

# THE NAIROBI CITY COUNTY GOVERNMENT



*Report tabled by  
✓/Chairperson of the  
Committee on  
Tue 30/4/2019.*

THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – THIRD SESSION.

THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE  
INQUIRY INTO UNETHICAL CONDUCT OF HONORABLE MEMBERS ON 6<sup>TH</sup> OF  
NOVEMBER 2018 WITHIN THE ASSEMBLY PRECINCTS.

APRIL 2019

---

THE SELECT COMMITTEE OF POWERS AND PRIVILEGES

Clerk's Chambers,  
CITY HALL,  
NAIROBI.

© 2019

---

THE REPORT OF THE SELECT COMMITTEE ON POWERS AND  
PRIVILEGES, APRIL 2019

## Table of Contents

1.0 PREFACE .....	4
1.1 Acknowledgement.....	4
2.0 ESTABLISHMENT, MEMBERSHIP MANDATE AND LEGAL FRAMEWORK OF THE COMMITTEE .....	5
2.1 Establishment of the Committee .....	5
2.2 Committee Membership.....	5
Secretariat .....	5
2.3 Mandate of the Committee .....	5
2.4 The law pertaining to conduct .....	6
2.4.1 The Constitution of Kenya .....	6
2.4.2 The Leadership and Integrity Act, 2012 .....	7
2.4.3 The Public Officer Ethics Act, 2003 .....	7
2.4.4 County Assemblies Powers and Privileges Act, 2017 .....	7
3.0 INQUIRY BEFORE THE COMMITTEE .....	8
3.1 Background .....	8
3.3 Witnesses .....	8
3.4 Proceedings of the Committee .....	9
a. Hon. Redson Otieno – MCA.....	9
b. Hon. Nicholas Okumu – MCA.....	11
c. Hon. Elias Okumu – MCA .....	15
d. Hon. Peter Imwatok – MCA .....	17
e. Hon. Kennedy Oyugi – MCA.....	19
f. Hon. Immapet Kemmunto – MCA.....	23
g. Mr. Ramadhan Juma – MCA.....	24
h. Mr. Timothy Osoi.....	26
i. Hon. Lawrence Otieno.....	27
j. Hon. Emily Oduor, MCA.....	29
k. Hon. Jared Okoth Okode, MCA .....	30
l. Hon. Ann Catherine Akinyi, MCA.....	32
4.0 OBSERVATIONS AND FINDINGS .....	34
5.0 RECOMMENDATIONS .....	35

5.1	On the Inquiry of the Skirmishes of 6 <sup>th</sup> November 2018 .....	35
5.2	On general conduct of members.....	36
6.0	ADOPTION OF THE REPORT BY THE COMMITTEE.....	37



## 1.0 PREFACE

The Select Committee on Powers and Privileges (herein after 'the Committee') is established pursuant to Section 15 of County Assemblies Powers and Privileges Act, 2017 (the Act) as read together with the Standing Order 183 of the Nairobi City County Assembly Standing Order (hereinafter 'the standing orders'). The Committee enjoys exclusive mandate in so far as the powers, privileges and immunities of the Assembly, members and staff are concerned. In terms of its operations, the committee may, either of its own motion or a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of the Act, and report to the Assembly its findings together with such recommendations as it considers appropriate.

The standing Orders similarly provide for avenues through which matters may be referred to the Committee for consideration. The committee is charged with overseeing the enforcement of Code of Conduct under Chapter six of the Constitution of Kenya, the Leadership and Integrity Act, the Public Officer Ethics Act and the provisions of the County Assemblies Powers and Privileges Act, 2017 and to recommend necessary sanctions following a disciplinary hearing.

### 1.1 Acknowledgement

The Chairperson of the Committee takes this opportunity to thank Members of the Committee for their immense contributions to the inquiries that have culminated in this report. The Committee wishes to also thank the Offices of the Speaker and the Clerk of the County Assembly for the support extended to it in the execution of its mandate. The Committee further wishes to record its appreciation for the services rendered by the staff of the County Assembly that enabled the timely preparation of this report.

On behalf of the Committee, I have the honour and pleasure to present the Report to the Assembly.

---

THE HON. CHEGE MWAURA, MCA  
SPEAKER OF THE COUNTY ASSEMBLY/CHAIRPERSON



## 2.0 ESTABLISHMENT, MEMBERSHIP MANDATE AND LEGAL FRAMEWORK OF THE COMMITTEE

### 2.1 Establishment of the Committee

The Committee on Powers and Privileges is established pursuant to the Standing Order 183 as read together with Section 15 of the County Assemblies Powers and Privileges Act, 2017. The committee consists of eleven (11) members, being the Speaker as the Chairperson and ten (10) other Members of the Assembly appointed in accordance with the Standing Orders. The Committee was formally constituted on Thursday 17<sup>th</sup> October 2018.

### 2.2 Committee Membership

The Committee Membership currently comprises of:

- |                                |                            |
|--------------------------------|----------------------------|
| 1. Hon. Chege Mwaura, MCA      | – Ag. Speaker/ Chairperson |
| 2. Hon. Naftaly Mathenge, MCA  | – Vice-Chairperson         |
| 3. Hon. Abdi I. Hassan, MCA    | – Majority Leader          |
| 4. Hon. Patrick Musili, MCA    |                            |
| 5. Hon. Peter Wahinya Njau MCA |                            |
| 6. Hon. Geoffrey Majiwa        |                            |
| 7. Hon. Evans Otiso, MCA       |                            |
| 8. Hon. Carolyne Mayunzu       |                            |
| 9. Hon. Jacinta Wanjiru, MCA   |                            |
| 10. Hon. Margaret Mbote, MCA   |                            |
| 11. Hon. Sylvia Moseiya, MCA   |                            |

### Secretariat

The committee Secretariat currently comprises of the following officers

- |                     |                        |
|---------------------|------------------------|
| 1. Romeo Castro     | – Snr. Clerk Assistant |
| 2. Judith Aron      | – Clerk Assistant      |
| 3. Munase Mukhombwa | – Intern               |

### 2.3 Mandate of the Committee

The foundational basis for the mandate of the Committee is Article 196 of the Constitution, which speaks to public participation and county assembly powers, privileges and immunities.

It is on the basis of the foregoing that parliament enacted the County Assemblies Powers and Privileges Act, 2017, from whence the Committee draws its specific mandate under Section 15. The duty is tasked with the duty to enforce codes of ethical conduct and

integrity. Also, the committee draws its mandate from the Public Officers Ethics Act, 2003, the Leadership and Integrity Act, 2012 and the Regulations thereon; and the County Assembly Standing Orders. The committee's mandate as outlined under Section 15 of the Act includes to;

- a. Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege; and
- b. Either of its own motion or a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege
- c. Investigate, table reports and make recommendations to the floor of the house
- d. Issue summons to witnesses to appear before the committee,
- e. Receive evidence and to request for and receive papers and documents from the Government and the public.

## 2.4 The law pertaining to conduct

### 2.4.1 The Constitution of Kenya

The Constitution under Article 73 provides broadly for the responsibilities of leadership. The guiding principles of leadership and integrity under Chapter Six include, amongst others –

- a. objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
- b. selfless service based solely on the public interest, demonstrated by—
  - i. honesty in the execution of public duties; and
  - ii. the declaration of any personal interest that may conflict with public duties;
- c. accountability to the public for decisions and actions; and
- d. discipline and commitment in service to the people.

