Some police officers have been brought to account for their actions or inaction.

The Ombudsman now wants the Director of Public Prosecutions and the Inspector General of Police, to take action against Senior Police Officers found culpable of these acts of impunity as well as develop guidelines and time-frames for investigation of reported cases. "These will compel the investigating officers to work expeditiously towards concluding such matters within the right time frame in future and to report on progress," says the Ombudsman.

Titled a 'Cry for Justice', the Ombudsman Investigations into the allegations of police inaction involving Mr. Juma, first reported in a news item featured on Citizen Television in June 2014, reveal malfeasance and cover up in the manner in which officers respond to complaints by the complainant.

The Commission on Administrative Justice (Office of the Ombudsman) undertook the investigations on its own initiative (*suo motu*) following the news item in which Mr. Juma, a guard with Wasso Security Services Company, alleged that he had been assaulted by one Mr. Abdi Hamid Abass and some of his employees along Road "A" in Industrial Area inflicting on him bodily injuries. However, no action was taken, even though the matter had been reported to the Industrial Area Police Station and a P3 form completed by a doctor and presented to the Police.

Responses to an inquiry by the Ombudsman from the Officer Commanding Police Division in Makadara, Mr. Nehemiah Kibet Lang'at, and Chief Inspector of Police Amos Shamallah, Officer Commanding Industrial Area Police Station were found unsatisfactory. The Ombudsman's investigations have thus found the two senior officers and several other officers under their charge culpable of negligence, abuse of power, cover up, and possible fraud, individually and in some instances, collectively.

The Ombudsman established that the police did not document the incident, record statements, commence investigations or even arrest the prime suspect in spite of the adduced evidence of assault. Neither did the police send the incident report relating to the reported assault case to Police Headquarters nor document the reported assault case in the Crime Statistics from Industrial Area Police station for the month of May 2014. Instead, when challenged by the media, Mr. Nehemiah Kibet Lang'at, the Officer Commanding Police Division in Makadara reported that the complainant had withdrawn his statement, in spite of not having seen the withdrawal statement. A police officer, Stephen Okuto Otieno is reported to have written and signed the withdrawal statement on behalf of the complainant.

"This is a serious matter that involves inaction, delay in service delivery, abuse of power and negligence in the performance of duty by public officers occasioning injustice," says the Ombudsman. The Police Service must take the initiative and show a willingness to address impunity in the Service."

The Commission on Administrative Justice (CAJ) takes great exception to the conduct and performance of Mr. Nehemiah Kibet Lang'at, SSP, OCPD Makadara Police Division, CI Amos Shamalla, OCS Industrial Area Police Station, IP Zuhura Yasmin Khan, Deputy OCS and OC Crime Section, Industrial Area Police Station and CPL Stephen Okuto Otieno of Crime Branch Section Industrial Area Police Station in regard to this matter. CAJ will monitor complaints against the officers with a view to recommend them unfit for service.

In his report, the Ombudsman has made the following recommendations:

- i. The Inspector General, National Police Service, to assign another team of investigators to promptly and conclusively investigate the assault case and take appropriate action based on their findings.
- ii. The Inspector General, National Police Service to take disciplinary action against Cpl Stephen Okuto Otieno by giving him a stern warning and redeploying him from Crime Branch to general duties.
- iii. The Inspector General, National Police Service to come up with guidelines and time-frames for investigation of reported cases. These will compel the investigating officers to work expeditiously towards concluding such matters within the right time frame in future and to report on progress.
- iv. The Inspector General, National Police Service to make it compulsory for police officers attached to the station Crime Branch Sections to undergo basic investigations and police records/case management courses before deployment.
- v. The Inspector General, National Police Service to organize refresher/advanced investigations courses for those police officers who had undergone basic investigations course.
- vi. The Inspector General, National Police Service to ensure that fresh police graduates deployed in Crime Branch are mentored by experienced police officers of integrity before being assigned cases to investigate.
- vii. The Inspector General, National Police Service to ensure that all officers are conversant with the provisions of Chapter Six and Article 244 (b) of the Constitution of Kenya.

- viii. The Inspector General, National Police Service in collaboration with Director of Public Prosecution to provide clear guidelines on the promotion of reconciliation on criminal cases at police station level.
- ix. The National Police Service Commission to warn the Officer Commanding Makadara Police Division, Mr. Nehemiah Kibet Lang'at for negligence in the performance of his supervisory duties and for going on Citizen TV and giving misleading information without any documentary proof or otherwise that put the service into disrepute.
- x. The National Police Service Commission to warn the Officer Commanding Police Station, Chief Inspector Amos Shamalla and Inspector of Police Zuhura Yasmin Khan, the Deputy OCS and Officer In-Charge Crime Branch for negligence in the performance of their supervisory duties and for the promotion of an out of court reconciliation in a criminal matter contrary to Section 176 of the CPC.
- xi. PC (W) Lydia Okware be facilitated to undertake a police investigations course and be mentored by an experienced officer of integrity in the Crime Branch Section.
- xii. The OCPD and OCS were invited vide letter Ref. CAJ/POL/015/2052(2)(3) to make their representations or further responses but failed to honour the summons, hence being unresponsive, CAJ may consider blacklisting them.
- xiii. Mr. Stephen Mwita Juma needs to be cautious and desist from giving misleading information to public agencies which may lead to prosecution pursuant to Section 40 and 52 of CAJ Act, 2011.
- xiv. In the event of such a process of out of court settlement commencing and it appears that the complainant wants to use the police to extort, then the police must decline to be party to such process and proceed to prosecute the criminal aspect of the case.

**COMMISSIONER OTIENDE AMOLLO
CHAIR**