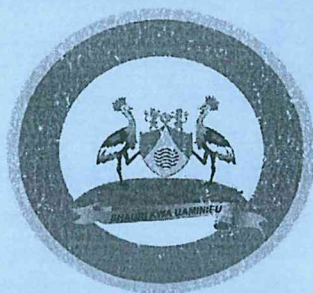


GOVERNMENT OF NAIROBI CITY COUNTY



*Paper laid by  
Hon. Hamisi Suleiman  
3/10/2023*

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(SECOND SESSION)

NCCA/TJ/PL/2023(76)

3<sup>RD</sup> OCTOBER 2023

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PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant to Section 15 of County Assemblies Powers and Privileges Act, 2017 and Standing Order 196 I beg to lay the following Paper on the Table of this Assembly, today Tuesday 3<sup>rd</sup> October 2023:

- THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON INVESTIGATION INTO ALLEGATIONS OF PHYSICAL CONFRONTATION BETWEEN HON. JOSEPH KARANJA NDUNG'U, MCA AND HON. CHRISTOPHER WANJOHI MTUMISHI, MCA.

*(Chairperson, Select Committee on Powers and Privileges)*

Copies to:

The Speaker

The Clerk

Hansard Editor

Hansard Reporters

The Press





GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY  
(SECOND SESSION)

3<sup>rd</sup> October 2023



NOTICE OF MOTION

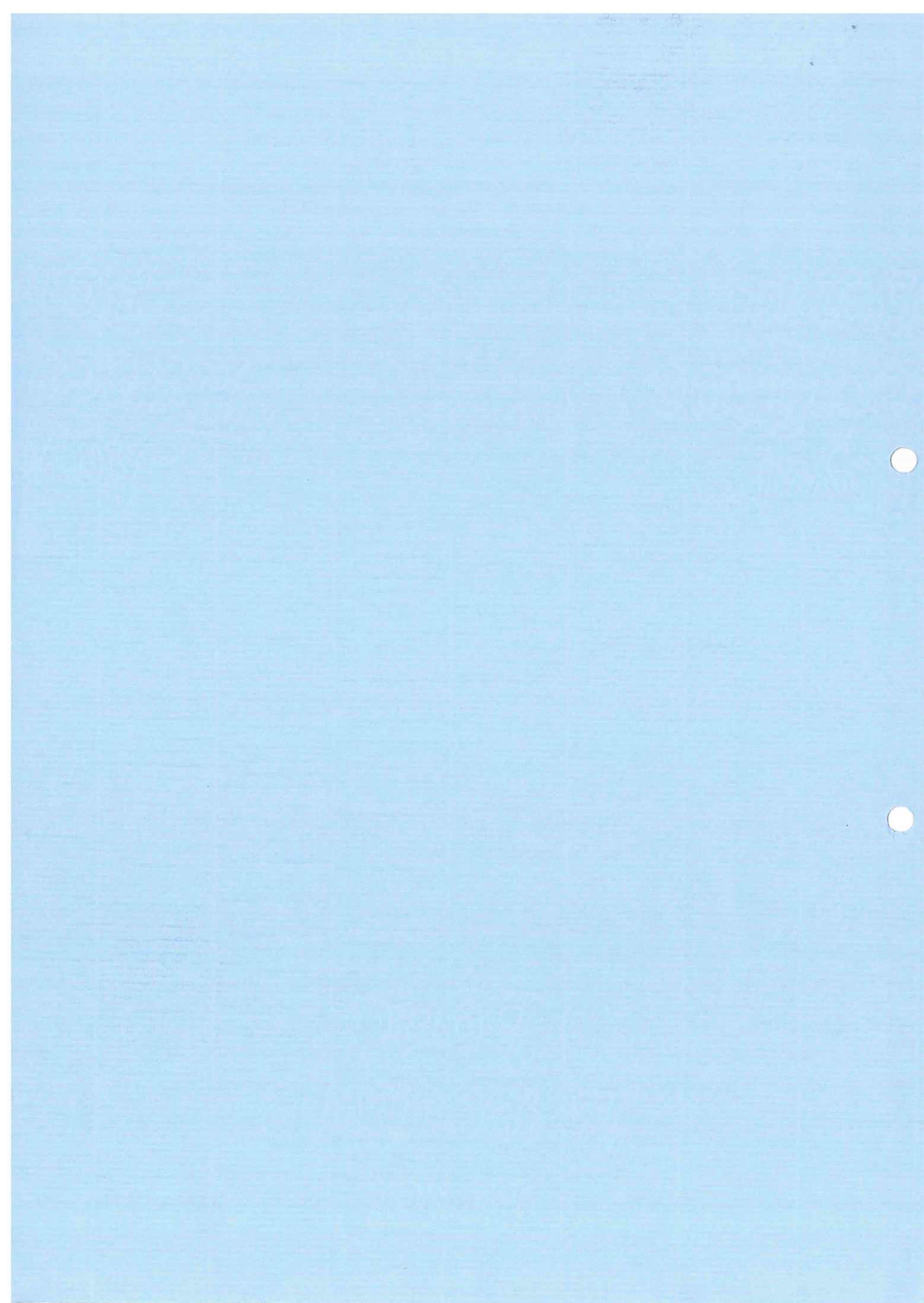
**Subject: Adoption of report of a Committee**

Hon. Speaker, I beg to give notice of the following motion:-

- **THAT**, pursuant to Section 15 (7) of County Assemblies Powers and Privileges Act, 2017, this Assembly adopts **THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON INVESTIGATION INTO ALLEGATIONS OF PHYSICAL CONFRONTATION BETWEEN HON. JOSEPH KARANJA NDUNG'U, MCA AND HON. CHRISTOPHER WANJOHI MTUMISHI, MCA**, laid on the table of the Assembly today, Tuesday, 3<sup>rd</sup> October 2023.

