



# **DIRECTORATE OF INVESTIGATION AND ASSET TRACING**

**MONTHLY REPORT, NOVEMBER 2008**

## Introduction

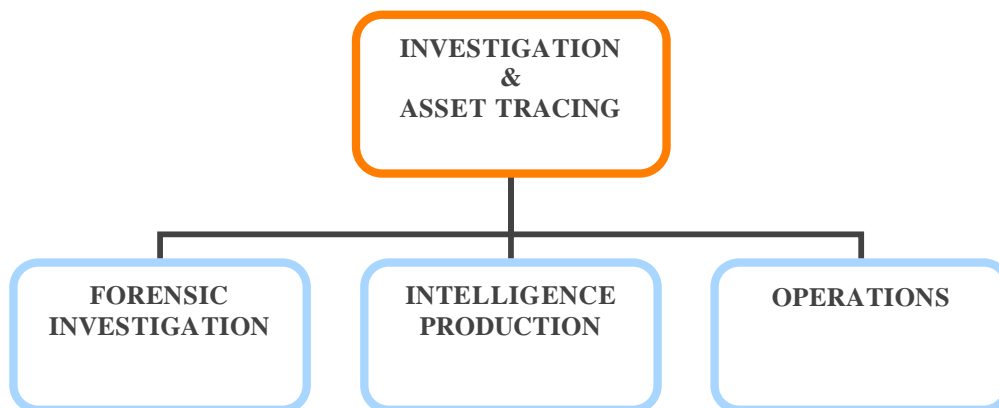
The Directorate of Investigation and Asset Tracing is one of the four Directorates of the Kenya Anti-Corruption Commission. The functions of the Directorate are to;

- Investigate Corruption and Economic Crimes as stipulated in the Anti-Corruption and Economic Crimes Act (2003).
- Investigate the extent of liability, loss or damage to any public property for purposes of recovery or compensation,
- Investigate and trace the whereabouts of corruptly acquired assets for purposes of recovery.
- Assist any law enforcement agency in the country in investigation of corruption or economic crimes.

In January 2008, the Directorate was reorganised into three departments, namely; Operations, Forensics and Intelligence.

- i. Operations- comprising two divisions; Report Centre and Rapid Response,
- ii. Forensics- comprising two divisions; Forensic Investigation and Asset Tracing,
- iii. Intelligence- comprising three divisions: Analysis & Production, Preliminary Investigation and Collection

## Structure of the Directorate



## Mombasa Office

The Mombasa Regional Office, which is under the Directorate of Investigation and Asset Tracing, commenced operations on 4<sup>th</sup> June 2007 and was officially launched on 4<sup>th</sup> December 2007. All the three departments of the Directorate, namely; Forensic Investigation (FI), Operations (OPS) and Intelligence Production (IP) are represented.