Article 73(1) (a) (iii) of the Constitution bestows upon State Officers the responsibilities of leadership and requires authority assigned to a State officer to bring honour to the nation and dignity to the office. Further, Article 75(1)(c) of the Constitution provides that —A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids demeaning the office the officer holds. Further, Articles 75(2) and 103(1) (c) of the Constitution detail sanctions for contravention of Article 75(1). By so doing, the Constitution sets the broad spectrum within which to understand Leadership and Integrity under the law.



#### **2.4.2 The Leadership and Integrity Act, 2012**

The Leadership and Integrity Act, 2012 was enacted to give effect to, and establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution. The Act is meant to ensure that State officers respect the values, principles and requirements of the Constitution. Section 11(b) of the Act requires a State Officer to —treat members of the public and other public officers with courtesy and respect.

Section 41(1) provides that, —subject to subsection (2), a breach of the Code amounts to misconduct for which the State officer may be subjected to disciplinary proceedings. ... Where an allegation of breach of the Code has been made against a State officer in respect of whom the Constitution or any other law provides the procedure for removal or dismissal, the question of removal or dismissal shall be determined in accordance with the Constitution or that other law’.

#### **2.4.3 The Public Officer Ethics Act, 2003**

The Public Officer Ethics Act, 2003 similarly speaks to issues of ethics and integrity for state and public officers. The Act was enacted to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial declarations from certain public officers. Part II of the Act provides for Specific Codes of Conduct and Ethics, which requires entities such as the County Assembly to prepare and publish a specific Code of Conduct and Ethics for the public officers for which it is responsible. Part III of the Act speaks to General Code of Conduct and Ethics, amongst which is the provision of Section 20 (1) provides that a public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

#### **2.4.4 County Assemblies Powers and Privileges Act, 2017**

As highlighted earlier in this Report, this law is the enabling statute for the operations and functions of the Committee on Powers and Privileges in so far as the protection of the powers and privileges of the Assembly and of the Members is concerned. Specifically, Section 16(e) of the County Assemblies Powers and Privileges Act, 2017 provides that the Committee of Powers and Privileges may find a Member to be in breach of privilege if a Member conducts himself or herself in a manner which, in the opinion of the Committee of Powers and Privileges, is intended, or is likely to reflect adversely on the dignity or integrity of Parliament, or of the Members or to be contrary to the best interests of Parliament or its Members’.

The sanctions attendant thereto and the penalties for breaches of privilege are detailed under Section 17. Section 17(1) provides thus, a county assembly shall have all the powers necessary for inquiring into and pronouncing upon any act or matter constituting breach of privilege in terms of section 16.



## 3.0 INQUIRY BEFORE THE COMMITTEE

### 3.1 Background

The Committee, having been moved, and of its Motion seizing itself of issues of misconduct undertook inquiry into Conduct of Members on 6<sup>th</sup> November 2018 within precincts of the Assembly chambers.

On or about Tuesday 6<sup>th</sup> November 2018 as members thronged into the plenary in Nairobi County Assembly precincts, there was an alleged skirmishes that occurred within the Assembly precincts. The issue was recorded by the sergeant -At -Arms and presented before the Committee which carried out investigations on the allegations of unethical conduct against part of members of Nairobi City County Assembly. The Committee sent out invitation letters to honorable members who were alleged to be involved in the scuffle on the 6<sup>th</sup> November 2018 within the precincts of the County Assembly.

Standing Order 183 of the Standing Orders provides that; *“Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.”*

As such, the Committee at its meeting held on 27<sup>th</sup> February 2019 resolved to invite the honorable members whose names appeared in a statement recorded by the Sergeant - at - arms addressed to the Hon. Speaker.

### 3.1 Committee Sitzings

The Committee held a total of twenty one (21) sittings during which oral evidence was received from witnesses and replay of video footage, as well as audio and print media publications were reviewed by the committee. During the sittings, witnesses were summoned to appear and adduce evidence in chief. The Committee held sittings on 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup>, 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> March 2019 and; 3<sup>rd</sup>, 4<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 23<sup>rd</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 29<sup>th</sup> and 30<sup>th</sup> April 2019.

### 3.3 Witnesses

The Committee identified the following Members as persons of interest to be invited to adduce evidence on the matters referred to it, as follows:-

- a) Hon. Elias Okumu, MCA
- b) Hon. Peter Imwatok, MCA
- c) Hon. Kennedy Oyugi, MCA
- d) Hon. Nicholas Okumu, MCA
- e) Hon. Immapet Kemmunto, MCA
- f) Hon. Lawrence Odhiambo, MCA

- g) Hon. Anne Catherine Akinyi, MCA
- h) Hon. Jared Okoth Okode, MCA
- i) Hon. Emily Oduor, MCA
- j) Hon. Catherine Okoth, MCA
- k) Hon. Fredrick Ngesa, MCA

### 3.4 Proceedings of the Committee

The Committee obtained and reviewed evidence as carried on television stations. Further, the committee also obtained video evidence regarding the skirmishes within the precincts of the Assembly on 6<sup>th</sup> November 2019 and; the Committee also received oral submissions from the identified Members and other witnesses appearing before it on diverse dates as follows;

#### a. Hon. Redson Otieno – MCA.

The Honorable Redson Otieno appeared before the Committee on Thursday, 14<sup>th</sup> March, 2019. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Redson Otieno, MCA submitted as follows:-

#### ✚ On his knowledge of events on or about 6<sup>th</sup> November 2018 in the Assembly Chamber, Hon. Redson Otieno stated;

1. That he arrived in the chambers and saw Hon. Kennedy Oyugi, MCA seated on Leader of Minority party's seat, and Hon. Nicholas Okumu, MCA on Minority whips' seats respectively.
2. He also saw the minority leader try to plead with the members to leave the seats and that in case of any difference they were to sort later since there are procedures to be followed in case of change in leadership.

#### ✚ On his contribution to the commotion on the material day and whether in his opinion his conduct was reprehensible, he stated;

1. He did nothing and fought no one on that day.
2. He affirmed that he supported the Leader of the minority Party.
3. That he only tried to protect the seats of the minority leadership because Hon. Kennedy Oyugi was a stranger at that moment occupying a designated seat. He therefore had to protect the seat as he waited for direction from the Speaker.
4. That he had no interest in the leadership seat but only sought to protect the seat.



✚ On whether his actions on that day constitute a breach of privileges as an Honorable Member of the County Assembly, he stated;

1. That his actions were for protection of his leader and that he did not fight anyone.
2. He rebuked the actions of members who fought on that day.

✚ On whether he as an Honorable member had received Communication from the speaker on the change of leadership and what prompted him to sit on the seat that is reserved, Hon. Redson Otieno stated;

1. He had not received any communication of change in leadership.
2. That he sat on the seat to protect the leadership.

✚ On whether he had knowledge of the consequences regarding his actions on that day and whether he was aware that he was in breach of procedures and rules of the Assembly

1. The member said that he didn't know whether he had breached the procedures.
2. That according to him, he was just protecting his leaders.
3. He asked for forgiveness for not following due procedure.

