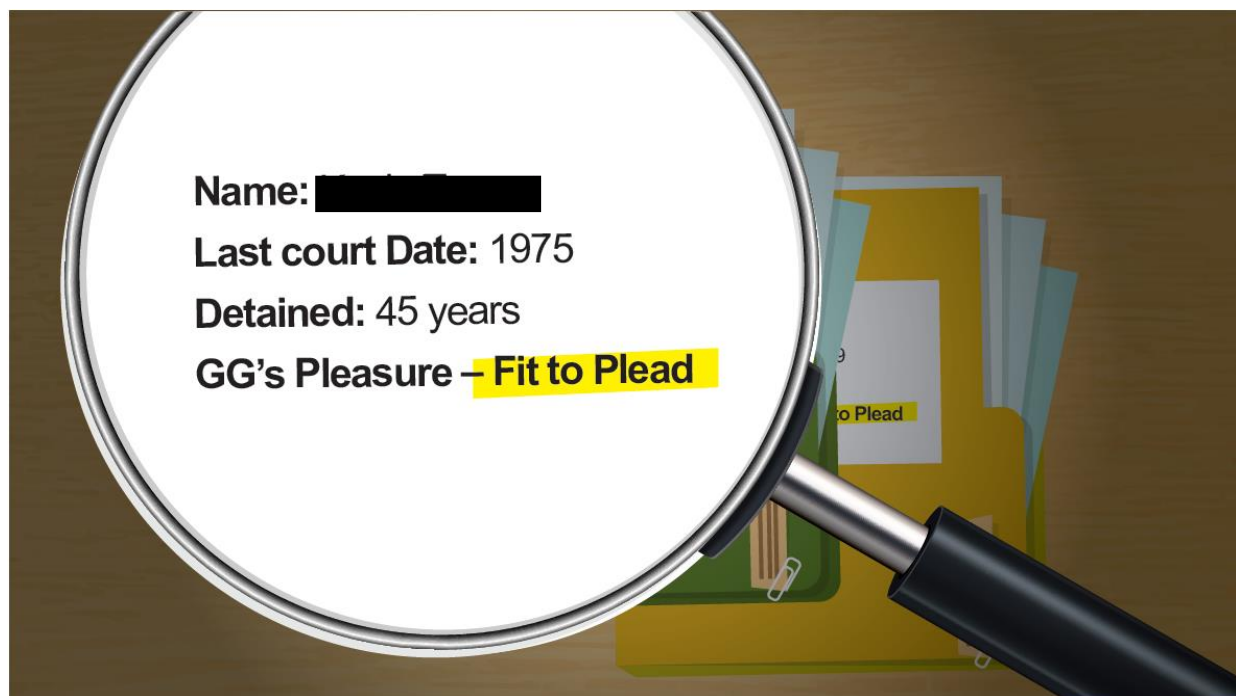


THE INDECOM QUARTERLY 1st

JANUARY – MARCH 2020

DETAINED AT PLEASURE: INSTITUTIONALIZED HUMAN RIGHTS BREACHES



“Justice denied anywhere diminishes justice everywhere”

Martin Luther King Jnr.

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COMPACT DISC

1st Quarterly Report: January – March 2020

New Complaints: January – March 2020

Commission's Reports Completed: January – March 2020

(In compliance with Section 17(3) (c) of the INDECOM Act)

IN THIS EDITION OF THE IQ

DETAINED AT PLEASURE: INSTITUTIONALIZED HUMAN RIGHTS BREACHES

This 1st quarter report concerns possible breaches of fundamental human rights in the detention of persons at “pleasure”. Arising from the death of Noel Chambers on January 27, 2020, an inmate who had been in prison for 40 years without being tried, the Commission initiated a wider enquiry into conditions under which persons fit or unfit to plead are being held at correctional institutions and the procedures afforded to them whilst held at the Governor General's Pleasure/ Court's Pleasure/ Unfit to Plead – Awaiting Trial. This report examines the legal framework, adherence to the legislation and includes recommendations to address the highlighted issues.

PART ONE: LESSONS LEARNT

The issues of Deaths and Assaults in Police Lock-Ups and the Obstruction of INDECOM Investigations by members of the JCF are assessed in this section.

PART TWO: NEW COMPLAINTS

The Commission received 242 categories of complaints from 213 incidents reported for the period. The top five categories of complaints include: assault (95), discharge of firearm (58), shooting injury (20), fatal shooting (20)* [see page 22], and threat and unprofessional conduct (11) each.

The Commission's Forensic Unit responded to 75 incident scenes for the period. There were four deaths in custody for the period.

In relation to parishes with fatalities: Portland, St. Thomas, Hanover, St. Elizabeth, and St. Mary had no fatalities for the period. Trelawny, Westmoreland and Manchester recorded one (1) each; St. Ann and Clarendon recorded two (2) each; St. James had four (4); Kingston and St. Andrew had six (6) and St. Catherine recorded the highest at seven (7).

All parishes had complaints, both fatal and non-fatal, with Kingston and St. Andrew recording the highest with 76 complaints and Portland recording the least with one (1).

PART THREE: THE LEGAL DEPARTMENT

In the Legal Department, 126 Commission's Reports were distributed and completed. An overview of recommendations for no charge, disciplinary action or charge, for the reports completed are listed in this section. Recommendations from fatal shooting incidents, where Commission's Reports were completed during the quarter are also listed. Three (3) members of the Jamaica Constabulary Force (JCF) were arrested and charged during the period, for incidents investigated by INDECOM.

PART FOUR: PUBLIC INFORMATION

The Commission's Senior Management Team had one (1) meeting with members of the JCF High Command and one (1) meeting with the Central Committee of the Jamaica Police Federation for the period.

The Commission did not participate in any awareness exercises for the period.

The Public Relations Unit issued 15 press releases for the period.

DETAINED AT PLEASURE: INSTITUTIONALIZED HUMAN RIGHTS BREACHES

This report concerns possible breaches of fundamental human rights in the detention of persons at “pleasure”.

An inmate is detained at “pleasure” (Her Majesty's Pleasure/ Governor General's Pleasure/ Court's Pleasure) when:

- Children found guilty of a capital offence;
- Persons found unfit to plead by the Court; or
- Persons found by the Court to be guilty of an offence but are adjudged by the Court to be suffering from a mental disorder.

This report concerns the latter two categories.

THE CASE OF NOEL CHAMBERS

On January 27, 2020 the Commission commenced an investigation into the death in custody of Noel Chambers of the Tower Street Adult Correctional Centre (TSACC). At the time of his death Mr. Chambers was 81 years old. He was incarcerated on February 4, 1980 and had been in prison for **40 years without being tried**. He was being held at the Governor General's pleasure, deemed unfit to plead to a charge of murder. Therefore he was being held in custody without being convicted for an offence.

There seems to be some confusion at the Department of Correctional Services (DCS) regarding whether or not Mr. Chambers was convicted. The Commissioner of Corrections in his report to INDECOM states that “Noel Chambers was tried and convicted in the Home Circuit Court on February 4, 1980 for the offence of murder. He was deemed unfit to plead and was held at the Governor General's Pleasure.” However, in the Commission's respectful opinion he could not have been unfit to plead and convicted. Indeed, his commitment document by the Home Circuit Court has the words ‘guilty of’ struck out and replaced with ‘unfit to plead’. This distinction is important as it means the difference between a person, with presumption of innocence, being indefinitely detained as opposed to a convicted person being so detained.

Twice Mr. Chambers received ‘Fitness for Trial Certificates’ from two different psychiatrists. The first was issued for him on October 10, 2003. It stated:

“this inmate has no history of a mental illness. Repeated mental examinations revealed that

there is no mental disorder and he is therefore competent to stand trial. He is not on any medication and is not a risk to himself or anyone at this time”.

The date for the second certificate is apparently 2009. Despite these certificates being prepared, there is no indication that they were sent to the Court or that he was taken back to court for trial. Mr. Chambers' medical records further indicated that psychiatrists opined that he was fit to plead in 2007 and 2008. Evidence gathered also indicates that attempts by his family members and a human rights attorney to have his case heard in Court proved futile. In time, his family grew disheartened with the process.

What was the immediate cause of his death?

His medical record shows that on November 4, 2019, he was examined because he was not eating well, had poor vision, and flu-like symptoms. He was admitted to Kingston Public Hospital (KPH) between November 21 and 28, 2019. There is a referral on file from TSACC for KPH dated December 15, 2019 having shown a history of hypertension, diabetes and cholesterol; however, there is no evidence on file that he was taken to KPH. On the night before his death, he was found unresponsive by a medical orderly, taken to KPH and thereafter was pronounced dead. The cause of death given at the post mortem examination was acute pyelonephritis (a sudden and severe kidney infection).

At the time of his death he was in a deplorable physical condition. His clothing was filthy and his body showed evidence of chronic emaciation. He was covered with what appeared to be vermin bites, live bedbugs ('chink') and he showed signs of having bed sores. (See photographs in appendix. WARNING: the images may appear disturbing to some readers. NB: Permission from the family of Mr. Chambers was granted)

The overall lack of timely and adequate medical attention, in addition to his indefinite incarceration and poor hygiene, highlight serious breaches of his Constitutional rights, the Criminal Justice (Administration) Act (CJAA) and the Correctional Institution Rules.

Arising from the death of Noel Chambers, the Commission has initiated a wider enquiry into conditions under which persons unfit to plead are being held at correctional institutions and the procedures afforded to them whilst held at the Court's Pleasure. In seeking these answers, this report will examine:

- Issues of long detention awaiting trial;

- the laws that govern how those unfit to plead are to be treated;
- international standards for treatment of mentally ill detainees;
- the adherence of the Department of Correctional Services with the legislation;
- the current conditions facing the mentally ill in custody; and
- recommendations to improve the current system.

LONG DETENTION WITHOUT TRIAL

The case of Mr. Noel Chambers is not an isolated one. There are other mentally ill detainees who have been incarcerated for many years and have not been tried before the court. These, like Mr. Chambers, have been detained at the Governor General or Court's Pleasure. The following examples illustrate:

- LF has been incarcerated for 19 years**, at the Governor General's Pleasure for the offences of house breaking and larceny as well as assault at common law. The inmate's psychiatric condition is fit to plead. The last listed court date was 2001.
- MB has been incarcerated for 31 years**, at the Governor General's Pleasure for an offence of burglary with intent. The inmate's psychiatric condition is fit to plead. The last listed court date was 1989.
- AM has been incarcerated for 45 years**, at the Governor General's Pleasure for an offence of murder. The inmate's psychiatric condition is fit to plead. The last listed court date was 1975.
- SD has been incarcerated for 38 years**, at the Governor General's Pleasure for an offence of murder. The inmate's psychiatric condition is fit to plead. The last listed court date was 1982.
- GW has been incarcerated for 49 years**, at the Court's Pleasure for an offence of murder. The inmate's psychiatric condition (fit or unfit for trial) is unknown. The last listed court date was 1970.
- EE has been incarcerated for 49 years**, at the Court's Pleasure for an offence of murder. The inmate's psychiatric condition (fit or unfit for trial) is unknown. The last listed court date was 2000.
- MM has been incarcerated for 44 years**, at the Court's Pleasure for an offence of murder. The inmate's psychiatric condition (fit or unfit for trial) is unknown. The last listed court date was 1976.
- IP has been incarcerated for 43 years**, at the Governor General's Pleasure for an offence of

murder. The inmate's psychiatric condition states is unfit to plead. The last listed court date was 1977.

- KT has been incarcerated for 44 years**, at the Governor General's Pleasure for an offence of shooting with intent. The inmate's psychiatric condition is unfit to plead. The last listed court date was 1975.

These detentions awaiting trial appear to exceed the maximum sentences following a conviction or the prevailing tariff for similar offences. These cases highlight systemic failures in reviewing indeterminate detention. It is a clear breach of the Constitutional rights of persons who are detained in inhumane conditions and or for an extended period without trial.

The mentally ill represent a vulnerable group in the prison population in need of urgent attention. The DCS reports that there are **146** mentally ill inmates who have been detained at the Governor General's/Court's Pleasure/Unfit to Plead- Awaiting Trial at Tower Street, St. Catherine and Fort Augusta Adult Correctional Centres.

Table 1 Psychiatric conditions of mentally ill inmates

| Fit to Plead | Unfit to Plead | Status Unknown |
|--------------|----------------|----------------|
| 9 | 130 | 7 |

Of the 146 persons detained, there are at least 15 persons who have been incarcerated for over 30 years; see table 2 below.