*(Chairperson, Select Committee on Powers and Privileges)*

*Notice of Motion given  
by Hon. Hamisi Suliman  
3/10/2023*





# NAIROBI CITY COUNTY GOVERNMENT



## NAIROBI CITY COUNTY ASSEMBLY

### THIRD ASSEMBLY – SECOND SESSION

THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE  
INVESTIGATION INTO ALLEGATIONS OF PHYSICAL CONFRONTATION BETWEEN  
HON. JOSEPH KARANJA NDUNG'U, MCA AND HON. CHRISTOPHER WANJOHI  
MTUMISHI, MCA

---

### THE SELECT COMMITTEE OF POWERS AND PRIVILEGES

Clerk's Chambers,  
CITY HALL,  
NAIROBI.

AUGUST, 2023

## Appendices

- 1) Incident Report from the Office of the Clerk
- 2) Committee's minutes



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## 1.0 PREFACE

### 1.1 Establishment and Mandate

Hon. Members,

The Committee on Powers and Privileges is established pursuant to Section 15 of the County Assemblies Powers and Privileges Act, 2017 (hereafter referred to as “the Act”) as read together with Standing Order 187. The Committee arises out of the provisions of Article 196 (3). The Committee’s mandate amongst others, as outlined under Section 15 of the Act is 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.

Further, as envisaged under Section 18 of the Act as read with Article 195 of the Constitution of Kenya 2010, the Committee as constituted has the same powers as the High Court in terms of summoning of any person to appear before it for the purposes of giving evidence or providing information.

### 1.2 Committee Membership

The Committee Membership comprises of:

- |   |                      |
|---|----------------------|
| 1. The Hon. Kennedy O. Ng’ondi, MCA       | – Speaker & Chairman |
| 2. The Hon. David Magoba Odhiambo, MCA    | – Vice-Chairman      |
| 3. The Hon. Asli Muhamud Muhamed, MCA     |                      |
| 4. The Hon. Maurice Ochieng Onyango, MCA  |                      |
| 5. The Hon. Hamisi Suleiman Maleya, MCA   |                      |
| 6. The Hon. Absalom Odhiambo Onyango, MCA |                      |
| 7. The Hon. Lily Akoth Kidenda, MCA       |                      |
| 8. The Hon. Benter Juma Obiero, MCA       |                      |
| 9. The Hon. Eutychus Mukiri Muriuki, MCA  |                      |
| 10. The Hon. Clement Nganga Kamaru, MCA   |                      |
| 11. The Hon. Kame Omuro Adano, MCA        |                      |
| 12. The Hon. Susan Makungu Kavaya, MCA    |                      |
| 13. The Hon. John Mwaniki Kwenya, MCA     |                      |
| 14. The Hon. Hashim Athaman Kamau, MCA    |                      |



### 1.3 Secretariat

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Ms. Monicah Muthami  | – Principal Clerk Assistant |
| 2. Mr. Austin Inyundele | – Snr. Clerk Assistant      |
| 3. Mr. Kevin Wasike     | – Snr. Clerk Assistant      |

#### Hon. Members,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

The Select Committee on Powers and Privileges exercises its mandate by investigating any matter pertaining conduct of Members of the County Assembly and staff of the Assembly within the precincts of the Assembly.

Following allegations of physical confrontation between Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA on 12<sup>th</sup> June, 2023, the Committee at its sitting held on 13<sup>th</sup> June, 2023 on its Motion deliberated on the said allegations and resolved to initiate investigations into the matter.

The Committee noted that the Director for Security Services had filed an incident report with the Clerk reporting that the two Members engaged in a physical altercation at the corridor between Committee Rooms 5 and 6 on 12<sup>th</sup> June 2023 at around 11.40 a.m. The report also indicated that there were a number of persons who had participated in separating the two and that a CCTV footage of the incident had been preserved in case it was needed.

During the said meeting, the Committee adopted a work plan in which the following persons were to be invited to appear for the purposes of giving evidence and submission of materials:

- |                                  |                              |
|----------------------------------|------------------------------|
| 1) Mr. Francis Kivila            | – Director Security Services |
| 2) Mr. Ramadhan Juma             | – Senior Sergeant-at-arms    |
| 3) Ms. Josephine Kamau           | – Senior Clerk Assistant     |
| 4) Hon. Hamisi Maleya, MCA       |                              |
| 5) Hon. Joyce Lugonzo, MCA       |                              |
| 6) Hon. Emmy Isalambo, MCA       |                              |
| 7) Hon. Veronica Waitherero, MCA |                              |
| 8) Hon. Antony Kirangu, MCA      |                              |
| 9) Hon. Peter Wahinya, MCA       |                              |

In addition, the following accused Members were also invited to appear before the Committee:

- 1) Hon. Joseph Karanja Ndung'u, MCA
- 2) Hon. Christopher Wanjohi Mtumishi, MCA

The Committee held meetings during which evidence was received from witnesses. During the sittings, witnesses were invited to appear and adduce evidence and submit materials.

The Committee having invited and interrogated witnesses and received documentary and video evidences on the matter, made findings and recommendations in accordance with Chapters four (4) and five (5) of this report.

#### 1.4 Acknowledgement

Hon. Members, I wish to acknowledge with gratitude the Members of the Select Committee on Powers and Privileges for the dedication that they continuously portray in ensuring that the Committee effectively discharges its mandate of ensuring that the County Assembly upholds dignity and integrity. Particularly, while investigating the alleged physical confrontation between the two Members of County Assembly, the Committee has demonstrated immense and commendable commitment.

Hon. Members, my sincere appreciation also goes to the office of the Clerk of the County Assembly and the Secretariat of the Select Committee on Powers and Privileges for providing effective administrative support and upholding integrity.

Hon. Members, it is therefore my pleasant duty and privilege to table this report before the Assembly and recommend it for adoption.

Thank You

Signed .....



Dated .....

30.8.2023

Hon. David Magoba Odhiambo, MCA

Vice-Chairperson



## 2.0 BACKGROUND OF THE INVESTIGATION

### 2.1 Inquiry into the alleged physical confrontation between two Members of County Assembly

On 13<sup>th</sup> June, 2023, the Committee on its own Motion noted that there was alleged breach of privilege by two Members of County Assembly, namely, Hon. Joseph Karanja Ndung'u, MCA (Member for Kiamaiko Ward) and Hon. Christopher Wanjohi Mtumishi, MCA (Member for Komarock Ward). The Committee noted that on 12<sup>th</sup> June 2023, the two Members had allegedly engaged in a physical confrontation within the precincts of the Assembly, specifically in the corridor of Committee rooms.