✚ On whether he was aware that his actions on that day reflect adversely on the dignity of the House and the integrity of the Assembly and whether the proceeding of that day was planned, he stated;

There was no plan in regards to how events unfolded on that day.

✚ On his opinion on the conduct of members during that day, Hon. Redson Otieno stated;

Honorable Members misbehaved and did not uphold the dignity of the house.

✚ If in any way he engaged in a physical fight on that day, Hon. Redson Otieno stated;

1. That he neither engaged in a physical fight nor did he see a fight but he saw members push one another but he could not remember any members involved.
2. He asked the Committee to forgive him and that dialogue is a better way of solving differences.
3. He further said that he would apologize to Hon. Kennedy Oyugi and Hon. Nicholas Okumu because they saw he did not support them on that day.

✚ Whether they had made peace as a party, Hon. Redson Otieno stated;



That Honourable members from the Orange Democratic Party were called by the National party leader Hon. Raila Odinga after the scuffle and were advised to embrace peace.

**b. Hon. Nicholas Okumu – MCA**

The Hon. Nicholas Okumu, MCA appeared before the Committee on **Thursday, 14<sup>th</sup> March, 2019**. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Nicholas Okumu, MCA submitted as follows:-

✚ If he was present in the Assembly precincts and specifically in the Chamber on 6<sup>th</sup> November 2018, Hon. Nicholas Okumu stated;

1. He walked into the Chambers as the first member to enter the chambers on that day.
2. He sat on the minority whip's seat until his other colleagues came into the chamber.
3. That a number of his colleagues descended on him with blows and kicks and the House turned chaotic for about thirty minutes on that day.

✚ On whether he had sat on that seat before and what prompted him to do so, and if he knew of the consequences of his actions Hon. Nicholas Okumu stated as follows;

1. He had never sat on the seat before even though members can sit on any seat but there are some seats which are reserved for particular people in the chamber.
2. He justified his sitting on the basis of receiving express authority from his party leader.
3. That he had received a letter from his party de - whipping the incumbents and appointing him and Kennedy Oyugi as the minority whip and minority leader respectively.

✚ On whether he had the letter appointing him to the position with him, Hon. Nicholas Okumu stated;

1. He had the letters but did not manage to carry them that day.
2. That he shall facilitate the same letters to the secretariat.

✚ Regarding his engagement in any fight that day, Hon. Nicholas Okumu stated;

1. That he didn't engage anyone in a physical fight because Hon. Peter Imwatok on whose seat he had sat did not engage him in a physical fight.
2. That on the contrary he received kicks and blows from other members and vacated the seat since the beating was too many.
3. Hon. Nicholas Okumu identified the names of members whom he saw threw blows and kicks on him and man handling him as follows; Hon. Redson Otieno, MCA, Hon. Wilson Ocholla Ongele, MCA , Hon. Jared Okode, MCA and Hon. Lawrence Otieno, MCA.
4. That told the committee that one was holding his neck tie from back and in return, he pushed him and held him out. He further said that Hon. Wilson Ochola Ongele held his left arm and Hon. Jared Okode was also pulling his right arm so he had to do what he did to defend myself.

± On whether the blows hit him and if he was injured in any way, Hon. Nicholas Okuu stated;

1. That he was injured and confirmed that he had documentation on the same and that he reported the incident immediately to the Hon. Speaker.
2. He also apologized to the House since he realized that what had happened in the House should not have happened because they are honorable members and it is a house of rules and procedures.
3. That he had reported the matter to the Office of the Sergeant At Arms and further at Nairobi's Central Police Station.
4. That he broke his arm and he has documents in regards to the same i.e the medical report and X- Rays which he was ready to present to the Committee.

± On the actions he took as a leader of Nairobi County Assembly, Hon. Nicholas Okumu stated;

1. He took the responsibility and reported what had transpired that day was not right.
2. The Hon. Member reminded the Committee what he had said earlier that it was with the express authority from party leader that he took the step that he took on that day.
3. That as a member of ODM he owed allegiance to his party and in that case the authority to take up the position had come from the party chairman not any other person.

± On whether he notified the Nairobi County Assembly speaker, Hon. Nicholas Okumu stated;

That he thought his party through its internal mechanisms had notified the Speaker because him being given the letter by the party leadership, was formal and on his letter, he was notified that the Speaker had also been informed.



✚ On whether in his knowledge the Speaker had communicated to the Hon. Members that he was the new Minority whip and his knowledge of the procedure of changing the house leadership, Hon. Nicholas Okumu stated;

1. That it was the prerogative of the party to make sure that all the procedures are followed.
2. That his was to receive a letter and comply to it and that, if there was any procedure to be followed, he believed the party followed it to the later.

✚ On whether he had minutes in regards to changing of Leadership in the party, Hon. Nicholas Okumu stated;

That he thought that the clause on presentation of minutes was contested at some point between the party and the Assembly and from where he stood, it clear that the party has the final say. He believed that his party had followed the due diligence.

✚ If the letter which he received from the party, was addressed to him or the Speaker, Hon. Nicholas Okumu stated;

That the letter was addressed to the speaker and copied to all interested parties.

N/B The Hon. Member was to bring the letter plus all the documents from police and hospital on Tuesday 19<sup>th</sup> march 2019 but failed to provide the said documents.

✚ Whether he was aware that there were two letters; one from the Secretary General and the other from the Chairman, Hon. Nicholas Okumu stated;

That he only knew of the letter that he had received.

✚ On whether in his opinion what he did on that day constitute a breach of privileges on his part, Hon. Nicholas Okumu stated;

He reiterated that he didn't believe the actions were right and therefore acted accordingly and as he had said, since they were already out of the matter he said that the prerogative of anything contrary to what he did should have come from the Speaker and that after the scuffle, he was the only member including those who were fighting him that stood up on the floor and apologized on behalf of all members because he realized that what transpired was not good and he didn't expect that to happen because he knew that the Assembly is a house of rules and procedures.

He requested the Committee to furnish him with the particular Hansard on that day since he requested for it on prior dates and was told that the cameras were not functioning on that day. Further, Hon. Nicholas Okumu requested the committee to confirm if indeed it is true that the cameras were not working on that day and if it is true that there was no



one on gallery on that day and If indeed it is true that no journalist was allowed in on that day.

He stressed that if the committee can't have the Hansard on that day, then it raises questions that probably there was an elaborate plan to, which he was not aware because it could not be coincidence that three things can happen on the same day. In his knowledge any time that the cameras are not working, the Hon. Speaker issues direction to members standing on the floor to "wait a minute for cameras to function". He corroborated this thought with the fact that during plenary sittings a honorable member can only talk when the microphone is on. (He was then asked if the cameras were working during the committee meeting and he even confirmed that from where he sat on that day, he was able to see the cameras working)

✚ On whether he was sure that the cameras were not working on that day, Hon. Nicholas Okumu stated;

He confirmed by giving an incident where there was a letter that was written from Central Police Station requesting for the Hansard of that particular day and the reply to that letter written by the office of the Speaker stated that there was no Hansard.

✚ On whether there was a chance for initiating dialogue before the incident, he stated;

Dialogue was never given a chance and that after sitting on that seat, nobody cared to come and talk to him. He stated that he was a victim of circumstances.