Table 2 Length of time of mentally ill detainees held at the Governor General's Pleasure/ Court's Pleasure/ Unfit to Plead- Awaiting Trial

| Years Detained | Governor General's/ Court's Pleasure/ Unfit to Plead – Awaiting Trial |
|------------------|---|
| Less than 1 year | 48 |
| 1-9 years | 59 |
| 10-19 years | 10 |
| 20-29 years | 8 |
| 30-39 years | 8 |
| 40-49 years | 7 |
| Years unknown | 6 |

THE LEGAL FRAMEWORK

Historical Background

In 1873, the **Mental Hospital Act** was enacted and provided for the detention of persons of unsound mind at Bellevue Mental Hospital. In 1975, a policy decision was taken to close the forensic ward at Bellevue. This resulted in the transfer of approximately four hundred (400) mentally ill criminal offenders and/or patients to TSACC then referred to as the 'General Penitentiary' or 'GP'.

The Mental Hospital Act was repealed and the **Mental Health Act** enacted which took effect on September 1, 1999 and made provisions for voluntary and compulsory admission to a psychiatric facility. Persons deemed unfit to plead would be detained indefinitely at the Governor General's Pleasure. However, pronouncements in the case **DPP v Mollison [2003] UKPC 6** found that such a sentence would be unconstitutional, since the Governor General is a member of the executive arm of government. Under the doctrine of separation of powers, provided for in the Constitution, sentencing is only within the ambit of the Judiciary. From that point onward, persons unfit to plead were to be held at the Court's Pleasure. Notably, this change was not automatic and required that persons held under the Governor General's Pleasure had to make an application to have their status changed.

The Constitution

Section 13 places an obligation on the State to promote universal respect for, and observance of, human rights and freedoms. It is explicitly noted that no person shall be subjected to torture or inhuman or degrading punishment or other treatment.

Sections 14 contains provisions for the protection of freedom of persons. S. 14 stipulates that no person shall be deprived of his liberty except on reasonable grounds and in accordance with fair procedures established by law in certain circumstances, including instances where he is unfit to plead. Section 14(3) predicates that a defendant who is fit to plead is entitled to be tried within a reasonable time. Ultimately, the section establishes that any person deprived of his liberty shall be treated humanely and with respect for the inherent dignity of the person¹.

Section 16 contains protection for the right to due process, a fair hearing within a reasonable time by an independent and an impartial court.

Other Governing Legislation

I. The Criminal Justice (Administration) Act (CJAA)

This Act makes provisions for the mode of trial and punishment of certain offenses. Before the amendment of the Act in 2006, Resident Magistrates (as Parish Judges were then called) who deemed a defendant unfit to plead, would make an order that such a person be held in prison until they were fit to plead. Such an order presumed that there were professionals within the correctional institution to treat with the illness suffered and that the institution would provide a therapeutic environment so that the person would be sent back to court in a reasonable time. This was not happening and when the Act was amended, the power of the court was widened and greater responsibility placed on the Commissioner of Corrections to submit a report on behalf of these defendants.

Section 25C (2) states that where the defendant is unfit to stand trial, the Court may:

- (a) order that the defendant be remanded in custody at the Court's Pleasure;
- (b) order that the defendant be admitted at the Court's Pleasure in a psychiatric facility;
- (c) make an order for the supervision and treatment of the defendant; or
- (d) make a guardianship order for the defendant.

Section 25D (1) provides that where an order in keeping with Section 25C (2)(a) has been made, the Commissioner of Corrections is required to submit to the Court at least once per calendar month a report on the condition of the defendant.

Section 25D (2) states that these reports are to be reviewed by the Judge of the respective Court who will issue directions as fitting.

Section 25D (3-5) requires the Court Registrar to keep a register detailing the order made and summary of the reports submitted for each defendant so that in the event the Commissioner of Corrections fails to report under subsection (1), this may be brought to the attention of the Court and the Commissioner of Corrections made to answer for such failure to report.

Section 25E states in circumstances where an individual has been found guilty but insane during the commission of

¹ Section 14 (5) of the Constitution (Jamaica)

the offence, and has been detained at the Court's Pleasure, the Commissioner of Corrections is also tasked to provide a report on the condition of a defendant at least once every six (6) months for the duration of the order.

II. Civil Procedure Rules ("CPR")

Part 75 of the Civil Procedure Rules ("CPR") governs the process where proceedings on behalf of the detainee are initiated by an attorney. This section provides for an application to be made to a Judge of the Supreme Court for the release of an inmate who is subjected to detention at the Court's Pleasure. However, persons who were convicted prior to March 1, 2007, and sentenced to detention at the Governor General's pleasure, would need to apply to the Court of Appeal to have their sentences quashed and substituted with detention at the Court's pleasure since the amendments to the **CJAA** did not automatically convert their sentences². Within 30 days of the filing of the application, the Superintendent of the facility must submit to the Supreme Court a psychiatric report on the defendant as well as their report on the applicant. There are makes provision for regular applications and which allows for sufficient time to pass for treatment to be administered and be effective.

Part 75 of the CPR implies that the application on behalf of a mentally ill prisoner to have his case reviewed by a court is to be made by an Attorney at Law or legal representative acting for him/her. It can also be construed from Part 75 that it rests upon the concerned prisoner to initiate the process to secure his release. It must be borne in mind that said persons are 'vulnerable individuals' and are sometimes without family support. As such, the possibility of these persons finding and retaining counsel to advance their cases (whether it be to secure their release or re-list their matter before the court) are limited. However, as the State has the obligation to limit pretrial detention, the State should put systems in place for constant review of persons incarcerated without being convicted, as in the case of Noel Chambers.

The constitutional obligation to ensure mentally ill detainees, previously deemed unfit to plead, are speedily returned to court for trial must rest with State Authorities, that is, the DCS, Office of the Director of Public Prosecutions (ODPP) and the Courts.

Unfortunately many of these provisions and mechanisms are not fully utilised within the criminal justice system. The need for a proactive system to address the unconstitutional detention of mentally ill persons in custody is observed

from The Memorandum of Objects and Reasons attached to the Bill to amend Section 25 of the **CJAA**. The Memorandum outlined that the amendments were aimed at clarifying the procedure for the hearing of the issue of the fitness of a defendant to stand trial. Namely: to provide for the regular review of persons remanded in custody, having been found unfit to stand trial; and extending the provision for legal aid to an accused person in respect of whom a court makes a direction that the issue of fitness to stand trial be determined.

INTERNATIONAL STANDARDS

The treatment of detained persons, which includes the mentally ill, must be in harmony with international standards of which Jamaica is a signatory.

The **Universal Declaration of Human Rights, Article 10** states:

*"everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him"*³.

Therefore, persons who are detained at the Court's Pleasure should be treated accordingly.

Another guiding document is **The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)**. Rule 109 applies to the situation that faces those deemed unfit to plead, as they have not been tried and thus cannot be held criminally liable, and as such they should not be incarcerated. It states in part that:

"persons who are found to not be criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean exacerbation of their conditions, shall not be detained in prisons, and arrangements made to transfer them to mental health facilities as soon as possible."

The **European Court of Human Rights** has also held that the detention of a person who is ill may raise issues under **Article 3 of the European Convention on Human Rights ("ECHR")**. It posits that:

² The reference to detainees being held at the Governor General's (GGs) pleasure was outlawed in the landmark case of *DPP v Mollison* [2003] UKPC

³ Adopted by the United Nations General Assembly in Resolution 217 A(III) of 10 December 1948

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The lack of appropriate medical care may amount to treatment contrary to that same provision. The assessment of whether the particular conditions of detention are compatible with the standards of Article 3 has to, in the case of mentally ill persons, and by extension those deemed unfit to stand trial, take into consideration their vulnerability and their inability, to complain coherently about how they are being affected by any particular treatment. Four particular elements are to be considered in relation to the compatibility of a mentally ill defendant with his stay in detention namely:

- the medical condition of the prisoner;
- the adequacy of the medical assistance;
- the care provided in detention; and
- the advisability of maintaining the detention measure in view of the state of health of the defendant.

The European Court of Human Rights has frequently ruled in favour of detainees deemed unfit to plead whose rights under these international standards have been disregarded by the State. For example:

- **Romanov v Russia (20 Oct 2005)** - long detention of a mentally ill inmate in an overcrowded facility amounted to degrading treatment.
- **Ticu v Romania (1 Oct 2013)** - prisoners suffering from serious mental health problems should be kept and cared for in a hospital facility which is adequately equipped and properly staffed.
- **W.D. v Belgium (app. No. 73548/13)** - the applicant had been subjected to degrading treatment by having been detained in a prison environment for more than nine years, without appropriate treatment for his mental condition and with no prospect of reintegrating into society. The Court further held that there had been a violation of the right to a speedy review of the lawfulness of detention and a violation of Article 13 (right to an effective remedy) of the Convention. Lastly, finding that the applicant's situation had originated in a structural deficiency specific to the Belgian psychiatric detention system, the Court, held that Belgium was required to organize its system for the psychiatric detention of offenders in such a way that the detainees' dignity was respected.

ADHERENCE TO THE LEGISLATION

It is apparent that the due process to review the cases of mentally ill persons held at the Court's or Governor General's Pleasure are not properly functioning, contributing to systemic breaches of human rights. Personnel at the DCS, when contacted in 2020, indicated that mentally ill prisoners would only be brought to court upon the court's request and, seemingly, not when the DCS is aware that they may now be fit to plead. The CJAA Section 25D requires a monthly report by the Commissioner of Corrections to the courts. When asked, the Commissioner of Corrections could not provide any of these reports.

Mentally ill prisoners are subjected to medical evaluations whilst in the detention facilities, however, according to the DCS Director of Medical Services, Dr. Royer-Powe, many of these reports are not submitted to the Court. The requests for reports are not directed to a specific individual or department within the Correctional Services and as such, there is no accountability.

As a matter of obligation, it rests on the State to ensure that there is an automatic and periodic review of the cases of these prisoners. Such a system is critical to ensure that the Courts are aware of the status of the cases and when prisoners become fit to plead. This failure on the part of the DCS and moreso, the State, translates to serious breaches of the constitutional rights, and to be tried within a reasonable time and brought forthwith before an authorized officer or court of law.

CONDITIONS FACING THE MENTALLY ILL

Conditions in prisons have been shown to create negative psychological impact on the detainees and especially those who are mentally ill. Mental health experts agree that the mentally ill should not be institutionalized in the formal prison system⁴ because of the quality of care received for their condition; as well as, the ease with which such detainees become ignored within the system.

Despite previous reports by INDECOM, mental health professionals and human rights groups, on the matter of detention conditions and the mentally ill in prison, there has not been any sustained or significant improvement. The matter of how the mentally ill are treated has been dealt with in several Commission's reports to Parliament, and extensively in Safeguarding the Right to Life⁵. These reports examined the interactions of the security forces with the mentally ill, the conditions under which they were

⁴ Stringer, Heather (2019). Improving Mental Health for Inmates, *Monitor on Psychology*, Vol. 50, No. 3. Retrieved from <https://www.apa.org/monitor/2019/03/mental-health-inmates>

⁵ INDECOM (March 2013). Safeguarding the Right to Life. Other reports which have discussed detention and the mentally ill are:

detained, as well as the benefits that de-institutionalization would have on their welfare. It was recommended that there be specialised training for persons assigned to mentally ill prisoners and the use of psychiatric aides in responding to such incidents, among other improvements. The circumstances which resulted in this review suggests that the welfare of this vulnerable group has been treated with scant regard.

An inspection of the area which accommodated mentally ill inmates at TSACC, was conducted on March 2, 2020 by a Medical Officer of the DCS. It revealed that the conditions were less than desirable. The findings were as follows:

- lack of adequate lighting and ventilation;
- the presence of exposed mesh sharp edges;
- the need to improve bedding as mattresses are left uncovered; and
- bed bug infestation of the building.

These conditions were also identified in a November 2018 report titled, *Assessment of the Tower Street Adult Correctional Centre*. This report was commissioned by the Minister of Health.

In the case of Noel Chambers, he was in a vermin-infested cell with at least three other inmates. Photographs of the cell, lends support to these findings. A thin mattress was seen on the ground in a dark narrow room with limited ventilation. The infestation was of no surprise to DCS personnel, when pointed out on the initial visit by INDECOM personnel. Additionally, Dr. Royer-Powe, indicated, in an interview on April 16, 2020, that the infestation of the buildings is a constant struggle for the institution because the buildings are very old. The area and mattresses are sprayed by pest control companies regularly but the problem persists. From the inspection on March 2, 2020, the Medical Officer noted that whilst there was no evidence of rodents but inmates indicated that rats can be seen at night.

Deputy Public Defender, Victor Hemmings, described the area that accommodates the mentally ill at the Tower Street Adult Correctional Centre as a “dungeon,” which caused him to vomit more than once the first time he visited⁶. It should be noted that SCACC was renovated in January 2019.