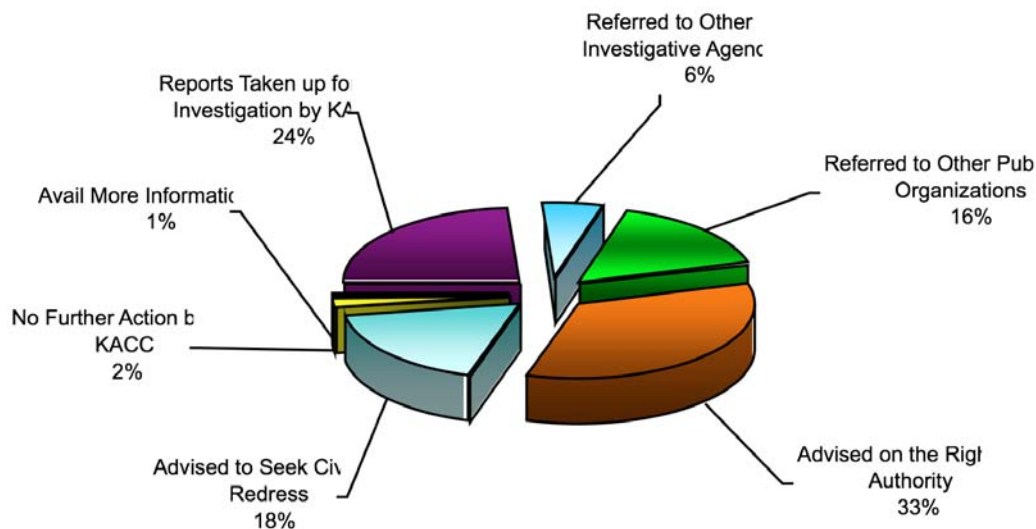
## Report Centre - Nairobi

During the month of **November 2008**, the Reports Centre Division processed **306** (new) reports as compared to **320** reports received in October, 2008. The number of reports received is slowly on the rise with an average of about **251** reports per month. This however, is still relatively low as compared to last year's average of about **591** reports per month during the same period

After analysis and classification the reports were disposed off as follows:

- The Commission took up for investigation **73** reports found to be within its mandate. The Intelligence Production Department accounted for **53** of the cases, Rapid Response Division took up **17** cases, Forensics Investigations took up **2** cases, and the Legal Services Directorate took up **1** case.
- **17** cases were forwarded to other investigative agencies for action with the Criminal Investigations Department accounting for **4**, Immigration **8**, KRA **2** and the Police **3**.
- **49** cases were referred to various public service organisations for administrative intervention,
- In **54** cases the complainants were advised to seek civil redress,
- In **105** cases the complainants were advised on the right authority to report to
- After analysis of **6** reports, they were marked as requiring No Further Action (NFA)
- In **2** cases, the complainants were requested to avail more information.

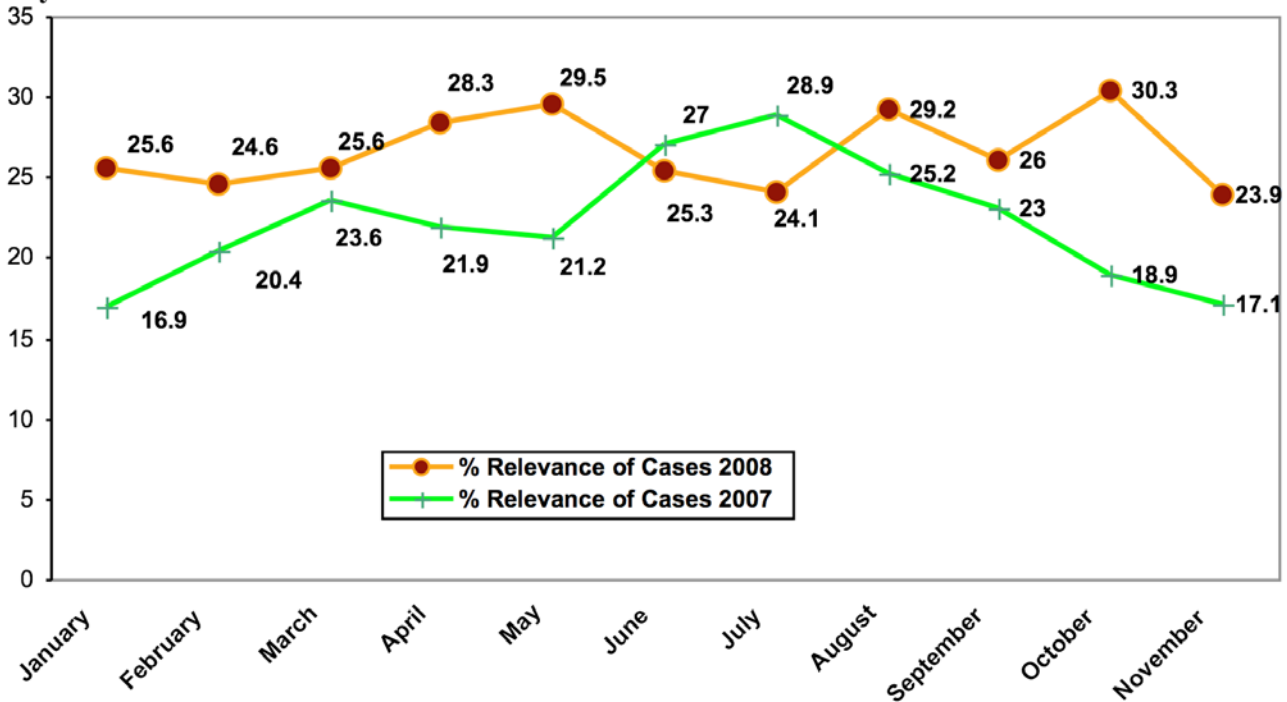
## Categorization of reports Processed by KACC in November 2008