✚ When asked if failure of the cameras to function on that day was enough reason for him to cause chaos, he stated;

That he was not even aware that the cameras were not working but in the middle of trying to dig deep to find out if he can be able to go back to Hansard, he discovered this fact as to non-functioning cameras on the day. Further, that his apologies meant he didn't concur with what took place in the House. He was bombarded and if at all he had prior information and knowledge of his actions and the results, he would not have done what he did. And that he would have found a moderate way of doing things, by talking to the right people so that it be handled professionally as leaders.

✚ On whether the parties to the incident were now at peace in the house, Hon. Nicholas Okumu stated;

The committee should not mistake calm for peace. Stressing that what exists is calmness among the members. He confirmed that there was no agreement but through the party leadership had resolved the issue through a meeting of all ODM party members of the

Assembly. That is why they also agreed that although the party chairman had written letters to the Hon. Speaker appointing them to the positions they ceased. He further stated that the members were calm pending implementation of what was agreed between the members failure to which there would be no peace in the future

✚ On how he would handle such a matter in case of re-occurrence, Hon. Nicholas Okumu, MCA stated;

He didn't see any need of the incident re-occurring because they were trying to correct what had gone wrong, but if it were to reoccur then they would handle the matter in a professional way.

(Direction from the Committee – The Hon. Member was reminded to remember to submit to the committee the documents they had requested from him that is; the letter nominating him to the seat of the Minority whip, the doctor's report and the OB number reported at the Nairobi Central Police Station.)

**c. Hon. Elias Okumu – MCA**

The Hon. Elias Okumu, MCA appeared before the Committee on 21<sup>st</sup> March, 2019. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Elias Okumu, MCA submitted as follows:-

✚ Whether he understood why he was invited to the Committee, Hon. Elias Okumu, MCA stated;

He admitted that he was aware since he had received an invitation letter for the meeting.

✚ On his understanding on the event that transpired on or about 6<sup>th</sup> November, 2018. Hon. Elias Okumu , MCA stated;

1. There was a slight misunderstanding from their ODM party which brought confusion in the Assembly.
2. That on his arrival to the chamber, he found his seat already occupied by Hon. Kennedy Oyugi, MCA and went forward to persuade the honorable member who had sat on his seat to vacate the seat.
3. He agreed with Hon. Kennedy Oyugi to have dialogue inside the Chamber backroom.
4. That the honorable member who sat on the minority's whip seat, Hon. Nicholas Okumu, MCA had refused to have dialogue with them.



5. That it is the Hon. John Mbadi, MP of the National Assembly who misadvised the members of the county Assembly.
6. That the issue began with introduction of a letter addressed to the Hon. Speaker from Hon. John Mbadi.
7. That a conflict arose in the Assembly. Further, Hon. Mbadi's letter made the two members to believe they can occupy the seats without following due process as per the Standing Order which states clearly on how one can occupy a leadership position and how one can be removed from such position.
8. He blamed Hon. Nicholas Okumu for causing chaos by refusing to leave the seat of the minority whip, but confirmed that they had since had a dialogue and he, Hon. Nicholas Okumu, had apologized to him. (Hon. Elias Okumu stated he never keeps grudges).

✚ When asked if there was a fight on that day, Hon. Elias Okumu, MCA stated;

There was something like a fight which was unfortunate and uncalled for and that such should not happen in future.

✚ On whether he received any letter during that time, Hon. Elias Okumu, MCA stated;

He said that he had received two different letters which informed him not to leave the Minority party leadership position. The letters were written by the Secretary-General of the party and the Executive Director of the party the same people who nominated him to his position as the leader of minority.

✚ On general information he had for the Select Committee on Powers and Privileges Committee, Hon. Elias Okumu, MCA stated;

1. That he appreciated the Select Committee on powers and privileges, and that honorable members were already feeling the powers of the committee since tabling of its report in February, 2019 which disciplined some honorable members in the Assembly.
2. He acknowledged that members were now aware of consequences of their actions within the precincts of the Assembly. As a result, there were members who wanted him to accompany them to the meeting with the Committee out of fear they had in facing the Committee independently.

✚ Regarding his thoughts on the re-occurrence of the incident Hon. Elias Okumu, MCA stated;

He may not preempt what will happen in future and added that if they repeat it, it will no longer be business as usual as this would be undermining his authority.



**d. Hon. Peter Imwatok – MCA**

The Hon. Peter Imwatok, MCA appeared before the Committee on 21<sup>st</sup> March, 2019. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Peter Imwatok, MCA submitted as follows:-

- ✚ In response when asked if he understood why he was invited to appear before the committee, Hon. Peter Imwatok, stated;

He had received a communication from Clerk's office through the Committee Clerk that he was to appear before the Committee.

- ✚ Regarding his presence within the Assembly precincts on or about 6<sup>th</sup> November 2018 and what he understood of the event that transpired on the day, Hon. Peter Imwatok, stated;

1. On that day they had issues as a coalition party whereby his party (ODM) had written some letters in reference to removal of the Minority leader and him, the Minority Chief Whip, from their positions from the County Assembly.
2. That this was undone by the Speaker through a communication to the party stating the procedure upon which a party can remove its leadership as stipulated in the Nairobi City County Assembly Standing Orders.
3. That after that communication between the party and the Speaker, the Speaker usually takes the precedence inside the House because speaker had not ruled on anything, it meant that they remain as the Minority leader and Minority Whip of the Nairobi City County Assembly.
4. That, when he walked in the Chamber, he found commotion where he usually sat, whereby, some Members were saying that Hon. Kennedy Oyugi and Hon. Nicholas Okumu were not supposed to sit on the designated minority leadership seats.
5. He corroborated the evidence of other members by stating that Hon. Nicholas Okumu was sitting on his seat and Hon. Kennedy Oyugi sat on the seat designated for the Minority leader and thus a commotion arose.
6. Further, that Members wrestled, wanting to occupy the seats but the Sergeant- At - Arms were very adamant and insisted that the seats were a preserve of that official Minority leader and Minority whip.

- ✚ On his contribution on that day, Hon. Peter Imwatok, stated;

He just stood and watched how the episode was unfolding then he moved aside and called the Minority leader and asked him what was going on. Then all over sudden the commotion ended and they resumed their seats and the Assembly proceeding continued. To that bit they allowed external mechanism of the party to take precedence whereby as a party they called a meeting to order and they all attended and the party leader addressed all of us on the same.

They affirmed authoratively that the leadership of the Assembly stood as it was as the Minority leader remained the same and the Minority Whip remained the same and we are moving on as a party.

✚ On his understanding, as a leader, on what necessitated the party chairman, ODM and the party secretary, ODM to write letters of removal of him and the Minority leader from there positions, Hon. Peter Imwatok, stated;

1. That the secretary general of ODM didn't write a letter, the person who wrote the letter is the chairman of ODM party which should not be the case since they are a coalition of NASA and therefore anything being done should be consultative.
2. That the ODM party cannot make a decision on its own since it was part of a coalition.
3. Further that, the chairperson to the party had their own issues with the party's Secretary General who is mandated by their party ODM to do any correspondence on the decisions made by the party.
4. There were different letters which came to the Assembly, one came from the chairman and the other came from the Secretary General to the Speaker since as per the understanding of our constitution, the secretary general has a mandate to do any correspondence regarding the decision made by the party. Whereby the central Committee which makes the top organ of our party had not met by that time and we were informed that what central committee decided on was to call them for an arbitration process and to discuss in order to know what the issue was.
5. In their meeting with the party leader, the allegations came about the committees, and how members were re-allocated from one committee to another.