The Correctional Institution (Adult Correctional Centre) Rules, 1991 addresses the issue of sanitation. Rule 44 states that the medical officer is responsible for inspecting every part of the correctional centre on a quarterly basis to ensure there is nothing to negatively impact the health of the inmates. A report of his inspection is to be forwarded to the Commissioner of Corrections.

Rule 45 says an annual medical report is to be generated by the medical officer with an analysis of findings and other relevant particulars. Further checks and balances are provided for in Rule 54 which state that the Assistant Superintendent must frequently inspect all parts of the prison ensuring that cleanliness and safety are upheld. Currently, the Inspectorate Unit of the Ministry of National Security conducts periodic inspections of the institutions.

The mentally ill detainees were sent to these institutions for psychiatric care. The environment in which they are placed does not facilitate this. The Correctional Rules does not speak to the psychiatric care of the mentally ill, and the lack of guidance is reflected in the low quality of care received.

Research conducted by *Stand Up for Jamaica*, a human rights non-governmental organization, aptly points out that:

“if prisons can induce... mental disorders for inmates that did not previously suffer from these conditions, then one can only imagine how the difficult environment of incarceration can aggravate and result in the further deterioration of the mental health of inmates who were previously diagnosed with a verifiable mental illness.”

The International Committee of the Red Cross (ICRC) in its 2013 ‘Guidelines for the Investigation of Death in Custody’ highlighted that in order to prevent deaths in custody, the root causes must be addressed. These include: inadequate detention conditions, insufficient access to health care, insufficient family contact (in person or telephone) and inadequate safeguards against suicide. This requires that strict measures be implemented to ensure that local and international laws and standards are upheld.

The fact that those deemed unfit to plead are placed in Correctional facilities for treatment, assumes that there are psychiatrists on staff at these institutions who will provide

⁵ ‘Suicide in Custody-Vanessa Wint Revisited’, 2nd Quarter 2018; ‘Detention’, 3rd Quarter 2017; and, ‘Death in Custody’, 1st Quarter 2016. These reports can be accessed at https://www.indecom.gov.jm/report_type/quarterly.

⁶ Hundreds of Mentally Ill Jamaicans Languishing in Prisons Not Charged or Sentenced. Kalilah Reynolds. November 7, 2019.

Nationwide News Network. Retrieved from <https://nationwideradiojm.com/hundreds-of-mentally-ill-jamaicans-languishing-in-prisons-not-charged-or-sentenced/> on March 23, 2020.

⁷ Stand up for Jamaica (August 2019). *Through the Cracks. The European Union Delegation to Jamaica*, 10.

regular needed treatment to the mentally ill. This is not the case.

CHALLENGES

Legal

The legal challenge facing those deemed unfit to plead is exacerbated by the absence of strong family support in most instances which also influences the ability to retain counsel to file an application as per the **CPR**. To assist in alleviating this challenge, Mr. Hugh Faulkner, Executive Director of the Legal Aid Council, has indicated that his organization has stepped in to provide legal representation for the mentally ill that were deemed unfit to plead. Since 2018, attorneys have been trained and assigned to deal with the mentally ill. The work of these attorneys has been met with challenges, chief among them being the unwillingness of family or friends to come forward on behalf of these individuals⁸. This is important as the Court will not release a mentally ill person if there is no one to take responsibility of this one. Organizations like Bellevue Hospital and Poor Relief have also been approached for assistance in this regard but this has not always been facilitated due to the strain on these already over-burdened organizations.

Staffing

A further factor to consider is the staffing required to care for the mentally ill. Dr. Royer-Powe indicated that currently, there are four sessional psychiatrists that visit the institutions once or twice per week. These doctors are employed elsewhere and are only able to devote four hours per day to consult with the mentally ill. When the doctors are unavailable due to the demands of their mainstay employment or when they go on vacation, there is no substitution and this leaves the patient without psychiatric care. The majority of persons deemed unfit to plead are detained at TSACC and SCACC which is visited by the same psychiatrist. The Medical Unit has tried to employ psychiatrists over the years to fill the gap, but Dr. Royer-Powe says the department has not been able to attract any. She says there have been instances where candidates are interviewed and the job is offered to the qualified party, but it is turned down for varying reasons. There are no psychiatric aides sent to correctional institutions to assist, and as such, other inmates are given the responsibility to be orderlies who assist in caring for the mentally ill.

Training

Another challenge faced in relation to staffing is the level of training that correctional officers receive to deal with these detainees is limited. Dr. Royer-Powe indicates that whilst in training school Correctional Officers receive a one day overview of Mental Health, and whilst on the job a two-day session in Mental Health. It was reported that only one Correctional Officer has received a six week training in mental health and management of clients with mental illnesses.⁹

RECOMMENDATIONS

The situation of mentally ill persons detained in prisons, and in particular those deemed unfit to plead, is a matter which should be concerning to all parties responsible for the care, detention and safeguarding of citizens in the custody of the State. The cases highlighted, and the wider situation, is indicative of a disregard for local legislation and human rights conventions which are unambiguous in the matter.

In keeping with local and international legislation on the matter, and to address the root causes of the issues at hand, the Commission recommends the following:

- the passing of legislation that persons held under the Governor General's Pleasure be automatically held under the Court's Pleasure. The onus should not be on the detainee to apply for this change;
- an examination by the Office of the Director of Public Prosecutions of all the cases for those unfit to plead to determine whether or not there is still a viable prosecution available against these accused persons;
- putting systems in place to ensure the timely review of unfit to plead cases, such as the establishment of a review board, to ensure re-enlisting by the Court when the inmate may be fit to plead;
- the reinstatement of the forensic psychiatric ward of the Bellevue Hospital or the establishment of a similar type of facility to house those deemed unfit to plead. Such an institution should be properly staffed with varying specialists and areas for recreation designated all of which will aid in the treatment provided;
- the hiring of full-time psychiatrists and nurses to ensure adequate treatment is administered and the duty of care upheld;

⁸ The Gleaner (2019). "300 more lost-Mentally ill inmates languish in prisons, casualties of state forgetfulness".

⁹ Assessment of the Tower Street Adult Correctional Centre (November 2018)

- thorough training of correctional officers to lend support to the psychiatric staff;
- upon their release there should be a written apology by the State and compensation awarded for the breach of their Constitutional rights. In the event of death these remedies should be awarded to the family.

ADDENDUM

In light of these circumstances, and pursuant to Section 4 (2) of the INDECOM Act, a letter dated February 19, 2020 was addressed to the Commissioner of Corrections requiring a report on all mentally ill persons who are currently incarcerated.

This letter was forwarded to the Permanent Secretaries in the Ministries of National Security, Justice and Health for their noting. INDECOM received a response, dated April 2, 2020 but was delivered on May 19, 2020, to the answers sought.

The Commission required a report explaining the following:

- i. A review of the inmates being held who are unfit to stand trial generally, and in particular, as it regards Mr. Chambers. Copies of reports made under section 25D of the CJAA in the last 20 years were requested.

Answer:

The review of inmates being held who are unfit to stand trial are generally conducted upon requests by the courts. As it relates to inmate, Noel Chambers, the last report prepared by a psychiatrist was done in December 2016.

The Commission was told that the DCS was unable to provide these reports, however, a manual perusal of the penal records is ongoing and any reports identified will be forwarded to the Commission.

- ii. The measures taken to ensure proper hygiene and medical care of persons with mental illness or being held at the Court's Pleasure and the sanitation of the cells. Copies of reports pursuant to rule 44 of the Correctional Institution (Adult Correctional Centre) Rules 1991 in the last two years were to be provided.

Answer:

Inmates who fall under this category are housed at one section of the institution. The good hygienic and sanitary conditions are maintained by the institution's sanitation staff. At the Tower Street Adult Correctional Centre correctional officers are detailed on the sections on a daily basis to ensure mentally ill inmates carry out proper hygienic practices. The cells are sprayed on a needs basis by private certified contractors and the institution's sanitation team.

Four reports were attached which were made pursuant to rule 44. Two of the reports dealt with a dengue outbreak in 2019, one was a general assessment carried out by the Ministry of Health in 2018, and the other was an inspection at the TSACC.

- iii. A list of all inmates incarcerated as unfit to stand trial, the offence(s) for which they are charged, the date of their initial remand and the date of last review by the Court.

Answer:

The Commission was provided with a listing of inmates being housed as unfit to plead/ Court's Pleasure and Governor General's Pleasure, for SCACC as at March 31, 2020; TSACC and Fort Augusta as at January 2020.

INDECOM's Observation:

There were gaps in the statistics received and with the absence of the section 25D reports, a more in depth analysis could not be done. The Commission had difficulty appreciating the DCS statistics given their treatment of some persons found unfit to plead as being convicts.

- iv. Whether Chambers was put back before the court after fitness for trial certificates by Dr. G. A. Leveridge and Dr. Myo Kyaw Oo and if not, why not, and whether there are inmates being held at the Court's or Governor General's Pleasure who have not been returned to court, despite a favourable fitness for trial certificate.

Answer:

Inmate, Noel Chambers, last court appearance was April 2, 1980 and was last assessed December 28, 2016.

Currently there are inmates in the Department's care who are being held at the Court's or Governor General's Pleasure and have not been returned to court, despite having a favourable fitness for trial certificate.

INDECOM's Observation:

It does not appear that Mr. Chambers was put back before the court after two fitness for trial certificates were granted.

From the statistics presented:

- nine persons were rendered fit to plead - the last court dates listed for eight of these persons are over a period of 16 and 45 years;
- there are seven inmates for which the psychiatric condition is unknown;
- there are 50 persons at TSACC who are deemed unfit to plead;
- despite having 2019 assessment dates, INDECOM was unable to determine if there were previous fitness to plead assessments as required, under section 25D of the CJAA. This information would be important for a more comprehensive assessment of the institutions adherence to legislation; and
- no assessment dates were given for the 64 inmates who are unfit to plead and are held at SCACC.

Further, another letter dated March 30, 2020, was sent to the Commissioner of Corrections requesting available information on the nourishment of Mr. Noel Chambers for the year prior to his death to include:

- v. the measures to evaluate the good nourishment of allegedly mentally ill prisoners:

Answer:

There is no nutritionist / dietician employed to the department of correctional services. However, a menu cycle is used in the preparation of inmates' diet. A menu chart was attached for the period January 1-6, 2019.

- vi. Whether there were any concerns or reports of concerning the malnourishment of Mr. Noel Chambers

Answer:

There are no reports of inmate Noel Chambers being malnourished.

- vii. the public officers responsible for these matters

Answer:

All inmates are under the care of the Department of Corrections (DCS).

APPENDIX



Figure 1 Front view: Upper emaciated body of deceased Noel Chambers



Figure 2 Rear view: Upper body with bed sores of deceased Noel Chambers



Figure 3 *Front view: Lower body of deceased Noel Chambers*



Figure 4 *Side view: Face of deceased Noel Chambers with bed bugs in hair and beard*

PART ONE

LESSONS LEARNT

I. Deaths and Assaults in Police Lock-Ups

INDECOM continues its assessment of procedures regarding the safekeeping of persons in the State's custody, an issue which has also been discussed in previous reports.¹⁰ A review of recently completed Commission's Reports, involving persons in custody at police station lock ups, raised questions to the effectiveness of the State's arrangements and their duty of care.

The injury or death of inmates as a result of circumstances other than natural causes, while in custody, require further scrutiny. These six cases raised alarming issues concerning access to medical treatment, access and use of weapons by inmates, excessive use of force in restraint and general conditions of cells for the effective safekeeping of persons.

CASE REVIEWS

Case A involves two deaths and a wounding in custody at the Savanna La Mar Police Station Lock Up in December 2014. Three inmates were attacked and stabbed with knives by other prisoners. Two of the inmates died from the injuries sustained. Four ratchet knives were found after the incident, which means that inmates were in possession of weapons. There were three cells in which inmates were being kept, that could not be properly secured. All the perpetrators of the attack were housed in one such cell with a defective locking mechanism, that is, the grills could not be secured with a key. One of the perpetrators of the crime was also said to have been appointed as an orderly by a male officer on duty. This prisoner was allowed to open the cell door of one of the victims before committing the crime. There was also a slow response by the officers on duty to assist the injured inmates, after the stabbing occurred.

Case B is a death in custody incident at Montego Bay Police Station Lock Up in 2016. This case involves an asthmatic inmate who was suffering from bouts of obstructive breathing for a few hours and his brother was called to bring an asthma pump as he was unwell. Later that day, the inmate would continue to suffer breathing issues, resulting in inmates trying to alert the officers on duty. It would take approximately 30 minutes before assistance was forthcoming, at which time the inmate defecated on himself and was unresponsive. Following unsuccessful resuscitation attempts, he was transported to

the hospital where he was pronounced dead. During the inmate's post mortem, the doctor opined that a person who has been having breathing problems in excess of five hours without being taken to the doctor, would surely die. Under the circumstances, the inmate should have been taken to the hospital instead of making a request for a pump to be delivered.