## Breakdown of Reports Processed.

	Category	Referral Agency	No. of cases	Total
1	Reports taken-up for action by KACC	KACC - Intelligence Productions	53	73
		KACC – Rapid Response	17	
		KACC – Forensics	2	
		KACC – Legal Services	1	
2	Reports Forwarded to Other Investigative Agencies	Criminal Investigations Department	4	17
		Kenya Revenue Authority KRA	2	
		Department of Immigration	8	
		Police	3	
3	Reports Forwarded to Other Public Service Organisations	Ministry of Education	7	49
		Ministry of Finance	4	
		CDF National Management Committee	3	
		Ministry of Agriculture	3	
		Ministry of Health	2	
		Ministry of Home Affairs	2	
		Ministry of Lands	2	
		Ministry of Local Government	2	
		Ministry of Water and Irrigation	2	
		Other Public Organizations	22	
4	Advised to Pursue the Matter in Court			54
5	Advised on the right authority to report matter to			105
6	Complainants to Avail More Information			2
7	No Further Action by KACC			6
<b>Total</b>				<b>306</b>

**Comparative Analysis showing the % of cases taken up by the Commission over the past 2 years**



**Report Centre - Mombasa**

During the month of **November 2008**, the Reports Centre Division processed **40** new reports. After analysis and classification the reports were disposed off as follows:-

- A total of **11** reports were within the mandate of KACC and were taken up for investigation. **4** of the cases went to Intelligence Production, **6** were taken by Rapid Response while **1** were assigned to Forensic Investigations.
- **1** case was forwarded to the Provincial Investigations Officer Coast.
- **1** to Kenya Revenue Authority
- **1** to the Deputy Registrar High Court of Kenya
- **1** Area Manager , KPLC
- **1** to the Provincial Registrar of persons
- **24** advised accordingly

**Table 1: Breakdown of Reports Processed.**

S/No.	Category	Referral Agency/Department	No of Cases	Total
1	Cases taken up for action by KACC	KACC – Intelligence Production	4	11
		KACC – Rapid Response	6	
		KACC – Forensic Investigations	1	
2	Referred to other Investigative Agencies	PCIO, coast	1	5
		Provincial Registrar of Persons	1	
		Deputy Registrar High Court	1	
		KPLC	1	
		Kenya Revenue Authority	1	
3	Advised	Pursue the Matter in Court or the Right authority to report matter	24	24
<b>TOTAL</b>				<b>40</b>