The Committee pursuant to the provisions of Standing Order 187 as read together with Section 15 (5) of the County Assemblies Powers and Privileges Act, 2017, deliberated on the matter and resolved to conduct an investigation and compile a report for tabling in the County Assembly.

During the several meetings of the Committee, the following witnesses were invited to appear before the Committee on diverse dates and time for the purpose of giving oral evidence and producing material evidence on the said case:

- 1) Mr. Francis Kivila – Director, Security Services
- 2) Mr. Ramadhan Juma – Senior Sergeant-at-arms
- 3) Ms. Josephine Kamau – Senior Clerk Assistant
- 4) Hon. Hamisi Maleya, MCA
- 5) Hon. Joyce Lugonzo, MCA
- 6) Hon. Emmy Isalambo, MCA
- 7) Hon. Veronica Waitherero, MCA
- 8) Hon. Antony Kirangu, MCA
- 9) Hon. Peter Wahinya, MCA

In addition, the following accused Members were also invited to appear before the Committee: -

- 1) Hon. Joseph Karanja Ndung'u, MCA
- 2) Hon. Christopher Wanjohi Mtumishi, MCA

### 2.2 COMMITTEE'S INVESTIGATION INTO THE ALLEGED MISCONDUCT BY MEMBERS OF COUNTY ASSEMBLY

#### 2.2.1 Legal Framework

- i) The Select Committee on Powers and Privileges draws its mandates and powers from various Constitutional and statutory provisions, as well as parliamentary dictates derived from long standing practice and procedure.



- ii) Primarily the enabling law to the mandate of the Committee is Section 15 of the County Assemblies Powers and Privileges Act, 2017, the Nairobi County Assembly Standing Orders, which draws its legality and powers from County Governments Act, 2012 and the Constitution of Kenya, 2010, provides for the Powers and privileges of Committees, under Standing Order 187, thus, *Committees shall enjoy and exercise all the powers and privileges bestowed on Parliament by the Constitution and statute, including the power to: Summon any person to appear before it for the purposes of giving evidence or providing information; and request for and receive papers and documents from the Government and the public.*
- iii) Section 15 (1) of the County Assemblies Powers and Privileges Act, 2017 (the Act) establishes the Committee. The Act is enacted pursuant to provisions of Article 196(3) of the Constitution of Kenya, 2010. The Committee's powers to summon witnesses for purposes of giving evidence is provided for under Article 196 of the Constitution of Kenya 2010, thus, *a county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. For the purposes of clause (1), an assembly has the same powers as the High Court to:*
  - a) *enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;*
  - b) *compel the production of documents; and*
  - c) *Issue a commission or request to examine witnesses abroad.*
- iv) Section 15 of the Act mandates the Committee, on its own Motion, to inquire into conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16.
- v) Section 16 of the Act outlines what constitutes to be a breach of privilege and in particular, *"Section 16 (c) provides that a Member can be considered to be in breach of privilege if he/he willfully fails or refuses to obey any rule, order or resolution of a county assembly and in (d), conducts himself or herself in a manner which, in the opinion of the Committee on Powers and Privileges, is intended, or is likely to reflect adversely on the dignity or integrity of a county assembly, or of the Members or to be contrary to the best interests of a county assembly or its Members."*
- vi) In addition, Section 10 of the Act, prohibits questioning of the proceedings or decisions of this Committee in any court.
- vii) Section 26 of the Act provides for the Prohibited Acts in respect of a County Assembly and its Members.
- viii) In Section 17 (3) of the Act provides for the attendant penalties should the Committee establish culpability for breach of privilege by a Member.
- ix) In investigating the matter in question, the Committee relied on Chapter Six of the Constitution of Kenya, 2010 and Leadership and Integrity Act, 2012.

### 2.2.2 Events Occasioning Breaches and the Inquiry



The matter for which the Select Committee on Powers and Privileges had undertaken investigation arose from allegations of physical confrontation between two Members, namely, Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA on 12<sup>th</sup> June 2023 in the corridor between Committee rooms. Should the Members found culpable, the Member (s) would be penalized for violation of the following laws: -

- 1) Articles 73 and 75 of the Constitution of Kenya, 2010;
- 2) Sections 7, 11, 32 and 34 of Leadership and Integrity Act, 2012; and
- 3) Sections 26 of County Assemblies Powers and Privileges Act, 2017.

The subject under investigation was allegations of engagement in a physical confrontation within the precincts of the Assembly by Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA on 12<sup>th</sup> June 2023.

## **2.3 WITNESSES**

With regard to the investigations of the issues placed before the Committee, it invited various witnesses for purposes of preparing a comprehensive report on the matter. The following witnesses appeared before the Select Committee to shed more light on the alleged physical confrontation within the precincts of the Assembly by Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA on 12<sup>th</sup> June 2023: -

1. Mr. Francis Kivila – Director Security Services
2. Mr. Ramadhan Juma – Senior Sergeant-at-arms
3. Ms. Josephine Kamau – Senior Clerk Assistant
4. Hon. Hamisi Maleya, MCA
5. Hon. Joyce Lugonzo, MCA
6. Hon. Emmy Isalambo, MCA
7. Hon. Veronica Waitherero, MCA
8. Hon. Antony Kirangu, MCA
9. Hon. Peter Wahinya, MCA

In addition, the accused, Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA also appeared before the Committee.