Case C is a death in custody incident at the Bethel Town Police Station Lock Up, Westmoreland in 2016. This inmate had the sickle cell disease. It is reported that he made complaints about being unwell over a period of three days, had stopped eating, was in pain and showed signs of weakness. This was expressed to officers by the concerned inmate as well as others. There was a delay between officers realizing and recording his illness during morning muster (8:00am) and his subsequent transfer to the Bethel Town Clinic at 11:30am. The doctor on duty verbally advised the officers of the emergency nature of the inmate's condition, and the urgent referral to the Cornwall Regional Hospital. The inmate, however, was returned to his cell where he would further deteriorate before being transported to the hospital in St. James at 6:00pm. Two days later, the inmate died of sickle cell related complications in the hospital.

Case D is a death in custody incident at the Negril Police Station Lock Up in 2017. It involves the altercation of two inmates stabbing each other, and one succumbed to his injuries at the hospital. Both men used sharp metal objects to inflict wounds, one of which was made from a cell window. This case identified issues of overcrowding resulting in inmates being accommodated in areas not designated for custody. With sixty-six (66) inmates in custody, and a maximum capacity for half that number, it created concerns as to the effective management and overseeing of all persons in custody. Additionally, at the time of this incident there was a systemic breakdown in protocol for searching of cells, as this was being conducted monthly.

Case E is an assault in custody at the Yallahs Police Station in St. Thomas in 2017. Two inmates were involved in an altercation resulting in one being stabbed with a chicken bone by the other. Two officers were alerted and entered the cell and began beating both inmates with batons. Injuries sustained from the fight and beating with batons

¹⁰ INDECOM Quarterly Reports: Death in Custody (2016); Detention (2017)

necessitated that the inmates be taken to the hospital, which was done. The medical report highlighted that the inmate who committed the offence of stabbing with the chicken bone, had a displaced fracture of the tibia, considered to be a serious injury caused by a blunt object.

Case F is an assault in custody at the Bath Police Station in St. Thomas in 2018. An inmate was beaten with a board baton by an officer, resulting in loss of three teeth. The excessive force by the officer was allegedly used so as to separate two prisoners and also in self-defence from being attacked. Though two officers responded to the dispute between the two prisoners, only one officer participated in the restraint and de-escalation attempts. Notwithstanding the obvious wounds, the inmate was not immediately taken to receive medical attention. The injured prisoner was the only person who sustained wounds in this incident. The medical report stated that the inmate sustained bite marks to the right forearm and thumb; wound to the mouth and avulsion of dentition; erythema and swelling to the left flank which appeared painful.

OBSERVATIONS

Of the six cases assessed, it is important to consider “were all reasonable and necessary measures taken to avoid the injury to, and safeguard the right to life of all persons within the care of the public officials?” Of the four death in custody cases presented, two involved armed inmates inflicting harm resulting in death (cases A and D) and cases B and C involved the treatment of sick inmates while in custody.

Cases E and F focused on the use of a baton, a less lethal weapon, and the extent of force used to achieve control and compliance with commands, which resulted in displaced body parts.

Access to medical treatment

The constitutional duty of care is expressed in statute. Section 50H (6) of the Constabulary Force Act provides, “where it appears to any member of the security Forces that a person under arrest or detention is ill or requires medical attention whether or not that person complains of illness, such member shall, without delay, ... be given medical attention.” The police failed in this regard, as seen in cases B, C, and F; the ill and injured inmates were not taken promptly for medical care and by so doing failed in their constitutional duties to safeguard the inmates’ duty of care.

Access to and use of weapons

Cases A and D highlight the difficulties in maintaining order in conditions that were unfit due to poor infrastructure; though better management of the cells, and completion of official duties could have averted some of the outcomes. All officers in charge of the cells are responsible for the security of cells and safety of prisoners. When cells are opened there must be adequate personnel to control the inmates. Appointing a prisoner as an orderly to let out other prisoners is prohibited. Searches for weapons must

also be conducted regularly, to detect breaches and prevent injuries or death. Officers on duty must be alert, keenly observe cell activities and be in a position to react quickly in situations of distress.

Excessive use of force in restraint

The substantive issues raised in cases E and F relate to the extent of force used, if it was reasonable and necessary in the situation. It is expected that the response by a law enforcement officer must be proportionate to the force threatened or being experienced. In one case, one of the responding officers made no attempts to prevent the inmate from the onslaught levied by his colleague. Excessive force is characterized as used in these instances as the results highlighted a broken limb and loss of teeth. Avulsion of dentition means that the inmate was hit in the face, which is considered a red striking area and has the highest resultant trauma. Injuries sustained tend to range from serious to long-lasting rather than temporary.

COMPLIANCE

It is important to note the local and international policies that were contravened in these case reviews. By so doing, preventative measures and a review of policies toward corrective practices and processes can be instituted.

By way of the **Administration Policy for Persons Deprived of their Liberty**, Jamaica’s Ministry of National Security created a policy with appropriate minimum standards to treat with persons in custody in lock-ups, remand and correctional facilities. **Sections IV – Responsibilities and Duties, VII – Cell Security and X – Medical Care for Persons in Police Stations** are most relevant to these cases and some segments are briefly highlighted.

Section IV (D):

1. Ensuring that all cells are searched before being used to accommodate anyone. Search should include:

- Checking grills for loose or insecure bars
- Verifying whether there are any defective locks
- Checking apertures or crevices for weapons, drugs, matches, or any other implement or materials that can be used to inflict injury or assist in escapes any other breach

Section VII:

- (B) 4. No persons who is in the custody of the police shall be appointed “orderly” and allowed to let out fellow cell occupants from their cells
- (M) 3. Persons in custody shall be visited and visually observed at least once in each hour

Section X:

Detainees requiring urgent medical attention should not be taken to a police station

Substantive guidelines for searches and inspections, monitoring and supervision, and protocols for medical care are provided but were evidently not adhered to in these circumstances. It is therefore instructive, that lack of compliance is the underlying cause for the noticeable breaches.

The **JCF's Lock-Up Administration Policy and Procedures** provides similar guidance for efficient management of cells and the ultimate responsibility to whom failure of enforcement must fall.

The **United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)** outlines comprehensive principles or "rules" meant pertaining to the overall expected treatment of prisoners and their management. Three of the cases assessed referenced access to medical treatment. Rule 27 in part, aptly references this issue:

1. "all prisons shall ensure prompt access to medical attention in urgent cases"
2. "clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff"

RECOMMENDATIONS

- All personnel charged with a duty of care of persons in lock-ups, remand or correctional facilities should be required to receive continuous refresher training courses to include the Administrative Policy for Persons Deprived of Liberty and the Mandela Rules;
- The Government of Jamaica should complete a comprehensive review of all police station lock ups to ensure that all infrastructural deficiencies are remedied. This would include ventilation, locking mechanisms, capacity requirements to prevent overcrowding;
- Regularized scheduled training sessions in use of non-lethal weapons (eg: batons) to ensure compliance with use of force policies;
- Monthly review of adherence to policies to ensure compliance with established protocols; and
- Cause enforcement of disciplinary proceedings and sanctions to be instituted when there is a failure to comply with respective responsibilities and duties.
- That lock-ups and prisons be fitted with closed circuit camera systems.

II. JCF Obstruction of INDECOM Investigations

The INDECOM Act was intended to bring a new regime of investigations of police misconduct independent of the police. Despite this vision, some aspects of the Commission's work require the cooperation (or lack of obstruction) by the Jamaica Constabulary Force (JCF). The JCF, as a disciplined body, would be expected to demonstrate institutional obedience to the law and to agreements settled. Sadly, this has not always been the case and particularly with regards to three crucial aspects of the Commission's work.

Informal Identification Procedures

Quite often witnesses do not know the identity of the suspected officer who, the witness alleges, misconducted himself. This will require an identification procedure. A formal procedure requires the cooperation of the suspect but, if he does not, the law permits an arrest and the conduct of an informal procedure. The police routinely do this in cases against ordinary civilians.

After the Court of Appeal ruled that INDECOM had no power to arrest a meeting was held between INDECOM, ODPP, and the JCF on 29 March 2018. INDECOM raised the need for police cooperation in the holding of formal and informal identification procedures. The 'Record of Agreement' of the meeting evinces:

'Where there is a need for an informal parade the IOC and BSI will assist the INDECOM in conducting this type of parade'.

Despite this formal agreement, and a number of requests by INDECOM over two years, the JCF have failed to conduct a single informal parade thus obstructing the investigations against their colleagues. So far there have been two cases where the delay has led to witnesses losing interest.

The Commission has had a number of meetings with the Commissioner of Police and with members of the JCF High Command but there seems to be a fixed position that despite the agreement and the law, the JCF will not conduct informal parades of their members although they will do so for ordinary citizens.

Serving of Notices

The Commission gets statements by the compulsive power under s. 21 of the Act. Although a written Notice is not required, the Commission ordinarily advises of the requirement to provide evidence by a written Notice.

It has been the accepted practice since the formation of the INDECOM that notices issued by the Commission to the Security Force and Correctional Officers will often be

served by members of these agencies on their colleagues. Recently the Police Federation and some members of the JCF have raised an objection to this practice stating that it contravenes **section 26(1)** of the INDECOM Act, and have refused to assist in serving these notices. This objection would compel the Commission to always do service ourselves. This is time inefficient and unnecessarily confrontational as police attendance at the station is not always regular, the INDECOM investigator is not likely to know the officer to be served, and many officers seek to evade service.

Section 26 (1) states as follows:

"26.-(1) The functions of the Commission may be performed by any member of its staff, or by any other person (not being a member of the Security Forces or a specified official) authorized for that purpose by the Commission."

The objectors claim that serving the notice would be a "function of the Commission". INDECOM contends that, analogous to a court issuing a summons and the police serving it, issuing the notice is a function of the Commission but service is not. The JCF and INDECOM agreed to refer the objection to the Hon. Attorney- General. An opinion is outstanding.

It was agreed between the JCF and INDECOM that the practice of JCF members serving INDECOM Notices on their colleagues would continue until the Attorney-General's Chambers opines otherwise. Despite this there have been a number of instances where police officers (including senior ones) have refused to accept Notices for service citing Police Federation dictates that seem to countermand the orders of the Commissioner of Police.

Examining Police Records

A routine part of police misconduct investigations is the prompt examination of police diaries and registers. Promptitude is important as there have been cases of records being obliterated to avoid detection of wrongdoing. The INDECOM Act undoubtedly gives INDECOM authority to independently access and extract evidence from these records.