**Forensic Investigation – Nairobi**

**Summary of Cases as at 30<sup>th</sup> November 2008**

Item	Description	No. of Cases	
		Segment	Total
1.PUI	Cases Pending Investigation	548	855
	Completed Files with the Crime Reader	26	
	Cases Pending Allocation for Investigation	281	
2.PBC	Cases Pending Before Court (PBC)	75	77
	PBC with Part Discharges	1	
	PBC With Prohibition Orders	1	
<b>3.FINALISED</b>	<b>Cases finalised before court:</b>		
	- Convictions	12	56
	- Acquittals	12	
	- Discharges	34	
	- ‘Nolle prosequi’	-	
<b>4. To A-G</b>	<b>Files Sent to A-G</b>		
	With Recommendation to Prosecute	71	151
	With Recommendation for Closure	69	
	With Recommendation for Administrative Action	9	
	After Further Investigation	2	
<b>5. From A-G</b>	<b>Attorney-General Advice</b>		
Advice	- To Prosecute	30	198
	- For Closure	98	
	- For further Investigation	13	

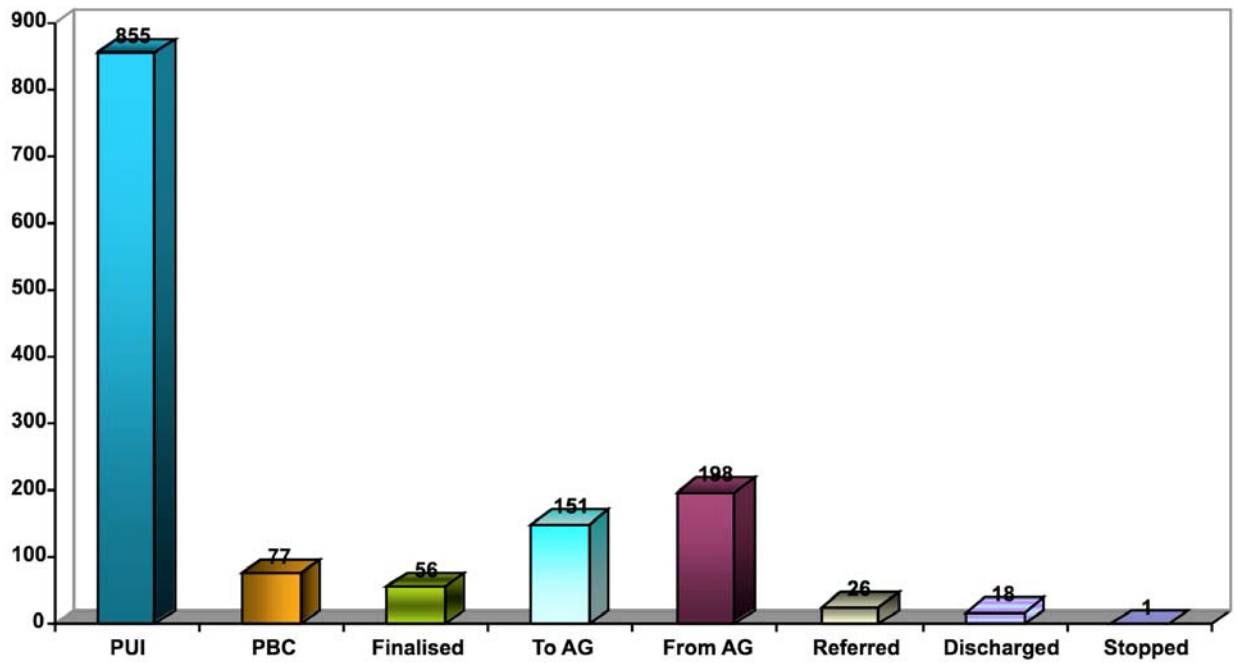
	- Administrative Action	53	
	- Consolidated Files	4	
<b>6.REFERRED</b>	Cases Referred to Other Agencies	26	<b>26</b>
<b>7.DISCHARGE</b>	Discharges under s. 87(a) for New Charges	18	<b>18</b>
<b>8.STOPPED</b>	PUI Cases stopped by Court injunctions	1	<b>1</b>