## **3.0 INVESTIGATION INTO ALLEGED PHYSICAL CONFRONTATION BETWEEN TWO MEMBERS OF COUNTY ASSEMBLY**

### **3.1 Witnesses from the County Assembly**

Statements and oral testimony from witnesses from the County Assembly were reviewed and noted as follows: -



#### **a) Director for Security Services**

On Thursday, 27<sup>th</sup> July, 2023, the Director for Security Services, Mr. Francis Kivila appeared before the Committee for purposes of informing the Committee about the incident where it was alleged that two Members of the Assembly engaged in a physical confrontation and submit a CCTV recording for the incident. Accordingly, while on oath, the Director informed the Committee as follows:

- i) That he did not witness the incident first-hand hence the information he was to give was purely based on his review of the CCTV footage;
- ii) That he had indeed prepared an incident report on the physical confrontation between Hon. Joseph Karanja and Hon. Christopher Wanjohi Mtumishi to the Clerk of the Assembly;
- iii) That indeed the aforementioned two Members engaged in a physical confrontation on 12<sup>th</sup> June 2023 at around 10.40 a.m at the corridor between Committee Rooms 5 and 6;
- iv) That an Officer from the Directorate of Security Services (Mr. Ramadhan Juma) witnessed the incident first-hand and was one of the persons who participated in separating the Members;
- v) That key other persons who may have information regarding the incident included Members of County Assembly as mentioned in his incident report;
- vi) That he had not established the root cause of the confrontation; and
- vii) That thereafter, he secured the CCTV footage that captured the incident, even though it lacks the voice and he tabled it before the Committee.

#### **b) Ms. Josephine Kamau**

On Thursday, 27<sup>th</sup> July, 2023, Ms. Josephine Kamau appeared before the Committee for the purpose of informing the Committee about the alleged physical confrontation between two Members of County Assembly. Accordingly, while on oath, Ms. Kamau informed the Committee as follows:

- i) That on 12<sup>th</sup> June 2023, the during the meeting of the Sectoral Committee on Justice and Legal Affairs, there was a commotion along the corridor at the Committee rooms;
- ii) That some Members of the Committee went outside to establish what was happening but the Secretariat and the Officers from the Executive remained in Committee Room 5;
- iii) That later in the day, she heard from other staff and Members that two Members had engaged in a physical confrontation;
- iv) That Hon. Joseph Ndung'u, MCA is a Member of the Sectoral Committee on Justice and Legal Affairs and that after the commotion, he came back to the Committee room escorted by the Leader of Minority Party, Hon. Antony Kiragu, MCA, settled down as the meeting proceeded; and



- v) That she was not in possession of any document or material to hand to the Committee to aid the investigation.

**c) Hon. Hamisi Maleya, MCA**

On Thursday 27<sup>th</sup> July 2023, Hon. Hamisi Maleya, MCA appeared before the Committee for purposes of shedding light on the allegations physical confrontation between two Members of County Assembly.

Hon. Hamisi Maleya while on oath, informed the Committee as follows:

- i) That indeed he had been the one who brought the matter to the attention of the Committee as a Member of the Committee;
- ii) That two Members indeed engaged in a physical confrontation at the corridor during the meeting of the Sectoral Committee on Justice and Legal Affairs in one of the Committee rooms;
- iii) That Hon. Antony Kiragu, MCA rushed out of the meeting who went to reconcile them; and
- iv) That Mr. Ramadhan Juma, a sergeant-at-arms separated the Members.

**d) Hon. Virginia Waitherero, MCA**

Hon. Virginia Waitherero, MCA appeared before the Committee on 31<sup>st</sup> July 2023 to shed more light on the alleged physical confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA on 12<sup>th</sup> June, 2023. While on oath, the Hon. Virginia Waitherero, MCA informed the Committee as follows:

- i) That she was in a meeting of the Sectoral Committee on Culture and community Services when she heard a commotion at the corridor;
- ii) That on coming out of the Committee room, she was made to understand that there was a confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA and that Hon. Ndung'u was insulting Hon. Mtumishi; and
- iii) That she did not witness the physical confrontation between the Members as the Sergeant-at-Arms on duty had separated them. That on hearing the commotion, she came out of the meeting and tried to calm the situation by escorting Hon. Mtumishi away from the scene.

**e) Hon. Joyce Lugonzo, MCA**

The Hon. Joyce Lugonzo, MCA appeared before the Committee on 31<sup>st</sup> July 2023 to shed more light on the alleged physical confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA on 12<sup>th</sup> June, 2023. While on oath, the Hon. Joyce Lugonzo, MCA informed the Committee as follows:



- i) That she was in a meeting of the Sectoral Committee on Culture and Community Services when she heard a commotion at the corridor. That she heard a perturbing voice of Hon. Joseph Ndung'u, MCA whom she knew well since she was from the same locality in Mathare Sub-County, that prompted her to rush out;
- ii) That upon inquiry, she established that the confrontation was between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA;
- iii) That she escorted Hon. Ndung'u who was angry to room 4 to minimize the noise since several Committees were having meetings with stakeholders; and
- iv) That she did not witness the physical confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA. However, she heard the crowd around calming down Hon. Ndung'u. That the fracas took less than five minutes to be contained.

**f) Hon. Emmy Isalambo, MCA**

The Hon. Emmy Isalambo, MCA appeared before the Committee on 31<sup>st</sup> July 2023 to shed more light on the alleged physical confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA on 12<sup>th</sup> June, 2023. While on oath, the Hon. Emmy Isalambo, MCA informed the Committee as follows:

- i) That when she was heading to a meeting of the Sectoral Committee on Agriculture, Fisheries and Livestock in the Committee room four (4), she heard two people talking in a Kikuyu language which she does not understand;
- ii) That she saw Minority Leader, Hon. Antony Karanja, MCA conversing with other Members and that from the facial expressions, she noted that something was not well. She later established that there had been a confrontation between Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA;
- iii) That she took Hon. Ndung'u to Committee room four where a meeting of the Sectoral Committee on Agriculture, Fisheries and Livestock was ongoing to calm him since he was agitated; and
- iv) The Member urged the Committee to review the CCTV footage covering the incident to ascertain her account of what transpired.