✚ On whether he was injured on that day, Hon. Peter Imwatok, stated;

1. That he was not injured and assured the committee that no one got injured and that anyone who purported to be injured was just but a pretender.
2. He justified this by stating that because when they had a meeting with their party leader, the same member who said that he was injured was the one who was very noisy.
3. He referred to the actions of the member that claimed was injured as political theatrics which to him is normal in politics to get political mileage.



4. He stated that he had conducted investigations of details of the hospital which gave details that somebody had been fractured, and found this information to be false.
5. That the hospital confirmed there were no x-rays.
6. He questioned why a member would go to Kayole Hospital despite having a medical cover with either Nairobi Hospital or Aga Khan.
7. He concluded that as a party they have done a lot of harmonization and unity for their party. One of the most contentious issue was the issue of the committees which to his understanding everyone can't fit in one committee giving example of Public Accounts Committee that currently the most active committee, and around 30 members were eager to join the committee.

**e. Hon. Kennedy Oyugi – MCA**

The Hon. Kennedy Oyugi, MCA appeared before the Committee on 26<sup>th</sup> March, 2019. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Kennedy Oyugi, MCA submitted as follows:-

- ✚ On whether he understood why he was invited to appear before the committee, he stated;

He didn't know but later on admitted that he was aware.

- ✚ On what he understood of the event that transpired on 6<sup>th</sup> November, 2018, he stated;

1. There were complains amongst the ODM membership or amongst the NASA membership of the Assembly of Nairobi which were reported to the party leadership after which the party leader instructed the party Chairman to listen to the matter and take the appropriate action.
2. After listening to both parties, the party Chairman took action which was to write a letter notifying the Assembly that from that day henceforth, there was a change in leadership of ODM or NASA side in the Assembly of Nairobi. That he had been appointed by the party to take the position of the minority leader.
3. The first letter was received by the Speaker, fortunately or unfortunately, he never acted on it.
4. That a second letter was done and shortly afterwards a third letter informing the Speaker of the changes.
5. That with express instruction from the party leadership, he and Hon. Nicholas Okumu were instructed to take their rightful position with the strengths of the letters issued.

6. In addition, he stated that they would have gone to take their rightful positions in the offices but they opted to start from the floor of the House as per the directions of the party.
7. That he wrote a letter to the Speaker on the day, 6<sup>th</sup> November 2018 notifying the Speaker of their intention on the that day.

✚ Whether he received any Communication from the Speaker and approval of the letters he had by the speaker, he stated;

Speaker was quiet on the same and in their own wisdom, silence would have meant a yes or no.

✚ As to whether the Speakers silence meant a yes, he stated;

1. He only left the seat after a Sergeant At Arm whispered to him that even though he had a letter from his party which is the appointing authority, he ought to have waited for the Communication from the Chair.
2. That this advice prompted him to call Hon. Elias Otieno to the consultation room for dialogue and they both agreed to wait for the communication from the Speaker.

✚ On his contribution on the said event and if in his opinion he considered his conduct to be retrogressive, he stated;

1. He conducted himself with a lot of decorum in the sense that the party which nominated all of them is the same party that did a letter appointing Hon. Elias Otieno as the minority leader and it's the same party that revoked that appointment.
2. According to him, he did not breach any law.
3. He admitted that they might have not followed the procedures properly by not letting the Speaker give out a communication first, in regard to changes that were to occur.

✚ Whether he knew the person responsible for correspondences and to be specific communications in the party i.e between the national Secretary General and the Chairman, he stated;

He gave references that Hon. Elias Otieno being appointed as the minority leader, via a letter that was written by executive director and not from the secretary general.

✚ On whether the party leader had directed the chairman to write the letter of change in leadership, he stated;



That the party leader (Hon. Raila Odinga) was aware of what was happening in the County Assembly of Nairobi.

- ✚ Whether he was aware that the party and the Assembly are two different bodies with different rules and procedures and what prompted him to sit on that seat without a communication from the speaker, he stated;

That they went to the Office of the Speaker that day in the morning and informed the Speaker about their intentions but the Speaker didn't issue a communication to them.

- ✚ On whether in his opinion he conducted himself with decorum, he stated;

He acted as a leader and went for dialogue in a consultation room holding hands with Hon. Elias Otieno, MCA.

- ✚ Whether he left other honorable members fighting as he went for dialogue.

Members were not fighting but Hon. Nicholas Okumu, who remained in the seat of minority whip was grabbed from that seat by some honorable members.

- ✚ If he was aware of the provision of the Standing Order 114 of the Nairobi City County Assembly, he stated;

He admitted to be aware of the Standing Order and even aware of the consequences of going against it.

- ✚ Why he could not wait for the speaker to make official communication, he reiterated that;

1. The Speaker was mum on the matter and never indicated whether he was going to say yes or no and being that the appointing authority (the party) had written the third letter confirming him as the minority leader he had to take his position.
2. That the decision they took was informed by the top most party leadership.
3. Further, that the Speaker was not willing to listen to them even after serving him with three letters from party authority appointing him to the position.

- ✚ On why he opted for violence in the Assembly as a solution just because the Speaker kept quiet.

He said that they did not use violence but it was very unfortunate that there was violence in the Chamber.

- ✚ Whether it is true that they took law unto their hands to use short cuts to get the seats because it was urgent for them disobeying the Standing Order 243(1 and 2) of Nairobi of the City County Assembly and if he was aware of the consequences, he stated;

It depends on the circumstances giving reasons that it is a normal practice for Members to sit on the designated seats he further quoted instances that one of the plenary days, he saw a member of ODM sitting on the seat of the minority leader and he never saw any one raising an eye brow and even himself he sat on the Minority seat when chatting with the Minority leader himself.

- ✚ On whether there was a different letter to the Speaker from their Secretary General overriding other letters, he stated;

He gave instances of four counties that had problems and were controlled by ODM party; Taita Taveta County Assembly and Homa Bay County Assembly, he assigned the party secretary to handle, the one in Kisumu , executive director to handle the one in Homabay and the chairperson to handle matters in Nairobi.

- ✚ On whether problems in the party guarantee him to cause chaos in the Assembly and if he was familiar with the process of the appointing leaders in the Assembly, he stated;

It is the party with the majority of Members that appoints the Majority leader according to the Standing Orders of the Nairobi County Assembly. Adding that the second largest party with the Member in the Assembly is the one which appoints the Minority leader and the whip, and so he is aware.

- ✚ Whether he regretted his actions, he stated;

That he didn't regret and but felt regret was a strong term in this case because he didn't fight anyone.

- ✚ Whether he was sorry for what he did that day, he stated;

He was not sorry because he didn't commit any offence as he was only reminded of an omission which to him that was a slight oversight.