The first protocol between the JCF and INDECOM, published in Force Order 3358 of 13 Oct 2013, was made reference again in Force Orders of October 2013 and February 2014, provided in part:

a) that the JCF 'accepted that INDECOM needs... to have access to documents and other relevant material pertaining to the particular investigations'; and

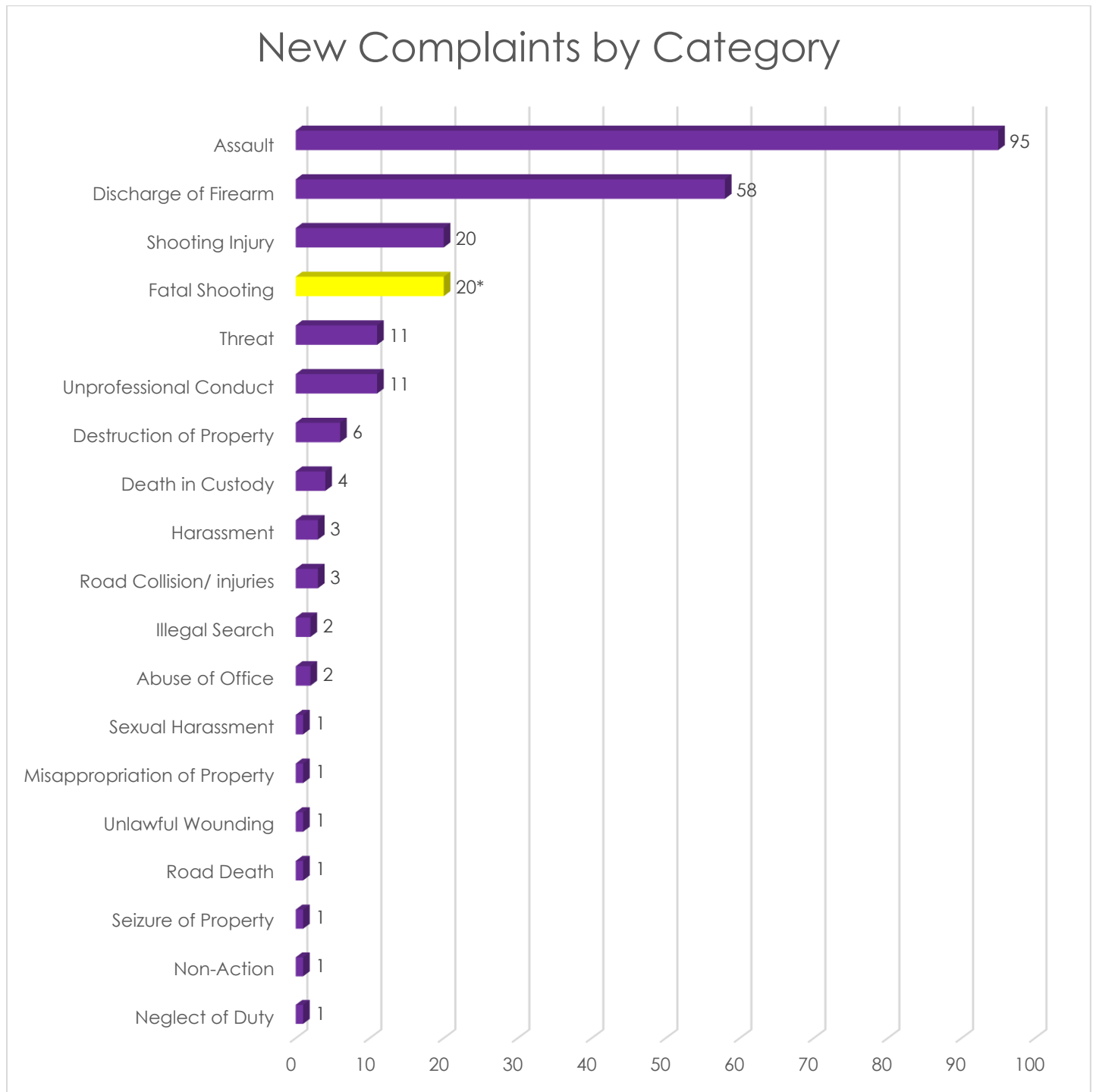
b) on the particular point of access to routine records (e.g Station diaries) both parties agreed that INDECOM investigators, on presentation of identification, would be permitted to independently view and make copies of same.

However, of recent times the Commission's investigators have been encountering obstruction in the form of outright refusal of access to records, or the police officer wanting to show the INDECOM investigator only what the police officer deems relevant. Many cite that they are not obliged to grant independent access, that the Federation says they do not have to assist, or that INDECOM must serve its request in writing.

It is, of course, open to the Commission to initiate prosecutions in these cases and indeed this may well be done, but there is a larger issue of the JCF as a disciplined body inculcating compliance with the oversight framework.

PART TWO

NEW COMPLAINTS



 *There were 24 deaths from 20 fatal shooting incidents

Figure 5: The bar graph shows all categories of new incidents for which complaints were received by the Commission for the period of January – March 2020.

NATURE OF INCIDENT SCENE RESPONSE

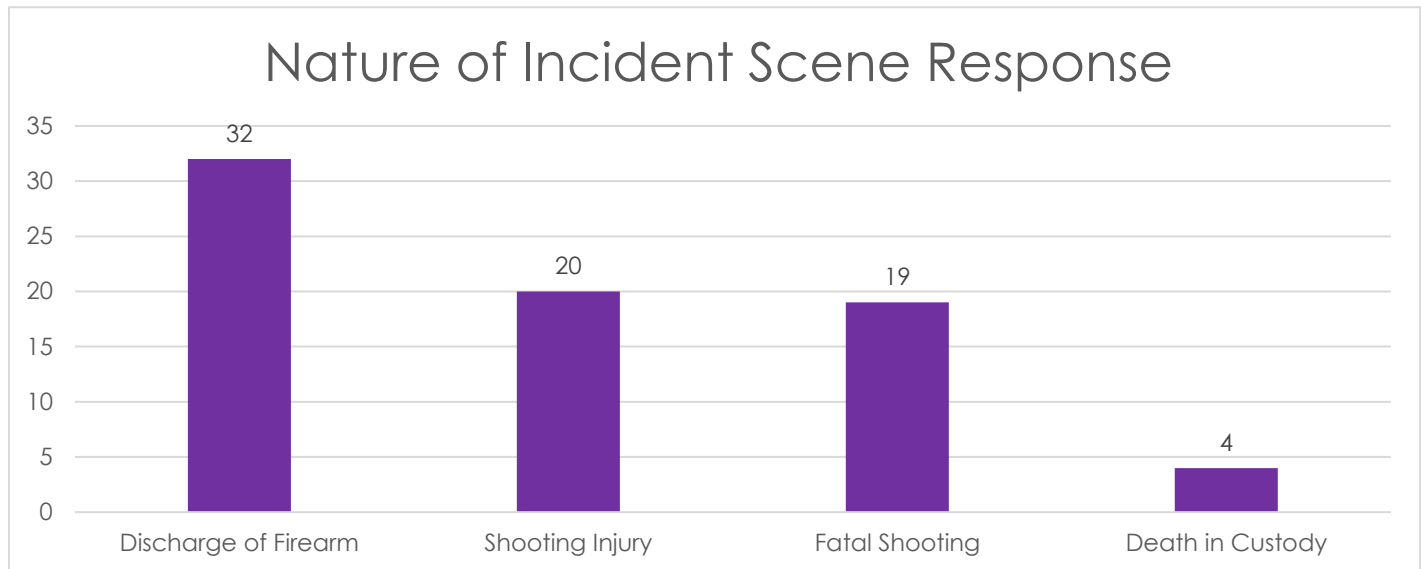


Figure 6: The above graph shows the nature of the incidents that the Commission's Forensic Unit responded to for the period of January – March 2020

COMPLAINTS BY PARISH

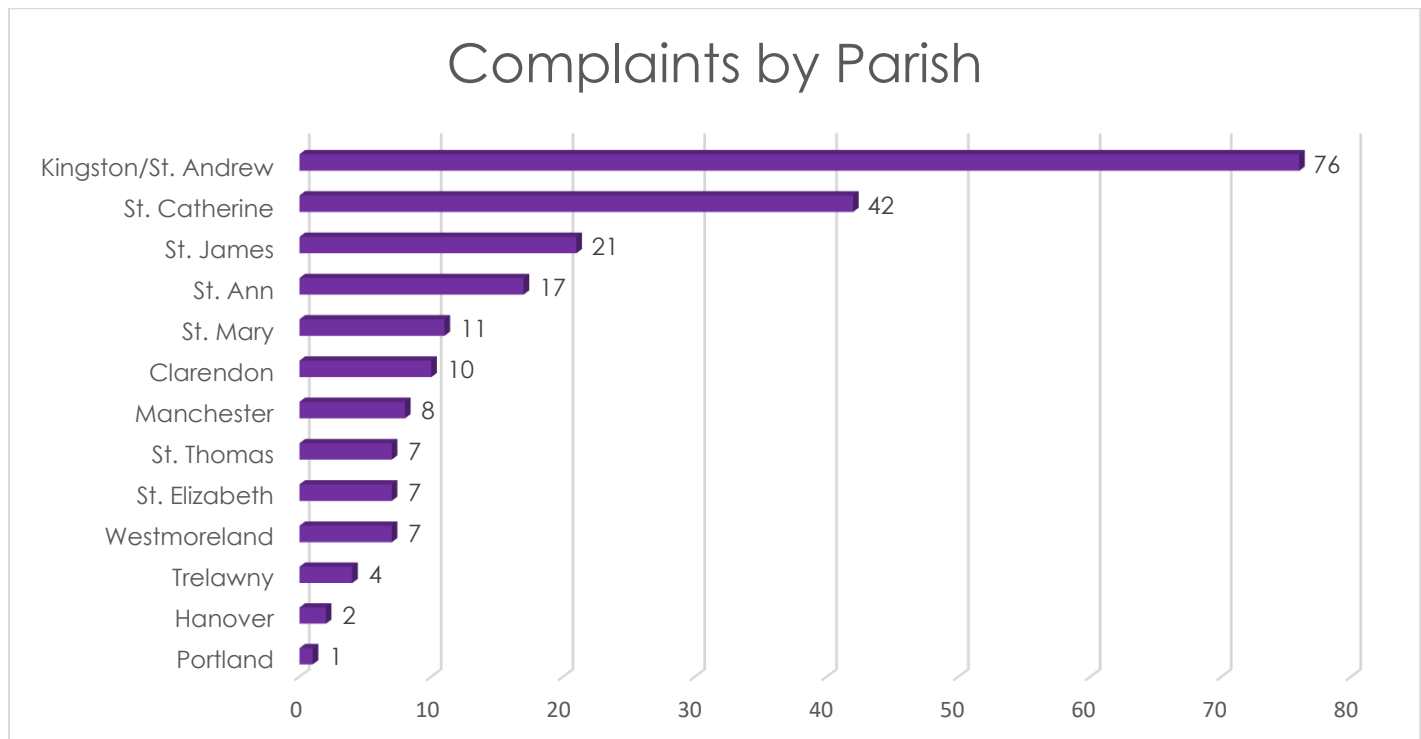


Figure 7: The above graph shows the number of new complaints received by the Commission per parish for the period of January – March 2020

FATAL SHOOTINGS BY PARISH

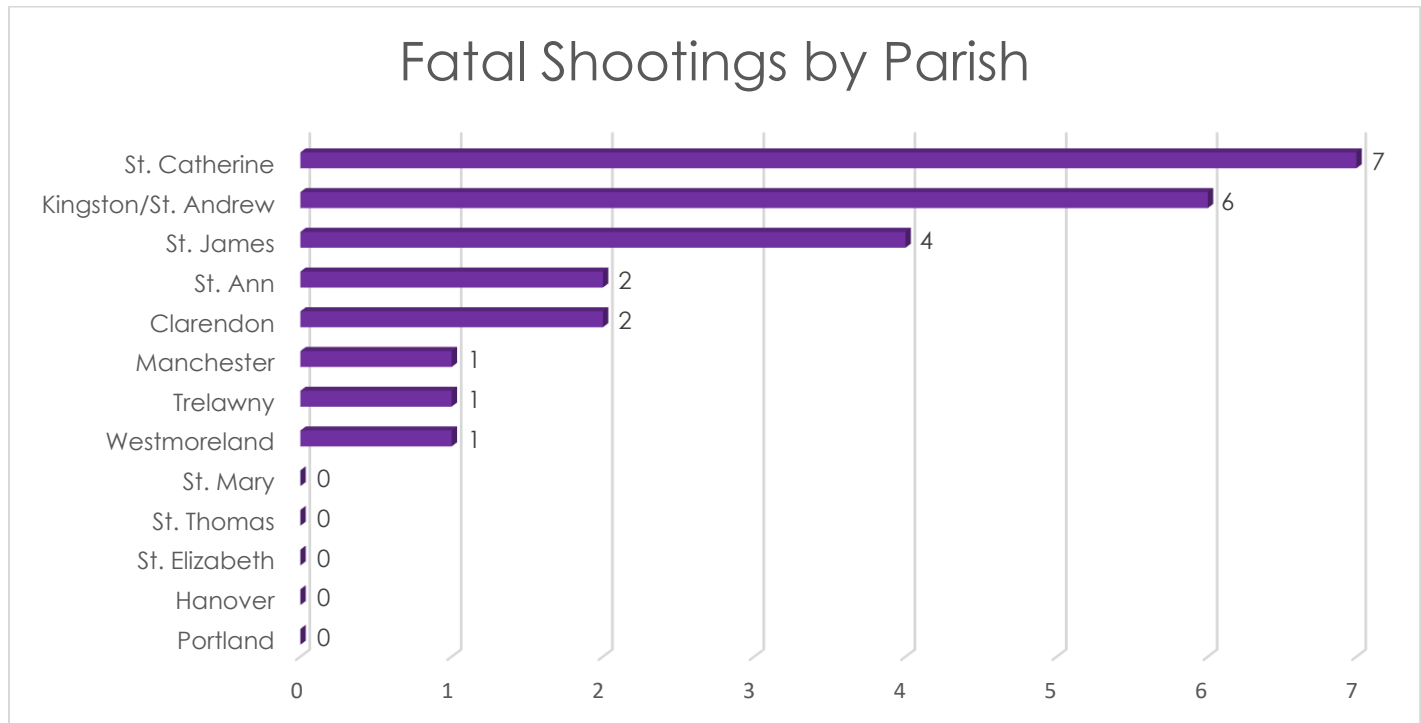


Figure 8: The graph above shows the total number of deaths from shooting incidents per parish for the period of January – March 2020.