**g) Mr. Ramadhan Juma – Sergeant-at-Arms**

Mr. Ramadhan Juma, Sergeant-at-Arms appeared before the Committee on 1<sup>st</sup> August, 2023 to shed light on the alleged physical confrontation between Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA on 12<sup>th</sup> June, 2023. While on oath, the officer informed the Committee as follows:

- i) That he was from escorting guests to a Committee meeting when he heard commotion. He rushed to the scene and found Hon. Joseph Ndung'u, MCA and Hon. Christopher Mtumishi, MCA confronting each other;



- ii) That he managed to separate the two Members and calmed the situation before other Members of County Assembly including the Minority Leader joined him. That the two Members were summoned in the office of the Minority Leader to discuss the incident;
- iii) That he (the officer) reported the matter to his Supervisor (Director, Security Services) and recorded the same in the Occurrence Book (O.B.) available at the Directorate of Security Services;
- iv) That he heard Hon. Ndung'u, MCA confronting Hon. Mtumishi, MCA informing him (Hon. Mtumishi) not to use abusive language on him (Hon. Ndung'u);
- v) On the opinion of the officer, Hon. Mtumishi may have used abusive language on Hon. Ndung'u which led to the confrontation; and
- vi) Upon viewing the CCTV footage covering the incident, the Committee requested the Officer to give advice on what steps should be taken to deal with such incidents going forward. In response, the officer stated that Members may have had their own differences elsewhere, in such case, Members should have informed the security department. The officer proposed for deployment of additional security officers within Committee rooms during meetings.

#### **h) Hon. Antony Karanja Kiragu**

Hon. Antony Karanja Kiragu appeared before the Committee on 2<sup>nd</sup> August 2023 and while on oath, informed the Committee as follows:

- i) That he was in Committee room 5 attending a meeting of the Sectoral Committee on Justice and Legal affairs when he heard noise outside and went to investigate;
- ii) That on reaching the corridor, he established that Hon. Joseph Ndung'u and Hon. Christopher Mtumishi were acting for a TikTok video and that the allegations that Hon. Joseph Ndung'u and Hon. Christopher Mtumishi engaged in a physical confrontation was not true; and
- iii) That he (Hon. Kiragu) requested the Committee to schedule another meeting in which he could view the CCTV footage to jog his memory on the incident. Thereafter, he would give the Committee a further account of the incident.

The Committee scheduled for the meeting to have Hon. Antony Kiragu view the CCTV footage on 3<sup>rd</sup> August 2023, but the Member refused to appear and further attempts by the Secretariat to have the Member appear were not successful. The Committee resolved to rely on the Member's first account of the incident and to make a recommendation for the Member be severely warned.

#### **j) Hon. Peter Wahinya**

Hon. Peter Wahinya appeared before the Committee on 9<sup>th</sup> August 2023 to explain to the Committee about the incident where two Members allegedly engaged in a physical



confirmation on 12<sup>th</sup> June 2023. While on oath, the Member informed the Committee as follows:

- i) That on the material day, 12<sup>th</sup> June 2023, he was partaking refreshments along the corridor leading to the Committee rooms 5 and 6 with Hon. Joseph Ndung'u before heading for a meeting of the Sectoral Committee on Water and Sanitation;
- ii) That out of nowhere, he heard Hon. Ndung'u say "tutaheshimiana" upon which he saw Hon. Christopher Mtumishi approaching from the Records Department way;
- iii) That indeed there was a physical confrontation between the two Members and that Hon. Joseph Ndung'u was the one who attacked Hon. Mtumishi;
- iv) That thereafter, the Members were separated by the Leader of Minority Party and later reconciled in his office (Minority Leader's office); and
- v) That the confrontation was not spontaneous, however, it had been building over time for reasons the Member was not aware of.

**i) Hon. Christopher Wanjohi Mtumishi**

Hon. Christopher Wanjohi Mtumishi, MCA appeared before the Committee on 3<sup>rd</sup> August 2023 to shed more light on the alleged physical confrontation between Hon. Joseph Ndung'u, MCA and him on 12<sup>th</sup> June, 2023. While on oath, the Member informed the Committee that he was heading to a meeting of the Sectoral Committee on Agriculture and Livestock when he was physically attacked by Hon. Joseph Ndung'u, MCA who elbowed and injured him on his left arm. That he took the matter as a friendly joke and did not retaliate. That it was not a serious fight as he first alleged.

Upon viewing the CCTV footage, the Member admitted that there was confrontation between him and Hon. Joseph Ndung'u, MCA. Hon. Mtumishi, MCA stated that indeed he was attacked by Hon. Ndung'u, MCA. The Member stated that Hon. Ndung'u, MCA started the fight.

In addition, Hon. Mtumishi informed the Committee that the matter started on the *WhatsApp page* of Kenya Kwanza where he felt Hon. Ndung'u was undermining him by questioning his leadership skills. The Members informed the Committee that he was the victim in the case. However he forgave Hon. Ndung'u for attacking him on the material day. That they had since reconciled.

The Member informed the Committee that they used abusive language on each other on the *WhatsApp page* two weeks prior to the physical confrontation witnessed on 12<sup>th</sup> June, 2023. In addition, Hon. Mtumishi stated that he was humiliated by Hon. Ndung'u during a Church service in the presence of H.E the Governor.

**j) Hon. Joseph Karanja Ndung'u**



Hon. Joseph Ndung'u appeared before the Select Committee on Powers and Privileges on 9<sup>th</sup> August 2023 and while on oath, the Members informed the Committee as follows regarding the alleged physical confrontation between him and Hon. Christopher Mtumishi:

- i) That it was true that he attacked Hon. Christopher Mtumishi on the material day at the corridor between Committee rooms 5 and 6;
- ii) That the confrontation stemmed from an altercation between the two Members on the Whatsapp *page* for Members of County Assembly;
- iii) That he (Hon. Ndung'u) was especially agitated when Hon. Mtumishi referred to him as "uncircumcised" which was a grave insult according to their culture;
- iv) That indeed he acted irrationally and with disregard to the legal requirements on the conduct of Members and that he was sorry for engaging in the confrontation within the precincts of the Assembly;
- v) That the Committee needs to intervene and reign in on Hon. Christopher Mtumishi since he had found himself in various forms of misconduct with a number of Members of County Assembly including Hon. Joy Muthoni, MCA and Hon. Joyce Lugonzo, MCA.