### CASE OUTPUT FOR THE MONTH OF NOVEMBER 2008

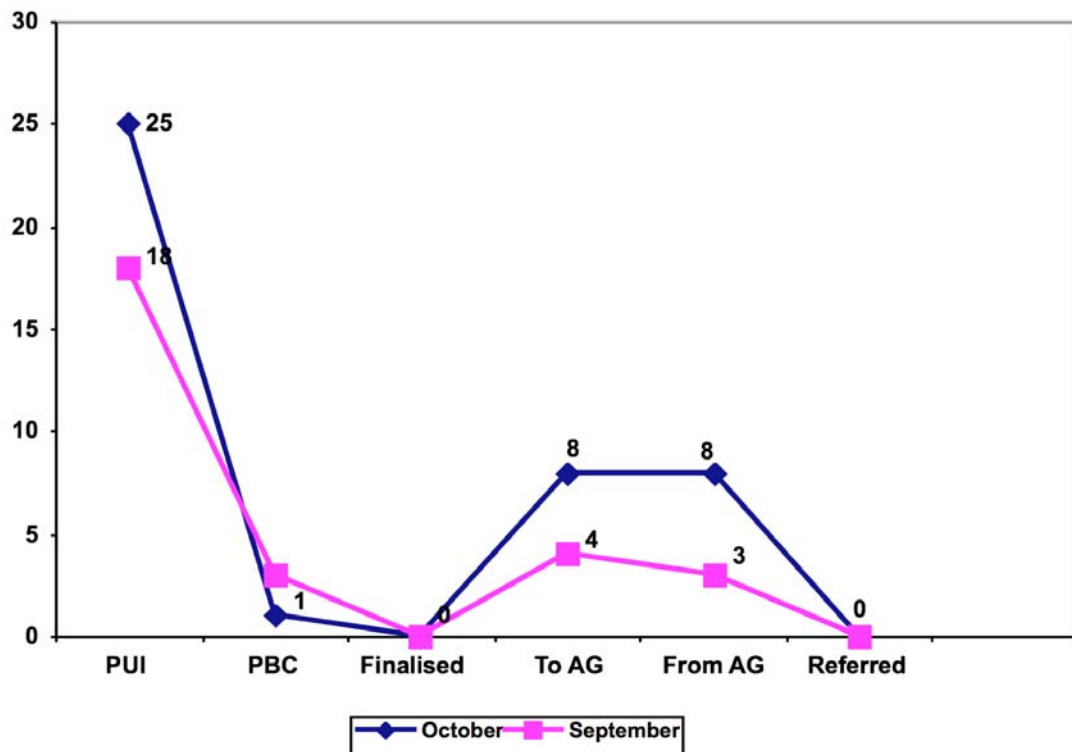
Item	Description	No. of Cases	
		Segment	
<b>1.PUI</b>	<b>Cases Pending Investigation</b>		
	Cases Received for Investigation	3	<b>8</b>
	Cases Assigned for Investigation	3	
	Completed Files Forwarded to Crime Reader	2	
<b>2.Pbc</b>	<b>Cases Taken to Court:</b>		
	- Cases Taken for Plea	-	-
<b>3.Finalised</b>	<b>Cases Finalized Before Court:</b>		
	- Convictions	-	-
	- Acquittals	-	
	- Discharges	-	
	- 'Nolle prosequi'	-	
<b>4.TO A-G</b>	<b>Files sent to the Attorney-General:</b>		
	- With Recommendation to Prosecute	2	<b>4</b>
	- With Recommendation for Closure	2	
	- With Recommendation for Administrative Action	-	
	After Further Investigations	-	
<b>5. From A-G</b>	<b>Files Received from the Attorney-General</b>		
<b>Advice</b>	To Prosecute	-	-
	To Close Due to Insufficient Evidence	-	
	For Administrative Action	-	
	For Further Investigation	-	
	For Consolidated	-	
<b>6.REFERRED</b>	Cases Referred to Other Agencies	-	-
<b>7.REPORTS</b>	Investigation Reports Prepared For Action	-	-

\* Bribe demand cases not included.