FATALITIES BY ORGANISATION

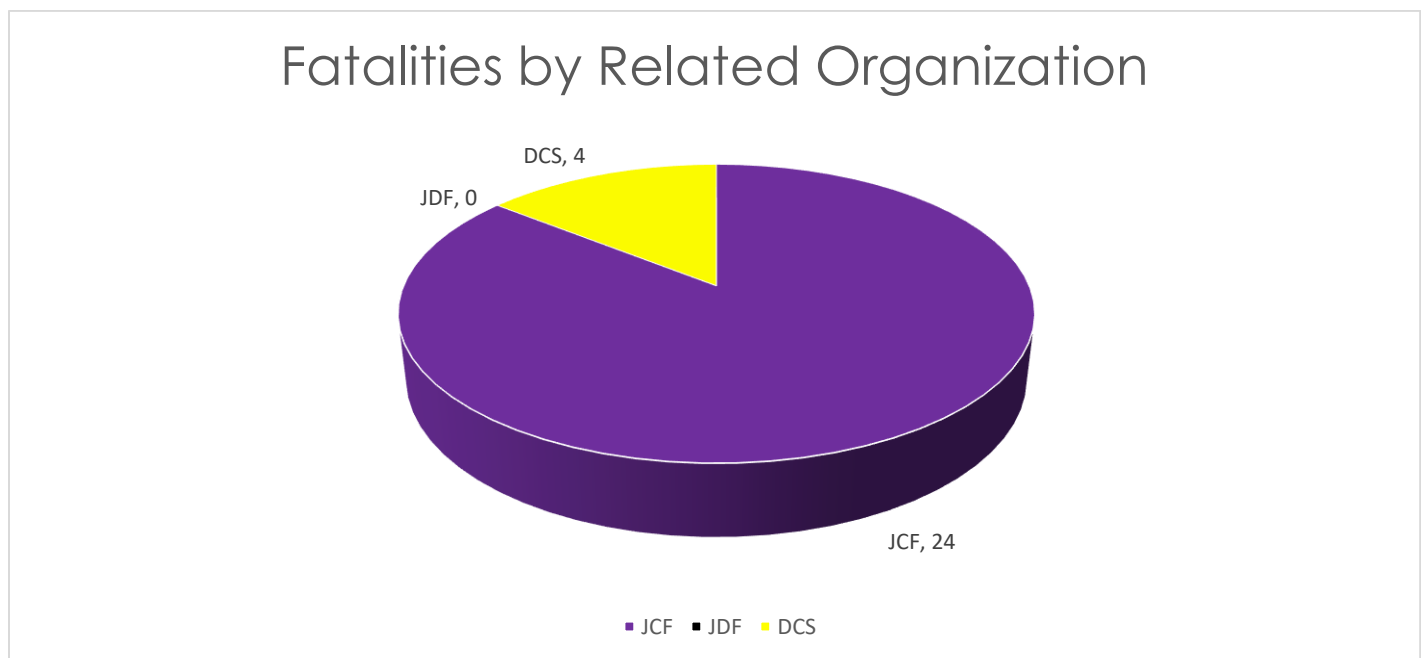


Figure 9: The above pie chart illustrates the State agency to which the fatalities recorded for the period of January – March 2020 are related.

SECURITY FORCE-RELATED FATALITIES LIST

JCF – Jamaica Constabulary Force

JCF-OD: Jamaica Constabulary Force Off Duty Officer

DCS: Department of Correctional Services

■ DIC: Death in Custody

| Date | Name of Deceased | Location of Incident | Related State Agent |
|--|------------------------------|---|------------------------------------|
| JANUARY (12) (Fatal Shooting – 11; DIC – 1) | | | |
| 2-Jan | Devene POWELL | Richmond Hill, Montego Bay, St James | JCF |
| 8-Jan | Anthony LARMOND | Great Georges Street, Westmoreland | JCF |
| 10-Jan | Devon SOARES Kevin MARTIN | Port Henderson Rd, Portmore, St Catherine | JCF |
| 13-Jan | Dave CAMPBELL | Bryant's Hill Dist, Clarendon | JCF |
| 13-Jan | Kimani BROWN | Mango Walk Country Club, Montego Bay, St James | JCF |
| 16-Jan | Michael WHYTE | Portland Road, Riverton City, Kingston 11 | JCF |
| 22-Jan | Male u/k Male u/k | Zambia, St Catherine | JCF |
| 26-Jan | Noel CHAMBERS DIC | TSACC to KPH | DCS |
| 27-Jan | Shawayne ARMSTRONG | Bond St j/w Charles St, Kingston | JCF |
| 31-Jan | Daniel GROVER | Marlin Cres, Old Harbour, St Catherine | JCF-OD |
| FEBRUARY (8) (Fatal Shooting – 8) | | | |
| 6-Feb | Thenard THOMPSON | Lingam Vitae Drive, Longville, Clarendon | JCF-OD (Officer charged BY JCF) |
| 10-Feb | Johnathan MELVIN | McVickers Lane, Spanish Town, St Catherine | JCF |
| 17-Feb | Orane FERGUSON | Torrington Park, Denham Town, Kingston | JCF |
| 19-Feb | Nickoy CLARKE Kemoy KERR | Mud Valley, Grandville, St James | JCF |
| 20-Feb | Wenton ADAMSON male u/k | Cassia Park Rd, Kingston | JCF |
| 27-Feb | Christoval REECE | Love Lane, Gordon Pen, Spanish Town, St Catherine | JCF |
| MARCH (8) (Fatal Shooting – 5; DIC – 3) | | | |
| 1-Mar | Melbourne FARQUHARSON | Farm Dist, Asia, Manchester | JCF-OD |
| 6-Mar | Oraine WILSON | Madras, St Ann | JCF |

| | | | |
|--------|----------------------------|---------------------------------|-----|
| 8-Mar | Jermi-Lee LEWIS DIC | TSACC to KPH | DCS |
| 13-Mar | Lisette NEWMAN (Female) | Friendship, Wakefield, Trelawny | JCF |
| 14-Mar | Roy LAWRENCE DIC | SCACC to Spanish Town PSTN | DCS |
| 15-Mar | Orlando RICKETTS | Brook Green, Ocho Rios, St Ann | JCF |
| 22-Mar | Oshane SMITH DIC | TSACC to KPH | DCS |
| 24-Mar | Anthony SMITH | Mannings Hill Rd, Kingston | JCF |

Table 3: The above list presents the names of civilians who died in security force-related incidents for the period of January – March 2020

PART THREE

The Legal Department

NATURE OF COMPLETED COMMISSION'S REPORTS

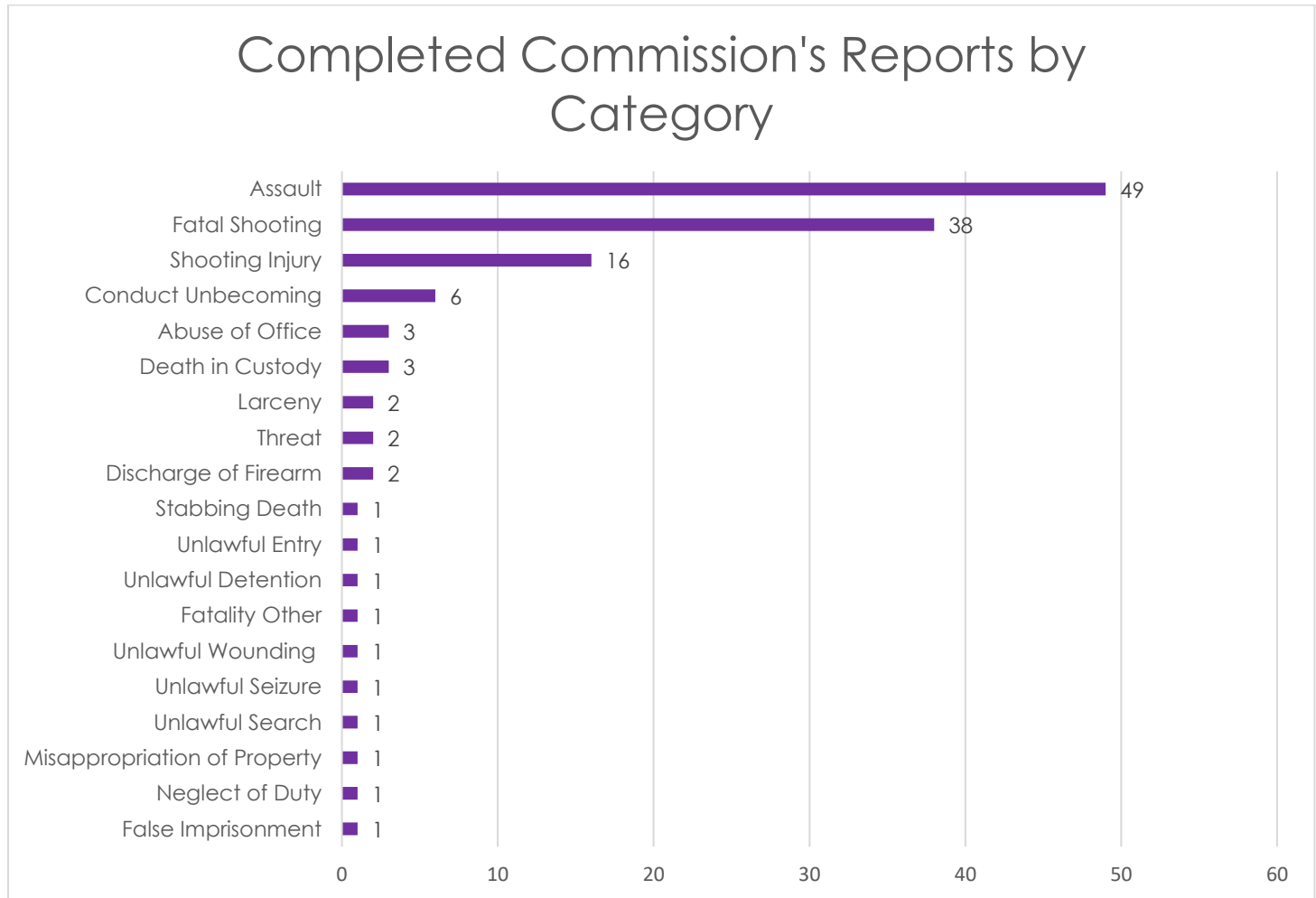


Figure 10: The above graph shows the category of complaints for the Commission's Reports completed during the period of January – March 2020

OVERVIEW: RECOMMENDATIONS MADE FOR COMPLETED COMMISSION'S REPORTS

| Charge | | Charge & Disciplinary Action | | Disciplinary Action | | Unsubstantiated |
|---------|------------|------------------------------|------------|---------------------|-------------|-----------------|
| 2 cases | 2 officers | 2 cases | 2 officers | 5 cases | 10 officers | 117 cases |

Table 4: The above table shows the recommendations made for Commission's Reports completed for the period of January – March 2020