- ✚ On the best ways to deal with such matters in future, he stated;

It was an ODM-NASA affair and it was always important for Jubilee side to be spectators and indeed it was not a good show and he wouldn't wish to see it happening again i.e It was regrettable that people could go physical on each other more so, on the floor of the House. He too blamed other hon. Members for forcefully ejecting hon. Nicholas from the seat when there were Sergeant At Arms to do so. Hence it was regrettable at that point of ejection.

- ✚ If he regretted what happened before the Assembly on that day,



What happened on the floor of the House is not acceptable and is demeaning to them as the Hon. Members of the County Assembly. Since he believed there are better ways to solve differences.

⚡ If he saw it re-occurring in future and if he may repeat the same thing.

They had resolved their issues adding that he is a defender of social justice.

Not through fighting but through a procedure.

⚡ Give his last remarks to the Select Committee on Powers and privileges.

He enjoyed the session with the committee and that the reason why he took that action is because he was informed by the appointing authority which at that time was the ODM party and notified the Speaker who was non-committal since he never said a yes or no. and for that reason they took his silence to mean yes

On the violence, he categorically said that it was regrettable for Hon. Members to solve grievances through fights.

**f. Hon. Immapet Kemunto – MCA**

The Hon. Immapet Kemunto, MCA appeared before the Committee on 26<sup>th</sup> March, 2019. She was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Immapet Kemunto, MCA submitted as follows:-

⚡ Whether she understood why she was invited to appear before this committee, she stated;

She said she was not aware.

⚡ Whether she was present in the Assembly the precinct of the Assembly on 6<sup>th</sup> November, 2018, she stated;

She couldn't remember but she was within the building but only heard of stories about the event later on.

She said that she was outside the building during the event. And that any one insisting of her presence in the chamber should furnish her with a refresher, a pictorial of whatever transpired.

- ✚ She was requested to shed light on the stories she heard since she was not in the chamber that day, she stated;

To be precise she got information from whatever she read, the letters that were circulating all over the media and hearsay from the public because whatever transpired was in the social media and TV about exchange of letters from either the party and the leaders.

**g. Mr. Ramadhan Juma – MCA**

Mr. Ramadhan Juma, Serjeant-at-arm appeared before the Committee on 27<sup>th</sup> March, 2019.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Mr. Ramadhan Juma submitted as follows:-

- ✚ Whether he understood why he was invited to appear before the Committee, he stated;

He understood as instructed by the invitation letter to attend the meeting.

- ✚ On whether he could confirm that he was the author of the letter from the Sergeant At arms department and if yes, to shed light on what happened on 6<sup>th</sup> November, 2018, he stated;

1. That there was a disagreement between Members of the NASA coalition on who should be the leader of the Minority and the minority whip.
2. That his letter addressed to the Speaker indicated who entered and sat on seats reserved for Hon. Elias Otieno and Hon. Peter Imwatok respectively before the House started.
3. That when Hon. Elias Okumu and Hon. Peter Imwatok entered the chamber, they found the seats already occupied. that led to a skirmish as some of the Members were trying consultation between the current leadership and those who were occupying the seats.

- ✚ On what actions he took at the time skirmishes erupted, he stated;

They do not interfere with Members in their activities unless directed by the Speaker.

- ✚ On his contribution to the events on that day, he stated;

He informed the two Members to leave the seats and give way to the leadership as they had not yet received any communication from the Speaker of any changes.

- ✚ Whether he saw anyone fight in the Assembly, he stated;

1. There was no fighting, and that what he witnessed was just pushing thus didn't witness anyone go physical.



2. That some Members tried to remove the seated Members to give way to the leadership.
3. That many members surrounded the seat and thus he could not remember the exact but he only saw Hon. Jared Okode, MCA who he saw trying to remove one seated Member to give way for the leadership.

✚ On what he understood by the word skirmishes, he stated.

That this can be described as disturbing one another or pushing one another or arguing.

✚ Whether he saw Hon. Immapet Kemunto inside the Chamber on that day and if she was involved in the skirmishes, he stated;

He saw Hon. Immapet kemunto seated in the chamber.

✚ On his opinion on the best way to deal with such matters in future, he stated;

It is important that the Speaker communicate in case of any changes in Assembly's leadership since they can't do anything because they execute Speaker's Orders in the Chamber.

✚ On whether he was aware of the provision of the Standing Order 114 of the Nairobi City County Assembly Standing Orders and the action he took as a leader, he stated;

1. He said he didn't know about what was entailed in the standing Order.
2. They reported to the Speaker and did a letter to the Speaker reporting the matter.

✚ In his opinion if the Hon. Members who were involved in these skirmishes conducted themselves in line with the dignity and integrity of this County Assembly, he stated;

He refuted the incident and stated that the assembly is a House of procedures to be followed and he has always heard Members state that "this is a House of rules and regulations".

✚ On what action he took after recording the statement, he stated;

After recording the statement in the OB, one of the Members came and took the letter to the Clerk through the speaker.

✚ When asked to shed light whether he was aware that a member was injured during the skirmishes, he stated;

That may have happened at the time he followed the minority leader and Hon. Kennedy in the consultation room. Hence did not witness anyone fight or break an arm.

✚ In his last remarks, he stated;

He requested that, through the committee and the chair, if such is to happen again, then the process must be followed and in case of disagreements amongst Members, it is important that they be sorted outside the Chambers through the Whips, leadership and Speaker's office.

**h. Mr. Timothy Osoi**

Mr. Timothy Osoi, Commissionaire appeared before the Committee on 27<sup>th</sup> March, 2019.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Mr. timothy Osoi submitted as follows:-

✚ On whether he understood why he was invited to appear before the committee,  
He did as per the invitation letter that was issued to him.

✚ When asked to shed light before the committee on what happened and what he witnessed, he stated;

He witnessed some Hon. members shout and heckle inside the Chamber and in the corridors but can't specifically pinpoint a Member because it was in a crowd.

✚ Whether in his opinion, if there were no fracas, skirmishes or fight in the Chamber, he stated;

There was no fight but noise which is normal in the Assembly sittings.

✚ If he was contradicting the statement of the Sergeant-at-arms stating there was heckling and fighting in the chamber, he stated;

He didn't issue the statement but in his observation there was no fighting.

✚ When asked of the role of sergeants' in the Assembly.

To enforce Speaker's orders and maintain order in the assembly.

✚ Whether in his own opinion, the Hon. Members did anything that contravenes the provision of the Standing Order 114.

Sitting on the designated seat by ignorance or defiance contravenes the Standing Order. He requested to be excused since those were his bosses and he was not safe up to that point adding that there are two types of truths. There is a truth being to be said then and there is that truth that would protect him. He therefore requested the Committee to allow him hold the truth that would protect me.



‡ His last remarks in relation to the incident.

As Sergeant At Arms, they are performing their mandates as required and so far they haven't had a bad experience with the Members of the second Assembly as the first Assembly was more challenging.

i. Hon. Lawrence Otieno

The Hon. Lawrence Otieno, MCA appeared before the Committee on 27<sup>th</sup> March, 2019. He was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Lawrence Otieno, MCA submitted as follows:-

‡ On his understanding of why he had been invited to the committee, he stated;

He knew.

‡ On whether he was within the precinct of the Chamber on 6<sup>th</sup> November, 2018, he stated;

He admitted he was present in the chamber that day.