#### 4.0 FINDINGS OF THE COMMITTEE

Having analyzed the oral accounts from the witnesses regarding the incident and viewing the CCTV footage covering the incident, the Committee makes the following findings:

- i) That on 12<sup>th</sup> June 2023, there was a meeting of the Sectoral Committee on Justice and Legal Affairs with stakeholders in Committee Room 5;
- ii) That while the meeting was in progress, Hon. Joseph Karanja Ndung'u, MCA and Hon. Peter Wahinya, MCA were having refreshments at the corridor between Committee rooms 5 and 6;
- iii) That Hon. Christopher Wanjohi Mtumishi, MCA was on his way to a Committee meeting when he was suddenly elbowed by Hon. Joseph Karanja Ndung'u, MCA who continued to throw punches at him (Hon. Mtumishi);
- iv) That the incident led to an exchange of words relating to an earlier brawl between the two Members on a *Whatsapp page* of Members of County Assembly;
- v) That the Committee later learnt that Hon. Mtumishi in the WhatsApp exchange referred to Hon. Ndung'u as "*uncircumcised*" which Hon. Ndung'u considered to be a grave insult;
- vi) That Hon. Antony Kiragu, MCA, Hon. Joyce Lugonzo, MCA, Hon. Virginia Waitherero, MCA, Hon. Peter Wahinya, MCA, Hon. Emmy Isalambo and Mr. Ramadhan Juma were among the persons who participated in containing the situation and calming down the two Members who were confronting each other;
- vii) That Article 73 of the Constitution of Kenya, 2010 requires State Officers to demonstrate respect for people; to bring honour to the Nation and dignity to the office; and to promote public confidence in the office;



- viii) That Section 7 of the Leadership and Integrity Act, 2012 requires State Officers to respect and abide by the Constitution and the law;
- ix) That Section 11 of the Leadership and Integrity Act, 2012 requires State Officers to carry out duties of the office in a manner that maintains public confidence in the integrity of the office and to treat members of the public and other public officers with courtesy and respect;
- x) That Section 32 of the Leadership and Integrity Act, 2012 requires State Officers to conduct private affairs in a manner that maintains public confidence in the integrity of the office;
- xi) That Section 34 of the Leadership and Integrity Act, 2012 prohibits State officers from bullying any person; and
- xii) Section 26 of County Assemblies Powers and Privileges Act, 2017 provides for prohibited acts with respect to County Assembly and its Members which include assaulting, threatening, molesting, use of abusive language, insult and interruption of Assembly or Committee proceedings.

## 5.0 RECOMMENDATIONS

Having received evidence in chief from summoned witnesses; having examined documentary and video evidences tabled before the Committee and; having deliberated and made observations and findings, the Select Committee on Powers and Privileges makes the following recommendations for approval by the County Assembly:

- 1) **THAT**, pursuant to Section 17 (3)(c) of the County Assemblies Powers and Privileges Act, 2017, Hon. Joseph Karanja Ndung'u to orally apologize to the County Assembly **while standing at the Assembly Chamber Bar**, for assaulting, bullying and disrespecting Hon. Christopher Wanjohi Mtumishi; and conducting himself in a manner that brought dishonor to the Office of Member of County Assembly and impacted negatively to the dignity of the County Assembly;
- 2) **THAT**, pursuant to Section 17 (3)(a) of the County Assemblies Powers and Privileges Act, 2017, Hon. Joseph Karanja Ndung'u be formally warned for engaging in a conduct that interrupted the proceedings of Assembly Committees; and
- 3) **THAT**, pursuant to Section 17 (3)(a) of the County Assemblies Powers and Privileges Act, 2017, Hon. Christopher Wanjohi Mtumishi be severely warned for disrespecting and using abusive language against Hon. Joseph Karanja Ndung'u on Assembly Members' *Whatsapp page*.



MINUTES OF THE 26<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON POWERS AND PRIVILEGES HELD ON WEDNESDAY, 30<sup>TH</sup> AUGUST, 2023 AT 10.00 A.M. IN CHAMBER BOARDROOM, CITY HALL BUILDINGS.

MEMBERS PRESENT:

1. The Hon. David Magoba, MCA – Vice-Chairperson
2. The Hon. Hashim Kamau, MCA
3. The Hon. Absalom Odhiambo, MCA
4. The Hon. Hamisi Maleya, MCA
5. The Hon. Benter Obiero, MCA
6. The Hon. Lily Akoth Kidenda, MCA
7. The Hon. Mwaniki Kwenya, MCA
8. The Hon. Eutyclus Mukiri, MCA
9. The Hon. Asli Muhamed, MCA

MEMBERS ABSENT WITH APOLOGY

1. The Hon. Kennedy Okeyo Ng'ondi, MCA – Speaker (Chairperson)
2. The Hon. Susan Makungu, MCA
3. The Hon. Maurice Ochieng, MCA
4. The Hon. Kame Adano, MCA
5. The Hon. Clement Nganga, MCA

SECRETARIAT

1. Mr. Austin Inyundele – Senior Clerk Assistant
2. Mr. Kevin Wasike – Senior Clerk Assistant

AGENDA

1. Preliminaries (prayers & adoption of the Agenda)
2. Consideration and adoption of the Committee's Report on investigation into alled physical confrontation between Hon. Joseph Karanja Ndung'u, MCA and Hon. Christopher Wanjohi Mtumishi, MCA.
3. Any other business
4. Adjournment

MIN.013/NCCA/P&PC/AUG/2023– PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.00 a.m. and said the opening prayers. He then welcomed the Members present and read the agenda which was adopted as proposed by Hon. Eutyclus Mukiri, MCA and seconded by Hon. Lily Kidenda, MCA.

MIN.016/NCCA/P&PC/AUG/2023 – CONSIDERATION AND ADOPTION OF THE COMMITTEE'S REPORT ON INVESTIGATION INTO ALLED PHYSICAL CONFRONTATION BETWEEN HON. JOSEPH KARANJA NDUNG'U, MCA AND HON. CHRISTOPHER WANJOHI MTUMISHI, MCA.