### Graphical Representation of the Cases as of 30<sup>th</sup> November 2008



### Comparative Analysis of Cases processed in October and November 2008





## Forensic Investigation – Mombasa

The Forensics Investigations Department in Mombasa received **1** report for the month of November, 2008. The following table shows how these reports were handled.

Item	Description	No. of Cases	
		Segment	
<b>Cases Received for Investigation</b>		<b>1</b>	
<b>1. PUI</b>	Cases Pending Allocation	0	<b>1</b>
	Cases Assigned for Investigation	1	
	Completed Files Forwarded to Crime Reader	0	
<b>2. PBC</b>	<b>Cases Taken to Court:</b>		
	Cases Taken for Plea	-	-
<b>3. Finalised</b>	<b>Cases Finalized Before Court:</b>		

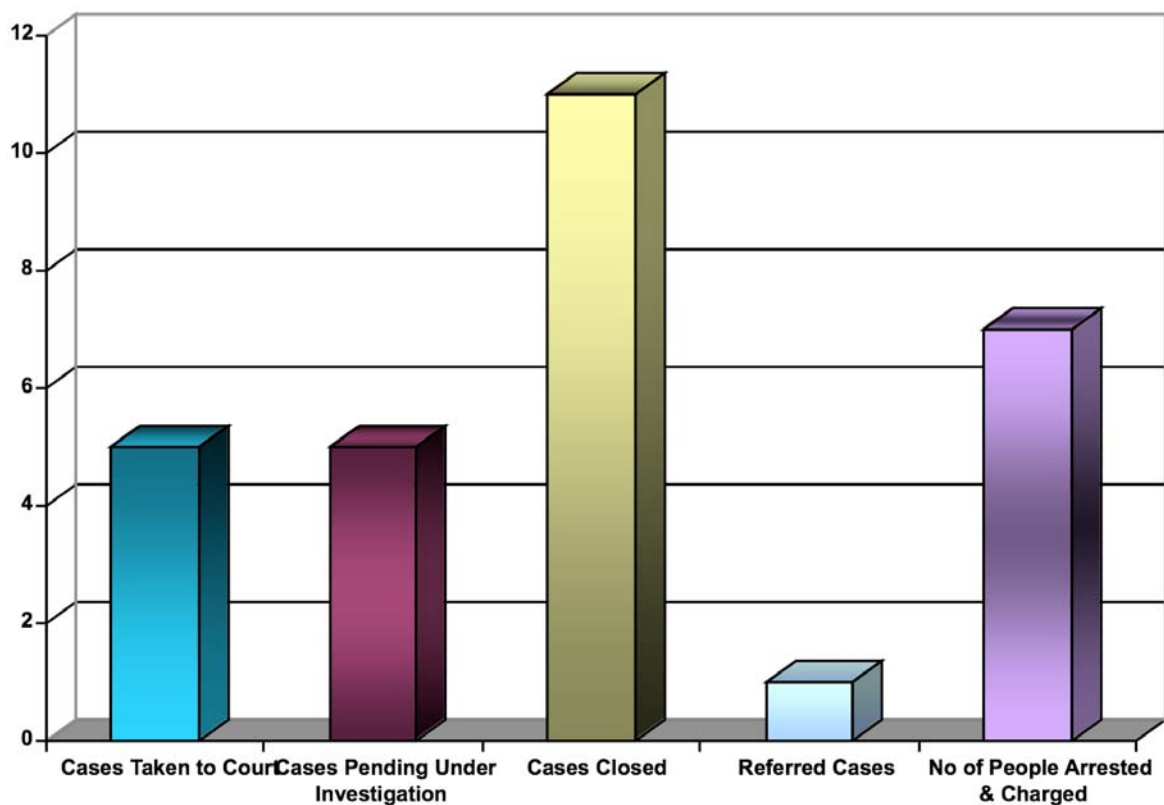
## Rapid Response – Nairobi

### Summary of Cases Received

Below is a tabulation of the number of cases handled by the Department during the month under review and the respective status;

Category		Status	No. of cases
1	Bribery	Number of cases taken to court	5
		Cases pending under Investigations	5
		Cases Closed, No Further Action	11
		Referred Cases	1
<b>TOTAL</b>			<b>22</b>
<b>Number of persons arrested and charged</b>			<b>7</b>

## Graphical Representation of the cases processed.



## Rapid Response – Mombasa

The Division received a total of 6 reports. The following table gives the summary.