RECOMMENDATIONS MADE FOR COMPLETED COMMISSION'S REPORTS – FATAL SHOOTING INCIDENTS

Table 5: Recommendations by the Legal Department for Commission's Reports completed for fatal shooting incidents during the period January – March 2020

| No. | Complainant/Victim | Case Summary | Recommendation |
|------------|---------------------------|---|---|
| 1. | Nicholas Sinclair | On Monday, May 27, 2013 at about 5:30 a.m. a police party led by DSP and Insp. in addition to thirty men went to the location. Two Constables went to the front grill of the house, knocked on the grill and a lady opened the door. They passed the lady and went down the passage to the back room of the house. They knocked on the door which was closed and within minutes the door was opened and a female ran out. The police looked in the room and saw Nicholas pointing a gun at them. Cons. fired six shots in the direction of Nicholas and he fell to the ground clutching a glock pistol with three live rounds. He was taken to the Falmouth Hospital where he was pronounced dead on arrival. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Nicholas Sinclair. |
| 2. | Aaron Wright | On February 1, 2017 at about 5:00 p.m. three Constables were on enquirers in a very wooded area in Century Farm, Port Esquivel area of Old Harbour, concerning men stealing goats. They came upon a marijuana field and heard people speaking. The team called out of bushes and the men opened gunfire at them. The team returned fire and the men ran in different directions. When the shooting subsided Aaron Wright was seen suffering from gunshots wounds. A Taurus 9mm pistol was recovered with 7 live rounds of ammunition in it. The terrain is very rough and almost inaccessible. The man was eventually removed from the area and taken to hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Aaron Wright. |
| 3. | Damion Briscoe | On Thursday, October 5, 2017 at about 1:50 p.m. a Corporal was driving a marked Police service vehicle along Sevens Road, May Pen when he was stopped by a man who told him that a man had just attacked a little school girl with a machete. He advised the man that he was going to get assistance then drove to the May Pen Courthouse and picked up Constable. The Police was on their way back along Sevens Road when someone called out, "officer si de man deh". Constable got out of the vehicle and approached the man who was armed with a machete, leaning against the building which houses the clock. He shouted commands to the man, "Police don't move, drop the weapon". The man ran towards Constable with the machete raised above his head, Constable discharged one (1) round in his direction and he fell. The man was taken to May Pen Hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Damion Briscoe, and that Constable be retrained treating with the JCF's policy of members interacting with the mentally ill. |
| 4. | C-Jay Morris | On Tuesday, June 12, 2018 about 9:50 p.m., a team of OST police officers from Port Maria Police Station responded to a report that armed men were at a premises along Lodge Lane, Annotto Bay. Upon their arrival at the premises consisted of a dwelling house, Cons. and Dist. Cons. went to the front, while Cpl. and | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation |

| | | | |
|----|------------------|--|--|
| | | Cons. went to the rear where Cons. Wilson entered the house through a grilled gate. The officers at the front issued loud commands for the premises to be opened. The officers heard shuffling inside the house, after which Morris was seen running through the back door of the house. During that time, Cons. called out to Morris who raised his hands with a metal object and Cons. responded and fired 3 shots from his JCF Glock pistol in Morris' direction. Morris was hit and fell on the back porch. A 380 Inter Arm pistol with a magazine containing one live round was retrieved from Morris. Morris was taken to Annotto Bay Hospital where he was pronounced dead at 10:02 p.m. | to the fatal shooting of C-Jay Morris. |
| 5. | Donovan Campbell | On Thursday, November 16, 2017 that the police went to the location on a targeted operation in search of Donovan Campbell o/c Cassie. A police party led by Inspector and Woman Inspector went to the location accompanied by other ranks to execute a search warrant for Donovan Campbell who was suspected of committing five (5) counts of shooting with intent at George's Lane on November 15, 2017, approximately 6:00 p.m. Upon arrival of the police at Mr. Campbell's residence, he pointed a .38 revolver at Constable who fired three rounds in the direction of Mr. Campbell hitting him in the upper body. He was taken to Kingston Public Hospital (KPH) where he was pronounced dead at 7:00 a.m. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Donovan Campbell. |
| 6. | Delroy Francis | On October 27, 2013, sometime after midnight, Delroy Francis was shot and killed by Inspector along the Spanish Town Bypass in St. Catherine. Alleged eyewitnesses, claim that on the morning in question they were travelling from Old Harbour to Spanish Town via a robot taxi. When the taxi stopped along the Spanish Town Bypass, near to their intended destination, an argument ensued between the taxi driver and themselves regarding the fare. It is alleged that the taxi driver immediately pulled a gun and fired gunshots at them unprovoked, killing Francis. The alleged eyewitnesses managed to escape unscathed. On the other hand, according to the concerned officer, he was travelling along the Spanish Town Bypass and stopped along the roadway to urinate when he was pounced upon by 3 men who attacked him. One of the men was armed with a gun and opened fire at him. He drew his service Glock pistol and returned fire in the direction of the men, hitting one who fell to the ground. He was taken to hospital where he died. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Delroy Francis. |
| 7. | Ryan Gibbs | On January 31, 2014, sometime after 9:30 a.m., Ryan Gibbs was shot and killed by Constables of the Hunts Bay Police Station. It is reported that the concerned officers were on mobile patrol duty in the Crescent Road area of Kingston 13 when they received information that men with guns were seen inside a pigpen digging to unearth buried guns. The concerned officers made checks in the area and came upon a group of men, including the now deceased Gibbs who opened gunfire at them. Fearing for their lives, the | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Ryan Gibbs. |

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| | | officers returned fire hitting Gibbs who later succumbed to his injuries at hospital. | |
| 8. | Randy Reid | On October 11, 2016, sometime after 6:00 a.m., Randy Reid o/c 'Dudus' was shot and killed by Cons. of the Area 1 Operational Support Unit (OSU) during an operation in the Texas community of Norwood, St. James, in search of wanted men reportedly in possession of illegal guns. Whilst on operation in the area, Cons. was proceeding along a footpath up a slope towards the target premises when a man ran from the said premises, pulled a gun from his waistband and fired at the police. Fearing for his life and the life of his colleagues, Cons. returned fire at the said man hitting him. The injured man was rushed to the Cornwall Regional Hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Randy Reid. |
| 9. | Leslie Miller | On January 13, 2013, around 11:20 a.m., Leslie Miller was shot and killed by Special Constables, along Church Lane in Montego Bay, St. James. It is reported that Officer was patrolling along Barnett Street when he saw the said Miller openly carrying a ratchet knife. He accosted Mr. Miller who then drew a machete from his waistband and swung it at a colleague. Mr. Miller ran off and the police chased him. By this time, S/Cons. had joined the pursuit. The police caught up to Mr. Miller along Church Lane and again accosted him. During the ordeal, Officer lost his footing and fell to the ground. Mr. Miller stood over him with the machete and was about to chop him when Officer fired one shot at Mr. Miller in self-defence. Also in defence of Officer's life, S/Cons. fired three shots at Mr. Miller. Mr. Miller was shot and injured and rushed to the hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Leslie Miller. |
| 10. | Clifton Couseley | On November 21, 2014, at about 8:30 p.m., Clifton Couseley was shot and killed by Cons. along Crane Boulevard/Gantry Road in the Fairview area of St. James. The concerned officer reports that he was standing at the back of his car which was parked along the roadway, urinating, when he was approached by a man who held him at gunpoint and told him to not move. In fear for his life, Cons. quickly drew his licensed firearm and fired one shot at the man, hitting him. The man ran off to the other side of the road, and Cons. left the scene and reported the incident at the Montego Bay Police Station. Early the next morning, around 10 o' clock, the body of a deceased male was found lying in a concrete water channel (gutter) in nearby bushes. The body was pronounced dead at the Cornwall Regional Hospital (CRH) and later removed to Dooley's Funeral Home. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Clifton Couseley. |
| 11. | Andrew Davis, Rohan Keys & Kemar Robinson | Allegations are that on June 24, 2018, at about 2:30 p.m., the deceased, Andrew Davis, Rohan Keyes and Kemar Robinson were shot and killed by Constables whilst in the vicinity of Marking Stone in Annotto Bay, St. Mary. The deaths of the deceased were occasioned during an alleged exchange of gunfire with the concerned officers. Having assessed the evidence available, the Commission opined that a prima facie case having a realistic prospect of conviction was not made out. | The Commission hereby recommends that no disciplinary action be instituted against or criminal charged be laid in respect of the Fatal Shootings of Andrew Davis, Rohan Keyes and Kemar Robinson. The Commission further recommends that the |

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| | | | matter be referred to the Office of the Special Coroner for that office to decide whether an inquest ought to be held. |
| 12. | Princeton Johnson | <p>On June 22, 2019 Princeton Johnson o/c "Benjie" was shot and killed by Constable in Kellits, Clarendon. Civilian eye witnesses reported that on the day in question, they saw Constable chasing and firing at the now deceased Princeton Johnson, who fell by a car on the road. Constable then went over Mr. Johnson and shot him. The concerned officer, Constable however reported that on Saturday June 22, 2019 about 8:40 pm he was on covert duty in the town of Kellits, Clarendon with Cons. They were at separate locations when Cons. was approached by a female who told him that "Benjie" who was known to him before was armed with a firearm and she gave him a description of him. Cons. proceeded in the direction indicated by the female when he saw "Benjie" walking towards him. Constable walked up towards him and shouted, "Police Stop! Put your hands on your head". The man immediately reached for his waist band in the region of where the bulge was. In fear of his life, he took evasive action, drew his firearm, made it ready and fired in the direction of "Benjie". When Constable seized firing, the man turned around and ran in the direction he was coming from. He followed the man and caught up to him. He shouted, "Police Stop!" "Benjie" turned and looked in his direction and reached for his waist band. In fear of his life, and of the honest belief that "Benjie" was going to pull the firearm and fire at him, Constable in the defence of his life fired in the direction of the man. Closed-circuit television ('CCTV') footage which was retrieved corroborates the account of the civilian eye witnesses and refutes the concerned officer's claim of self defence.</p> | The Commission humbly recommends that Constable be charged for the Murder of Princeton Johnson. |
| 13. | Oliver Knight | <p>Reports are that the Longville Park police received information from Area 3 Police Control that armed men were seen in the vicinity of Petula Crescent, Longville Park Housing Scheme. The police responded and three men were seen walking along Petal Street, close to the junction with Petula Crescent; the police approached the men and shouted, "Police!", one of the men pulled a gun and opened fire at the police, the fire was returned and the men ran between the houses still firing and ended up on the adjacent street and made good their escape. The area was searched and one man was found suffering from gunshot wounds. He was rushed to the May Pen Hospital where he died, whilst undergoing treatment. This man who is in his late fifties is believed to have been shot during the exchange of gunfire between the police and gunmen. He is identified as being a caretaker of the premises at which the shooting incident unfolded.</p> | The Commission humbly recommends that no criminal charges or disciplinary action be laid in relation to the fatal shooting of Oliver Knight. The Commission further recommends the matter be forwarded to the Special Coroner to determine whether an inquests ought to be held. |
| 14. | Wesley Clarke | <p>On Sunday, July 10, 2016 Detective Constable and Constable left the Montego Bay Police Station at 2:00</p> | The Commission respectfully recommends |

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| | | <p>a.m. in service vehicle H21 to conduct enquiries in the Tucker and Hurlock districts. According to the officers while traveling along the Hurlock main road. They came upon a group of people and loud music. The officers stated that it appeared as though a "Wake" or "Dead yard" was in progress. The officers having passed the crowd negotiated a corner along the roadway and came upon a group of three men walking towards the "Wake". Cons said that when the vehicle light shun on the men, he observed that one of the men had a firearm in the front of his waist band. Det/Cons said he proceeded to drive pass the men before he stopped the service vehicle. Cons. said that when they exited the service vehicle he shouted at the men to stop but one ran off immediately. He said the other two men proceeded to engage them in gunfire and both officers return fire in the men's direction. The firearm of one of the man fell and he immediately ran in the direction of the "Wake". Cons. retrieve this weapon from the ground. The other man with the firearm continued to engage Cons. while running in the direction of the "Wake" into a nearby yard. Cons. gave chase into the yard where the man continued firing at the officer before he fell clutching the firearm. Cons. retrieved the firearm. Assistance was sought from members of the St. James OST to transport the injured man to the Cornwall Regional Hospital where he was pronounced dead at 3:25 a.m.</p> | <p>that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Wesley Clarke.</p> |
| 15. | Oshane Samuels | <p>On Monday, September 19, 2016 at about 10 a.m. along the Green Island Main Road, JW who had gone into a parts shop to purchase bike parts was attacked by Oshane Samuels, who fired shots at him. Mr. W was then chased along the Green Island main road in the vicinity of the bridge where he succumbed to his injuries. Motorists saw what was happening and alerted the police. Officers of the Green Island Operational Support Unit responded. According to the concerned officers, Mr. Samuels was seen running across the Green Island Main Road with a firearm in his right hand. It is alleged that the concerned officers chased Mr. Samuels up a hill and instructed him to stop; however, Mr. Samuels pointed a firearm in the direction of the police officers and discharged his weapon. It is further alleged that the concerned officers returned fire and Mr. Samuels fell to the ground. It is further alleged that Mr. Samuels raised his upper body and his hand and once again fired in the direction of the concerned officers; at that point, the concerned officers returned fire and Mr. Samuels fell to the ground again. He was taken to the Noel Holmes Hospital in Lucea where he succumbed to his injuries. An intra tech 9mm luger submachine gun with the serial erased along with six rounds was recovered from the Oshane Samuels.</p> | <p>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Oshane Samuels.</p> |
| 16. | Marlon Samuels | <p>On Friday, October 11, 2013 police acting on information went to Rose Hill, Hanover in search of Marlon Samuels allegedly a member of the Alma Gang from Westmoreland. On their approach of a three room board house with a search warrant under the Firearm's Act. Marlon Samuels was wanted by the</p> | <p>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the</p> |