The Committee was informed that following the conclusion of the inquiry into the allegations of physical confrontation between the two Members of the County Assembly, the Committee is expected to compile and Table a report on the same. Accordingly, the draft report was before the Committee for consideration and adoption. The Secretariat



was invited to take the Members through the draft report. The Secretariat led the Committee on reading through the draft report that contained the following observations and recommendations:

### Observations

- 1) That on 12<sup>th</sup> June 2023, there was a meeting of the Sectoral Committee on Justice and Legal Affairs with stakeholders in Committee Room 5;
- 2) That while the meeting was in progress, Hon. Joseph Karanja Ndung'u, MCA and Hon. Peter Wahinya, MCA were having refreshments at the corridor between Committee rooms 5 and 6;
- 3) That Hon. Christopher Wanjohi Mtumishi, MCA was on his way to a Committee meeting when he was suddenly elbowed by Hon. Joseph Karanja Ndung'u, MCA who continued to throw punches at him (Hon. Mtumishi);
- 4) That the incident led to an exchange of words relating to an earlier brawl between the two Members on a *Whatsapp page* of Members of County Assembly;
- 5) That the Committee later learnt that Hon. Mtumishi in the WhatsApp exchange referred to Hon. Ndung'u as "*uncircumcised*" which Hon. Ndung'u considered to be a grave insult;
- 6) That Hon. Antony Kiragu, MCA, Hon. Joyce Lugonzo, MCA, Hon. Virginia Waitherero, MCA, Hon. Peter Wahinya, MCA, Hon. Emmy Isalambo and Mr. Ramadhan Juma were among the persons who participated in containing the situation and calming down the two Members who were confronting each other;
- 7) That Article 73 of the Constitution of Kenya, 2010 requires State Officers to demonstrate respect for people; to bring honour to the Nation and dignity to the office; and to promote public confidence in the office;
- 8) That Section 7 of the Leadership and Integrity Act, 2012 requires State Officers to respect and abide by the Constitution and the law;
- 9) That Section 11 of the Leadership and Integrity Act, 2012 requires State Officers to carry out duties of the office in a manner that maintains public confidence in the integrity of the office and to treat members of the public and other public officers with courtesy and respect;
- 10) That Section 32 of the Leadership and Integrity Act, 2012 requires State Officers to conduct private affairs in a manner that maintains public confidence in the integrity of the office;
- 11) That Section 34 of the Leadership and Integrity Act, 2012 prohibits State officers from bullying any person; and
- 12) Section 26 of County Assemblies Powers and Privileges Act, 2017 provides for prohibited acts with respect to County Assembly and its Members including assaulting, threatening, molesting, use of abusive language, insult and interruption of Assembly or Committee proceedings.

### Recommendations

- 1) THAT, pursuant to Section 17 (3)(c) of the County Assemblies Powers and Privileges Act, 2017, Hon. Joseph Karanja Ndung'u to orally apologize to the



County Assembly while standing at the Assembly Chamber Bar, for assaulting, bullying and disrespecting Hon. Christopher Wanjohi Mtumishi; and conducting himself in a manner that brought dishonor to the Office of Member of County Assembly and impacted negatively to the dignity of the County Assembly;

- 2) THAT, pursuant to Section 17 (3)(a) of the County Assemblies Powers and Privileges Act, 2017, Hon. Joseph Karanja Ndung'u be formally warned for engaging in a conduct that interrupted the proceedings of Assembly Committees; and
- 3) THAT, pursuant to Section 17 (3)(a) of the County Assemblies Powers and Privileges Act, 2017, Hon. Christopher Wanjohi Mtumishi be severely warned for disrespecting and using abusive language against Hon. Joseph Karanja Ndung'u on Assembly Members' *Whatsapp* page.

The Committee deliberated on the draft report in light of the evidence gathered and adopted it for Tabling in the Assembly.

MIN.017/NCCA/P&PC/AUG/2023 – ADJOURNMENT

The Committee having dispensed with the business of the day and the time being Thirty-Four minutes past Eleven O' Clock, the Vice-Chairperson adjourned the meeting. A notice would communicate the next meeting.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

SIGN: CHAIRPERSON .....



SECRETARY.....