Category		Status	No. of cases
1	Bribery	Case received	6
		PBC	0
		PUI	2
		Cases Closed, No Further Action	4
		Cases referred	0
<b>TOTAL</b>			<b>6</b>
<b>Number of persons arrested and charged</b>			<b>4</b>

## INTELLIGENCE DEPARTMENT - Nairobi

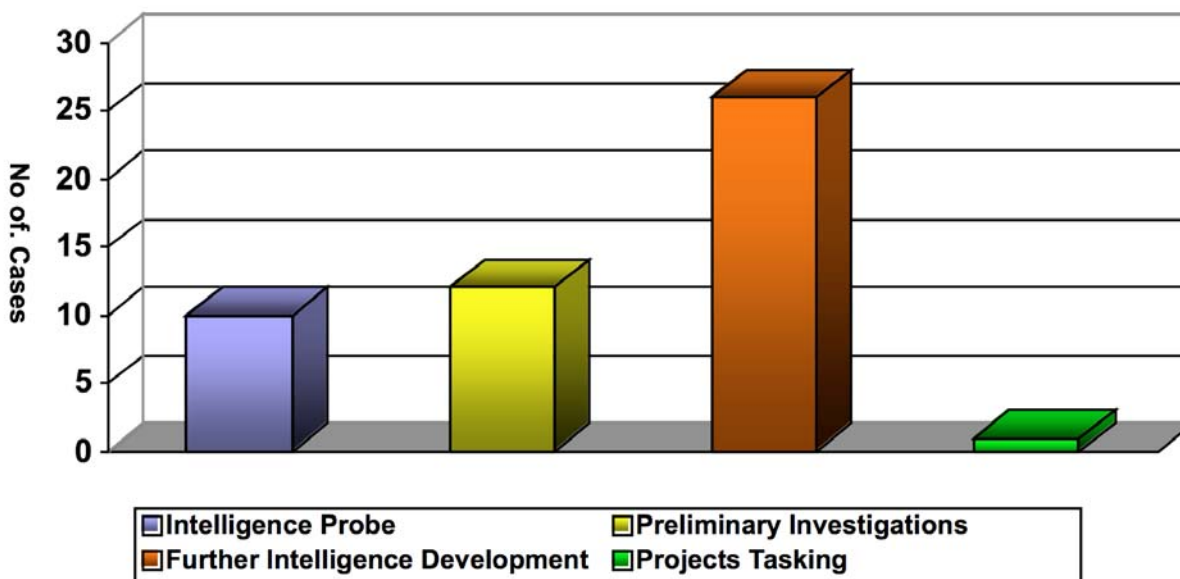
The following report outlines the activities undertaken by Intelligence Production Department during the month under review.

### Reports

The Department received **42** reports from the Report Centre and **6** Intelligence Reports (IR) from various officers within the commission in the month of November 2008 and were distributed for action as follows:-

Item	Sources	No of Reports	Total	
Reports Received	Report Centre	42	49	
	ADPS – Direct to PI	1		
	Confidential Sources	6		
<b>Handling of the Reports</b>				
	Task	Division	No of Reports	Total
1	Intelligence Probe	Collection	10	48
2	Preliminary Investigation	Preliminary Investigation	12	
3	Further Intelligence Development	Analysis and Production	26	
4	Projects tasking	Nairobi City Council	1	1

