



REPUBLIC OF KENYA

# NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE

SECRETARIAT



June 3, 2015

REF: CJ/103/3

## TO ALL COURTS TO ALL POLICE STATIONS TO ALL STAKEHOLDERS

### REF: DIRECTIONS FOR TRAFFIC CASES

Following grave public concern about arbitrary arrests and detention of alleged traffic offenders and offending motor vehicles under the Traffic Act and related legislation; the existence of 'courts' outside of the Court as well as the negative economic impact of delays caused in the processing of traffic cases, we are today issuing the following directions to all Courts and Police Stations.

1. In compliance with Article 49(2) of the Constitution, all suspected traffic offenders in respect of offences punishable by a fine only or by imprisonment for a term not exceeding six months shall not be held in police custody.
2. In compliance with Article 49(1) (h) of the Constitution all other suspected traffic offenders shall be expeditiously released on reasonable bail or bond conditions pending charge or trial, unless there are compelling reasons certified as such by a Court Order.
3. Once a suspected traffic offender has been cited, he or she shall be issued with a **notification to attend court (NTAC)** on a convenient date within seven (7) days or Court Summons whichever is applicable as per the resolutions passed by the National Council on the Administration of Justice.
4. The Notice shall state clearly the charges preferred and also indicate the maximum penalty for each.
5. The cited traffic offender will be required to attend court on the date and time indicated in the NTAC to take plea.
6. If an offender, having been issued with a NTAC/ Court Summons does not attend court, upon application by the prosecution, a Warrant of Arrest shall issue and the police will be expected to execute the same. Immediately after apprehension, the relevant traffic file will be mentioned before the traffic court and the failure to honour the NTAC/ Court Summons may be adduced towards aggravating factors.

*A Unified Justice that Serves the People*

[www.judiciary.go.ke](http://www.judiciary.go.ke)

7. If after three (3) months, the Warrant of Arrest remains un-executed, the prosecutor will notify the Court and unless cause is shown, the prosecution will be expected to apply for the termination of the matter under section 87(a) of the Criminal Procedure Code pending execution of the Warrant of Arrest.
8. If, upon issuance of the NTAC, the traffic offender opts to plead guilty in writing under Section 117 of the Traffic Act Cap. 403, s/he must fully comply with the proviso thereto; that is, they must remit to court (through the deposit account provided by the Judiciary's Directorate of Finance) the maximum amount payable for the offence(s) cited.
9. Before plea is taken, the Magistrate will ensure that any cash bail collected by the Police from the traffic offender(s) is available in Court.
10. The Court will take every measure to ensure that the accused person is afforded the time, place and facilities to pay the imposed fine or cash bail without being led to the court cells. Towards this, the Head of Station shall ensure that there is at least one Judiciary Accountant, seconded by the Director Finance in the traffic courtroom for the purpose of receiving remittances.
11. Only when the traffic offender is unable to pay the fine/cash bail after reasonable time and facilities will her/his committal warrant be processed and handed over to the Prison for admission into custody.
12. The relevant Courts Users Committee Members are expected to develop a consensual cut-off time for registration of Traffic Pleas.

**These directions take effect immediately.**

  
HON. DR. WILLY MUTUNGA, D.Jur, SC, EGH  
CHIEF JUSTICE/ PRESIDENT AND  
CHAIR, NATIONAL COUNCIL ON  
ADMINISTRATION OF JUSTICE



MR. JOSEPH BOINET, nsc (AU)  
INSPECTOR GENERAL  
NATIONAL POLICE SERVICE