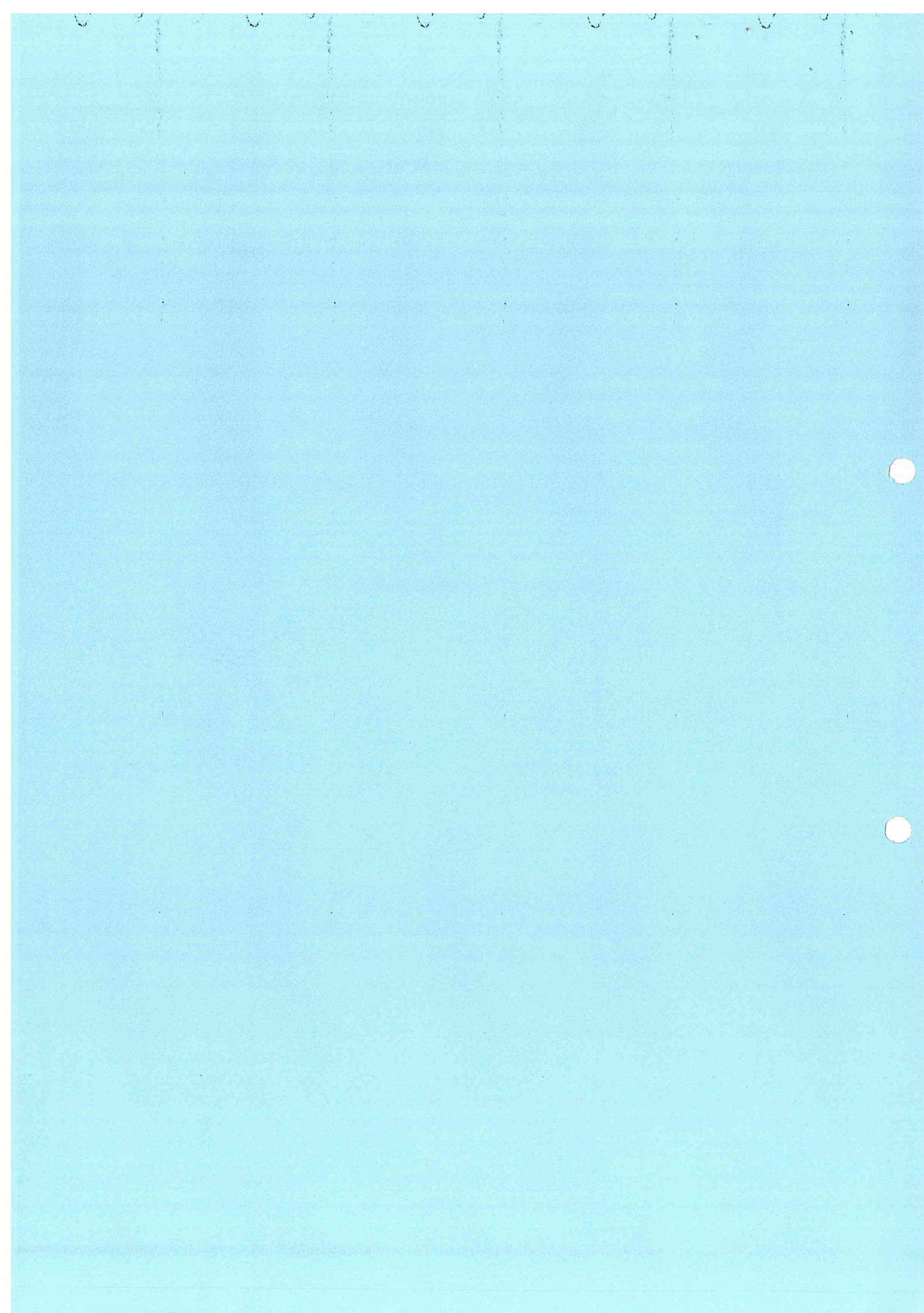


DATE:

28.9.2023.....

28.9.2023.....







GOVERNMENT OF NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY  
(THIRD ASSEMBLY – SECOND SESSION)

**DIRECTORATE OF SECURITY SERVICES**

INTERNAL MEMO

TO : CLERK NAIROBI CITY COUNTY ASSEMBLY

THRO' : DEPUTY CLERK (A)

FROM : DIRECTOR SECURITY SERVICES

REF : NBI CA/DSS/029/2023 (06)

DATE : 14<sup>TH</sup> JUNE, 2023

**RE: INCIDENT REPORT ON THE MATTER OF PHYSICAL FIGHT BETWEEN  
HON. JOSEPH KARANJA NDUNGU AND HON. CHRISTOPHER WANJOHI  
MTUMISHI ON 12<sup>TH</sup> JUNE, 2023 WITHIN ASSEMBLY PRECINCTS**

The above matter refers.

The office of the undersigned reports an incident report in a matter of altercation resulting to physical confrontation between Hon. Joseph Karanja Mca, Kiamaiko ward and Hon. Christopher Wanjohi Mtumishi, Mca Komarock Ward.

It was reported by one Serjeant Ramadhan Juma that on Monday 12<sup>th</sup> June, 2023 at about 1140 hours, there arose brief altercation between the above referenced Hon. Members resulting to physical fight within Assembly precincts, precisely at the aisle outside committee room 5 and 6. This was short lived as it took swift action of the officer (Serjeant Ramadhan) who moved in, in time to separate the Hon. Members with assistance of other Hon. Members who were within and who witnessed the whole episode as it unfolded. Notable among them was Hon. Virginia Waitherero, Hon. Joyce Lugonzo and Emma Isalambo among others.

However, the officer could not immediately establish the facts leading to the altercation and the after-fight as the Hon. Minority Leader intervened and immediately whisked away the Hon. Members.

The Matter was thereafter booked in the Assembly Occurrence Book under OB No. 01/12/06/2023 and a footage of the same has since been secured for future reference should any investigative agency come calling.

*Del*  
*Kindly propose a communitali for bee speak*  
*regarding the subject in the incident report.*  
*14/6/2023*  
*13/6*



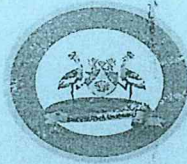
This is therefore to report the same for your noting and any other action as may be appropriately justified.



FRANCIS KIVILA

DIRECTOR SECURITY SERVICES





## THE NAIROBI CITY COUNTY ASSEMBLY

## THIRD ASSEMBLY

## (SECOND SESSION)

## COMMUNICATION FROM THE CHAIR

15<sup>TH</sup> JUNE 2023

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**PHYSICAL FIGHT BETWEEN HON. MEMBERS WITHIN THE PRECINCT  
OF TH ASSEMBLY**

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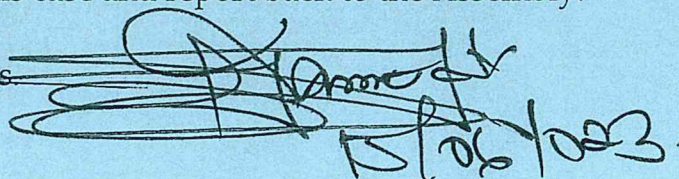
**Hon. Members,** I have the following communication to convey-

Hon. Members, my office is in receipt of a report alleging that Hon. Joseph Karanja Ndun'gu, MCA, Member for Kiamaiko Ward; and Hon. Christopher Wanjohi Mtumishi, MCA, Member for Komarock Ward engaged in an altercation that resulted into a physical fight. The incident is alleged to have happened at the corridor between Committee room 5 and 6 within the precincts of the Assembly.

Hon. Members, during the induction workshop of the Assembly and Committees, Members were sensitized on the need to always conduct themselves in a manner that brings honour and dignity to the County Assembly and the Office they hold in accordance with the provisions of Chapter Six of the Constitution of Kenya 2010, Leadership and Integrity Act, 2017, the County Assemblies Powers and Privileges Act, 2017 and the County Assembly Standing Orders.

Hon. Members, I am aware that the Select Committee on Powers and Privileges, on its own motion, is seized of this matter. Accordingly, I direct the Committee to expeditiously deal with this case and report back to the Assembly.

I thank you Hon. Members



The Hon. Kennedy O. Ng'ondi  
**SPEAKER, NAIROBI CITY COUNTY ASSEMBLY**

Thursday 15<sup>th</sup> June 2023