### Graphical Representation of Handling of Cases



### *Reports from Confidential Sources*

	TARGET	ALLEGATION	REMARKS
1	O.C.S. – Kasarani Police Station	Poor service delivery	Consolidated with similar reports for referral Commissioner of police for administrative action.
2	Chief of Kajulu-Kogelo Location one MR. Charles Otieno Achola.	Demanding for a benefit	Referred to SO-RR for action
3	Chief of Kabuthu Location one Mr. Peter Kalani	Demanding for a benefit	Referred to SO-RR for action.
4	Mr. Mulei, an Assistant Commissioner at KRA.	Colluding in tax evasion.	Referred to KRA project team.
5	Aloice Masese Kenya Forest Guard	Forged a Diploma Certificate for University of Nairobi	Employer, Kenya Forest Service to be informed for administrative action.
6	Administrator Rapogi Mission Hospital in Rongo District.	Mistreating employees	Forwarded to Project Secure Health team to verify

### **Disseminated Intelligence Briefs**

- Maize Shortage

### **Intelligence Production – Mombasa**

During the month under review, the Department received **4** reports from the Report Centre and **2** Intelligence Report from its intelligence sources.

The intelligence reports concerned tax evasion at the Kilindini Port. In the first report, whose investigation took one and half months, a tax evasion cartel was uncovered involving clearing agents, KRA officials and importers which involves under declaration of the value of goods in a bid to pay lesser taxes. It's estimated that over the years, KRA has lost hundred of millions of Shillings due to the scam. Data on **40** containers was obtained which were released at the Kilindini Port within a period of six weeks despite them having been under declared leading to loss in taxes amounting to approximately Kshs **80 million**. An intelligence investigation is ongoing.

In the second report, a scheme involving KRA officials and clearing agents was detected whereby the officials abetted release of goods from the port without payment of Customs warehouse rent amounting to millions of Shillings. One such entry was discovered involving 20 containers of sugar which had been released despite them having accrued a Customs Warehouse rent of Kshs 3.8 million. Following our investigations, KRA has commenced recovery of the lost taxes. A joint investigation by Intelligence and Forensic Departments is ongoing.

### Breakdown of reports received/generated in November 2008

Item	Sources	No. of Reports	Remarks	Total
Reports Received	Msa Report Centre	4	Pending allocation	4
	Nbi Report Centre	0		0
	Confidential Sources	2	Action being taken on one. Intelligence collection ongoing on the other.	2
<b>Handling of the Reports</b>				
Task	Division	No. of Reports	Remarks	Total
Intelligence Probe				
Preliminary Investigation	Intelligence Production	2	Action being taken on one. Intelligence collection ongoing on the other.	2
Further Intelligence Development	Intelligence Production	1	Further Intelligence collection ongoing	1

### Status of Preliminary Investigation cases

Case Status	No. of Reports
Old Cases Completed	
Completed cases recommended for closure	
Cases Referred for full investigations	
Cases referred to the Legal Department	
Cases under investigation	2
Cases referred to other agencies	

## Reports from confidential Sources

	Target	Allegation	Recommendation
1.	KRA Customs Officers and clearing agents.	Information that over the years, clearing agents and importers have been colluding with Kenya Revenue Authority's Customs officers to evade payments of taxes amounting to millions of Shillings through making false declarations.	An Intelligence Investigation is being undertaken.
2.	KRA Customs Officers	Information that on 14 <sup>th</sup> November 2008, agents of Faima Ventures Clearing Ltd, who were clearing a consignment of 20x20 containers loaded with sugar on purported to be on transit to Uganda, bribed officers manning Kenya Ports Authority's Gate 18/20 with Kshs 400,000 to allow the consignment to leave the port despite the fact that they had not paid Customs Warehouse rent amounting to millions of shillings.	The last of the 20 containers seized. KRA have started recovery of Customs Rent amounting to Kshs 3,818,000.