‡ On his understanding of what transpired on 6<sup>th</sup> November, 2018, he stated;

1. He thought he was called before the Committee to get his reward in regards to what he did on the day.
2. That it was not him and Hon. Jared Okode who interfered with the plenary activities on that day, but instead, they were called upon by the minority leader to rescue him since Hon. Kennedy Oyugi had sat in his seat. T
3. That he only removed the Honorable Members from the seats of the Minority whip and the Majority leader.

‡ On why he was specifically called by the Minority leader to assist, he stated;

That it was not only him, those who were supporting the Minority leader were called but he is the one who removed Hon. Nicholas Okumu from the seat of the Minority Whip, and he swore to have done that.

‡ Whether he knew the root cause of these skirmishes, he stated;

The root cause of the matter was that there were some Members who wanted to take the leadership positions in the Assembly without following the right procedure and their

concern was that they were to follow the right procedure for acquiring the leadership positions.

- ✚ If he considered himself a re-enforcement officer and why he thought, he could do it when they had the Sergeant – At –Arms in the House, he stated;

He was not a re –enforcement officer but just came in to assist since the Sargent Art Arms were not able to assist their Minority leader

- ✚ Why he thought he came to get a reward from the Committee, he stated;

Everyone was in the Assembly and he came twenty minutes later and found the house in a mess and no one was able to remove them from the seats for the Assembly to continue but after him removing them from the seats, Hon. Otieno and Hon. Imwatok took their seats and the Assembly continued. That is why he thought he was invited by the Committee to be rewarded for the work he did.

Hon. Nicholas was the one who wanted to start a fight but fortunately some of their Members separated us.

- ✚ If he knew Standing Order 114 (states that causing disorder that obstructs Assembly Business) and why he had to breach, he stated;

He didn't cause disruption since he did not sit on the Minority seat. The Honorable members who sat are the ones who brought disruption to the Assembly.

- ✚ On his contribution if any to the said event as a leader, he stated;

It is always important to follow procedure as entailed in the Standing Order.

- ✚ If he made some effort as a Member to know if the said Members who wanted to take the seats followed the procedure, he stated;

There was a letter that was written by Speaker indicating that the members did not follow the procedure.

- ✚ Why he couldn't wait for the Speaker to make a ruling on the matter, he stated;

The Speaker was on the floor and the said Members disrupted him in the Assembly floor.

- ✚ Role he played in order to maintain peace after the skirmishes, he stated;

They maintained peace by removing the Hon. Members who wanted to take the seats and after removing them, the Assembly proceedings continued.

- ✚ If he prospects the incident re-occurring again, he stated;



If any Member fails to follow the procedure, then it can re occur but if everyone follows the procedure, then it cannot re occur.

⚡ **How they removed them**

They did not beat them but instead went and talked to them to leave the seats but they did not leave the seats so it forced them to pull them out of the Chair by force.

⚡ **On whether there was rules and procedures allowing one to pull any Member from any position by force, he stated;**

He knew the law does not allow them to remove a honorable member forcefully but said that it was in order that some exceptional occasions may trigger that for instance when someone wants to interrupt their party functions in the opposition side, them as Members must join hands together to see into it that such do not happen.

⚡ **Whether he had reconciled with the other Hon. Members, he stated;**

After the incident, they were called by the party leader Hon. Raila Odinga and the party leader solved the cause of the conflict. So things are just ok.

⚡ **On his opinion on how to deal with such matters in future, he stated;**

It is important that Honorable members follow the procedures of the Assembly and the leadership in the Assembly

⚡ **On other means he would have used as a leader without involving physical confrontation to remove the Members from the seats of the Minority leader and whip seats, he stated;**

The members could have followed the procedure in the Standing Orders and allow the sergeant-at-arms to perform there duty.

**j. Hon. Emily Oduor, MCA**

The Hon. Emily Oduor, MCA appeared before the Committee on 3<sup>rd</sup> April, 2019. She was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Emily Oduor, MCA submitted as follows:-

- ✚ On her understanding of why she was invited to appear before committee and if she was within the precincts of the Assembly on 6<sup>th</sup> November, 2018, she stated;

That she came into the Assembly after the Minority leader walked in and found him standing next to his designated seat. She thereby went and sat down and the next thing she heard was commotion in the house.

- ✚ On her understanding of what brought about the commotion, she stated;

1. There was already a commotion on her arrival to the plenary, she thought it started immediately the Minority leader walked into the Chamber.

- ✚ On her contribution to the commotion, she stated;

She never contributed to that commotion.

- ✚ On whether she knew of the root cause of the commotion, she stated;

According to her, the root cause was just people occupying the seats meant for others because it had not been officially communicated through the right channel and through the Standing Orders that they were the bona fide leaders.

The Speaker and the leadership handled it very well. She commended the Speaker for having been calm.

- ✚ Her advice to the members of the County Assembly during the time of commotion, she stated;

That was something she didn't have knowledge of prior to its occurrence neither did the leadership know it would happen and hence she sat and watched.

- ✚ If she sees the incident re occurring again and her take on the re - occurrence.

She doesn't believe in the incident's re- occurrence but did not want to preempt since honorable members come from diverse background making it difficult to know what may happen. But in case of re- occurrence, the Committee to take the necessary action.

- ✚ Whether the two groups have reconciled.

she said that she thought the two groups have reconciled since prior to the incident, there was a very bad attitude and no one could go to Minority office but now she could see laughter all over.

#### k. Hon. Jared Okoth Okode, MCA

The Hon. Jared Okode, MCA appeared before the Committee on 3<sup>rd</sup> April, 2019. He was presented with evidence of a video clip attributed to him which shows his participation



during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Jared Okode, MCA submitted as follows:-

- ✚ On his understanding on why he was invited to appear before the committee, he stated;

He didn't understand but he enquired and was told it was about the incident that happened in the Chamber on 6<sup>th</sup> November 2018.

- ✚ On whether he was within the Assembly's precinct on that day, he stated;

He received a phone call when he was coming back from lunch and told that some people had hijacked the seat of the Minority leader and the Minority whip. When he entered the chamber, he found Hon. Kennedy Oyugi and Hon. Nicholas Okumu sitting on the designated seats of the Minority leader and the Minority respectively and he told them to get out of the seats. The fracas was already in the Assembly for about twenty minutes and they tried to remove them and placed them aside.

- ✚ On his contribution upon entering the chamber, he stated;

They told them to leave the seats and Hon. Kennedy Oyugi, MCA left and Hon. Nicholas Okumu refused and they removed him from the seat.

- ✚ On whether he hit anyone and whether they had reconciled, he stated;

He did not hit anyone and that everything ended on that day.

- ✚ Why they had to take law unto their hands without following the procedure of going to the Speaker.

They know very well that there are House procedures but when they entered the Chamber, they found Sergeant At Arms standing and they had given our Minority leader the respect he deserves. We found Assembly proceedings was already interrupted for twenty minutes and after removing them from the seats, the Assembly proceedings continued. So if there is somebody to be punished, it is them because they were the ones who created tension in the Assembly.

- ✚ On why they decided to do perform the role of the Sergeant -At – Arms, he stated;

They felt that Sergeant At Arms were overwhelmed so they decided to assist.

- ✚ If the Hon. Speaker made any ruling on who is to sit on the seats of the Minority leader and the Minority whip.

1. He heard Speaker give stern warnings since what the honorable members did was against the procedures.
2. That the Honorable members should have waited for communication from the Chair in order to take the seats.

✚ On whether they used force to remove the members, he stated;

1. They carried Hon. Nicholas Okumu, MCA while removing him because they had tried to talk to him peacefully but he refused to listen to them so they carried him from the seat and placed him on the other seat.

✚ On whether they had reconciled and made peace, he stated;

1. He has no grudges with anyone.
2. He and Hon. Nicholas Okumu, MCA and Hon. Kennedy Oyugi, MCA had reconciled.
3. That he felt the matter should not have been brought before the Committee as they had reconciled.

✚ On what his actions would be in-case the event was to occur again, he stated;

He respects rules and procedures of the Assembly and he would strictly adhere to it. them.

✚ On his understanding of the role of the Sergeant At Arms in the House, he stated;

He couldn't say much about it because he didn't understand their mandate but acknowledged that they protect members in the Chamber.

✚ On how he would handle the same incident if it were to re-occur, he stated;

From where he sat, he didn't see it re- occurring but if he went against the rules and procedure by telling Hon. Kennedy Oyugi to get out of the seat, then he asked for forgiven.

#### **I. Hon. Ann Catherine Akinyi, MCA**

The Hon. Anne Catherine Akinyi, MCA appeared before the Committee on 3<sup>rd</sup> April, 2019. She was presented with evidence of a video clip attributed to him which shows his participation during the scuffle and an incident report from the Serjeant-at-arms department addressed to the Hon. Speaker.

In response to questions put to him by the Committee regarding the events that transpired on or about 6<sup>th</sup> November 2018, Hon. Anne Catherine Akinyi, MCA submitted as follows:-

✚ On her understanding on why she was invited to appear before this committee, she stated;



1. That she received a letter but could not recall what transpired on 6<sup>th</sup> November 2018.
2. She acknowledged the incidence upon being reminded by the Committee of the events of 6<sup>th</sup> November 2018.

✚ On her whereabouts and if she was within the precinct of the Assembly on 6<sup>th</sup> November, 2018, she stated;

1. She was within the precincts of the Assembly and according to her recollection, they entered into the plenary and sat and from where she was, she saw some Members from the Minority side huddled together probably just having a conversation.
2. That just before Hon. Speaker came in she noticed some voices being raised and some movement that was not normal.
3. She noticed a commotion but she couldn't see specifically where it was from but she noticed it was from the Members of the opposition side and with that, she rushed out of the Chamber.

✚ On her contribution on the said event, she stated;

In her opinion, she had no contribution because she rushed out of the Chamber when there was a commotion.

✚ On whether she was aware if any person was injured from the occurrence, she stated;

She ran out of the Chamber and therefore she neither saw any other thing nor did she hear of such an incident after the sitting.

✚ On her opinion in dealing with such matters in future, she stated;

That members are to Strictly conduct themselves in accordance with the procedures under the Standing Orders and in case of any enforcement then Members are to be advised that the office of the Sergeant at Arms should help in enforcement.

#### 4.0 OBSERVATIONS AND FINDINGS

Having reviewed the audio-visual footage containing allegations of alleged impropriety attributed to various members of the County Assembly who appeared before the committee as witnesses and the oral evidence adduced by the witnesses, the Committee observes that-

1. That indeed the Orange Democratic Party through the Party National Chairman had written to the Hon. Speaker concerning change in leadership at the County Assembly.
2. That indeed there was a scuffle in the chamber of the Assembly on 6<sup>th</sup> November 2018.
3. That the scuffle was brought about by the occupation of the reserved seats for the minority leadership by Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA.
4. That the Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA did not wait for official communication from the Speaker before occupying designated seats in the house.
5. That Honorable members gathered in the assembly at the said reserved seats and sought to remove the occupants of the reserved seats.
6. That the Hon. Elias Okumu and Hon. Kennedy Oyugi left the chambers together to have dialogue.
7. That the Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA violated the provisions of the Standing Order as to change in leadership.
8. That the Hon. Immapet Kemunto, MCA lied to the committee on oath.
9. By shouting, hurling insults and generally being disorderly, members had conducted themselves in ways worth inquiry and recommendation of appropriate sanction.
10. That Hon. Catherine Okoth, MCA and Hon. Emily Oduor, MCA were present within the precincts of the Assembly but were generally peace makers on that day. As such the committee exonerated them from any fault.



## 5.0 RECOMMENDATIONS

In consideration of the above observations and findings, the Committee recommends as follows: -

### 5.1 On the Inquiry of the Skirmishes of 6<sup>th</sup> November 2018

THAT;

- a. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the **Hon. Kennedy Oyugi, MCA; the Hon. Nicholas Okumu, MCA** be suspended from the Assembly for 21 sittings (two Calendar months) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for violation of procedure provided for under Standing Order 21 (7) and Standing Order 243 of the Standing Orders. The said suspension begins after the long recess.
- b. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the **Hon. Redson Otieno, MCA; the Hon. Lawrence Odhiambo, MCA, the Hon. Jared Okoth Okode, MCA** be suspended from the Assembly for 9 sittings (3 calendar weeks) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and pursuant to Standing Order 114 (1) (e).
- c. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the **Hon. Immapet Kemunto, MCA** be suspended for 9 sittings (three calendar weeks) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for 12 sittings for lying to the Committee on oath. As such, the Hon. Members be suspended for 19 sittings in total commence immediately after the long recess.
- d. All members under suspension shall formally apologize to the Assembly after serving the suspension. Suspension herein also include being barred from accessing all Assembly facilities i.e access to the precincts, parking and all allowances.



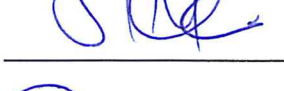
## 5.2 On general conduct of members

- a. That the Assembly conduct an induction on conduct, privileges and powers of all Honorable Members. It is important to educate Members on the decorum because they are not expected to shout, as Members they are expected to have constructive arguments and to generally conduct themselves with decorum.
- b. Going forward, the Committee to shall share laid Committee reports with the County Executive to harmonize operations between the County Assembly and the County Executive and to avoid any form of engagement with a suspended honorable member. (to avoid side rewards of members from the Executive for members under suspension).



## 6.0 ADOPTION OF THE REPORT BY THE COMMITTEE

WE, the undersigned Members of the Committee of Powers and Privileges, having considered this Report on the investigations into alleged unethical conduct of members within the precincts of the Assembly on 6<sup>th</sup> November, 2018, do hereby confirm our agreement with the content of the Report and request the Chairperson to present the Report to the Assembly -

Name	Signature
1. Hon. Chege Mwaura, MCA- Chairperson	
2. Hon. Naftaly Mathenge, MCA- V. Chairperson	
3. Hon. Abdi I. Hassan, MCA- Majority Leader	
4. Hon. Patrick Musili, MCA- D. Minority Leader	
5. Hon. Geoffrey Majiwa, MCA	
6. Hon. Evans Otiso, MCA	
7. Hon. Carolyne Mayunzu	
8. Hon. Jacinta Wanjiru, MCA	
9. Hon. Margaret Mbote, MCA	
10. Hon. Sylvia Moseiya, MCA	
11. Hon. Peter Wahinya Njau, MCA	