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| | | Westmoreland Police for gun related offences. The police identified themselves and then pushed widely opened the back door which was already ajar. Marlon Samuels was reportedly seen lying on a bed with a gun pointed in the direction of the police. He reportedly fired at the police and they returned the gunfire. Samuels fell clutching his firearm. He was later pronounced dead at the Savanna-La-Mar Hospital. The police recovered a homemade hand gun with nine (9) rounds. | fatal shooting of Marlon Samuels. |
| 17. | Kenardo Edwards | On Saturday, June 30, 2012 at about 5 a.m. a team of policemen acting on intelligence went to a house in Camrose District in search of Kenardo Edwards o/c Joe o/c Travis Hewitt who was on the St. James list of most wanted persons for murder and shooting incidents. On arrival to the house the police took up strategic positions. The police knocked on the door and shouted police three men one of whom was armed with a rifle ran through a back door and immediately opened gunfire at the police, the police took evasive action and returned the gunfire at the men. When the shooting subsided Edwards was seen lying on the ground with gunshot wounds to his upper body and right leg. One (1) Colt AR15 A2 Assault rifle bearing serial number SP242759 loaded with a magazine containing twenty four (24) rounds 5.56 cartridges was found on the ground beside him. He was rushed to the Cornwall regional Hospital where he was pronounced dead on arrival and his body removed to Doyley's Funeral Home. A search of the premises was conducted during which one (1) M4 Winchester Rifle bearing serial number 124514 and a black knapsack containing one (1) magazine loaded with eight (8) 5.56 cartridges and two empty magazines were found. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Kenardo Edwards. |
| 18. | Joseph Williams | On Sunday, July 29, 2012 at about 5:25 p.m. a joint operation of Police and Military, under the leadership of D.S.P went into the area in search of gun men. The party divided and went to a separate location. D.S.P. and seven other police men went to the house of the now deceased armed with a search warrant under the Firearm's Act. They came, to a house, and knocked on the door, announcing "Police, open up." The door was not opened, but they could hear men moving on the inside. They kicked open the door, and they were greeted by gunfire from the inside. Cons. took evasive action and fired two rounds from his M16 rifle and one from his glock Pistol. At the end of the shooting, they found Joseph Williams, 29 yrs. old, (o/c Joe Dog) a member of the Hatrose Gang, suffering from gunshot wounds with glock pistol in his hands. There were two live rounds in the gun and six spent shells. He was rushed to the Savanna-la-Mar Public General Hospital by police personnel and was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Joseph Williams. |
| 19. | Andre Cox | On Wednesday, October 9, 2013 at about 5:20 a.m. a joint military operation between members of Area One OST led by DSP and members of the Jamaica Defence Force went with a search warrant to Church Lane in Norwood to the premises of Andre Cox o/c Blacka Shine. Cons. and Spl Cons. said they were at the front | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the |

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| | | of team. They informed that upon their entrance in the yard they saw a man standing on the landing outside his veranda. They shouted "Police" to him and immediately he opened gun fire at them from a gun that at the time resembled a 9mm. The police officer said they returned gunfire and when it ceased, the deceased Andre Cox o/c "Blacka Shine" was found clutching Astra gun with serial number 11688. He was transported to the Cornwall Regional Hospital where he was pronounced dead. One Police officer Detective Corporal attached to the Trelawny Division reportedly came on the scene during the exchange of gun fire was shot in his shoulder. | fatal shooting of Andre Cox. |
| 20. | Dermaine Malcolm & KS | On Sunday, February 28, 2016 at about 1:47 p.m., two police officers were on patrol on North Street in Montego Bay in the parish of St. James. They received a report of an armed robbery in progress. Two Constables responded on foot to Jiezheng Fu Wholesale and Retail on Orange Street, Montego Bay. On arrival, the officers encountered three men who ran from the wholesale carrying bags and guns. Cons. shouted police don't move and the men pointed their guns in the direction of the police and explosions were heard. Both police officers returned fire. Two of the men were shot and injured while the third escaped. Two firearms were recovered on the scene as well as a bag containing cash which was stolen by the men from the Wholesale and Retail. The men were taken to the Cornwall Regional Hospital where one of them was pronounced dead. The injured man gave two names JB o/c KS. The mother of the deceased has given his name as Dermaine Malcolm. The injured man has given us a third name so we are no closer to establishing his true identity. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Dermaine Malcolm or the shooting injury of KS. |
| 21. | Lancelot Walker | On Tuesday, January 19, 2016 at about 7:45 p.m. a team of five Mobile Reserve officers led by Inspector were dispatched on mobile patrol duties in a marked service vehicle. Upon reaching Enfield Main Road in Westmoreland, they saw a man dressed in a dark coloured hoody shirt and long pants sitting on a bench across from a shop with the hoody on his head. The police officers became suspicious and stopped. The man suddenly stood up. Two officers then alighted from the vehicle and shouted "Police!" but as they did so the man pulled a firearm from his waistband and pointed it at them. Corporal and Constable then discharged rounds from their M16 rifles and the man fell clutching his firearm. He was then taken to the Savanna-la-mar Public General Hospital where he was pronounced dead at 8:15 p.m. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Lancelot Walker. |
| 22. | Nicholas Whyte | On Monday, June 3, 2013 at about 8 a.m. a police party led by Sergeant were on spot check operation in the New Hope area, when they spotted a white vehicle approaching. A red motorcycle was behind this vehicle. The white car was signaled to stop and the driver obeyed. The motorcycle rider slowed down, but did not stop. Cons. shouted to the motorcycle rider to stop. The rider jumped off the bike and pulled a gun from his waist and fired two shots at the police. Cons. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Nicholas Whyte. |

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| | | in turn discharged three rounds from his M16 rifle which caught Whyte and he fell to the ground. A .38 revolver with serial number 02264D with four live rounds was taken from his hand. He was taken to the Savanna-lamar Hospital where he was pronounced dead. | |
| 23. | Omar Hillman | On July 9, 2015, at about 1:00 p.m., Omar Hillman o/c 'Silver Biggs' was shot and killed by unknown assailants at Junior's Bike Repair Shop in Whitehall, Negril in Westmoreland. | The Commission respectfully recommends that no criminal charges can be laid or disciplinary action taken against any member of the Security Forces with respect to the fatal shooting of Mr. Omar Hillman. |
| 24. | Presley Witter | On April 17, 2012, sometime after 6:30 a.m., Mr. Presley Witter was shot and killed by Detective Corporal of the Falmouth Police Station. It is reported that Det./Cpl. and two colleagues went to the scene to assist with apprehending the said Witter after his grandmother called the police and reported that the said Witter was causing a disturbance and his relatives could not control him. On arrival at the scene, the police observed Mr. Witter behaving erratically, shouting expletives and threatening to kill persons. Det./Cpl. waited a while for Mr. Witter to calm down and then he approached him. Mr. Witter suddenly drew a knife from his waistband and attacked Det./Cpl. in his left eye. Mr. Witter continued attacking the officer who, in fear for his life, fired shots in Mr. Witter's direction. Mr. Witter was subsequently taken to Falmouth Hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Presley Witter. |
| 25. | Alvin Allen | On May 18, 2015, the deceased, Alvin Allen, was shot and killed by Corporal and two Constables after two of the three men with which he was standing, allegedly opened fire at said officers after they announced their presence at the scene. After the shooting subsided, the deceased was found lying on the ground and bleeding from his torso. He succumbed to his injuries upon being brought to the Princess Margaret Hospital. The other men with whom he stood successfully escaped apprehension. Having assessed the evidence available, the Commission opined that a prima facie case having a realistic prospect of conviction was not made out. | The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken in respect of the Fatal Shooting of Alvin Allen on May 18, 2015. The Commission further recommends that this matter be referred to the Office of the Special Coroner for that office to decide whether an inquest ought to be held. |
| 26. | Nicholas Massop | It is alleged that on the 28th of August, 2017 about 10:15 am, Det. Sgt. and 7 other ranks from the Ocho Rios CIB and OST received information that escapee Nicholas Massop of Main Street, Pineapple, Ocho Rios was at a dwelling house in Pineapple, Ocho Rios. The police, armed with a search warrant went in search of Mr. Massop at the said premises. Upon their arrival, officers used force and entered the front door of a studio apartment located at Main Street, Pineapple, Ocho Rios. A man later identified as OB was seen standing in front of Mr. Massop. It is alleged that Mr. Massop pulled a firearm from his waistband and Det. Sgt. responded and fired a single shot hitting Massop who fell to the floor. | The Commission humbly recommends that no charges be preferred in relation to the fatal shooting of Nicholas Massop. |

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| 27. | Nickandy Thomas | Allegations are that on January 1, 2013 a joint military team was conducting foot patrol in the Coffee Lane area of Mt. Salem, St. James. At about 12:03am, the team received information of a suspicious man seen inside an incomplete building with a firearm. The police reportedly fired one shot in their direction. Lance Corporal who was in lead, fired four shots from his M16 AC assault rifle in the man's direction, who fell. A firearm, Heckle and Kotch 9mm pistol with six 9mm cartridge was retrieved. The injured man indentified as Nickandy Thomas was pronounced dead upon arrival at the Hospital. There was no Civilian eyewitness in the matter. The Ballistic Certificate proved that Lance Corporal was the shooter. | The commission respectfully recommends that no criminal charge be laid or no disciplinary action to be taken in relation to this matter. |
| 28. | Andre' McLeod | Allegations are that, the police acting on information, Friday, 2011 June 17th at about 6:15p.m in a Barber Shop situated along Union Street in Montego Bay, St. James. One of the two entered the shop first, and an unidentified man opened fire. The fire was returned and the man was taken to the hospital and later pronounced dead. | The Commission respectfully recommends that the matter be referred to the Special Coroner to determine whether an Inquest ought to be held. |
| 29. | Philmore Darling | On August 28, 2016 about 11:30 pm, the police was summoned to a domestic dispute incident between the now deceased Philmore Darling (who was of unsound mind) and other family members. The dispute was quelled, the police left, thereafter Philmore Darling locked family members out of the house. On August 29, 2016 about 6:30 am, family members summoned the police to assist them in transporting Philmore Darling to the hospital. The concerned officers responded and attempted to persuade him to accompany them to the hospital. During that exchange, Philmore went for a machete and advanced towards District Constable who ran backwards and called out to him to drop the machete, he still advanced, the officer slipped and fell. The officer then fired two warning shots in the air, but deceased went over the officer with the machete. The officer fired one round in the man's direction, then another, the man fell. He was taken to the Percy Junior Hospital where he was transported to the Mandeville Regional Hospital where he died whilst undergoing treatment. He was pronounced dead at 10:43 a.m. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Philmore Darling. |
| 30. | Albert Tulloch | On Wednesday January 22, 2014 at about 11:15 p.m. a police party comprising of four police officers from South Trelawny Operational Support Team (O.S.T.) were on mobile patrol in the Ulster Spring police area. The police spotted a blue BMW motor car. They signaled it to stop. The BMW came to a stop and the driver opened the door, with a firearm pointing in their direction. The officers took evasive action and two of the four officers fired at the driver. The driver fell clutching a 9mm Tanfolio pistol, serial number Z11475. The driver was rushed to the Falmouth Hospital where he was pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Albert Tulloch. |
| 31. | Renwick Parkinson | On Tuesday, June 28, 2011, at about 5:30 p.m. a team of police officers conducted an operation at the premises of Renwick Parkinson in a bid to apprehend him and search his premises for firearms. Upon arrival of | The Commission respectfully recommends that no criminal charges be laid or disciplinary action |

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| | | the police team to the target premises, officers surrounded Mr. Parkinson's house and ordered him to come out however he refused. It was further reported that the police forcibly opened the veranda grill of the house and gained entry. Constable mentioned that immediately after he and District Constable gained entry to the house two (2) explosions were heard and flashes of light were seen coming from a man, Renwick Parkinson who was standing in the house. Constable mentioned that he returned two (2) rounds from his Glock pistol in the direction of the man who fell to the ground. One (1) .38 revolver with serial number SK776399 containing three (3) live rounds and two (2) spent cartridges was allegedly recovered from Renwick Parkinson after which he was rushed to the hospital where he succumbed to his injuries. | be taken in relation to the fatal shooting of Renwick Parkinson. |
| 32. | Matel Goffe and Ryan Jackson | On September 9, 2013 at about 6:20 a.m. a joint police military patrol led by Supt. and Captain were on foot patrol in the Camp Savannah Mountain when they saw a hut and proceeded towards it to conduct a search when they saw one man at the entrance to the hut armed with a firearm who shouted something and opened gunfire at the party and was joined by four men who also opened gunfire at the party. The police returned gunfire and a running gun battle ensued. When it subsided one man was found suffering from gunshot wounds beside the hut with one firearm beside him which was found to be one 9mm Taurus pistol serial number THG 33921 and fifteen rounds 9mm cartridges. The area was searched and some distance away from the hut a second body was found suffering from gunshot wounds. A .380 pistol serial number AP 375948 with four live .380 cartridges was found beside the body. A search was made and a AK 47 rifle serial number 1964 DA4513 with two magazines and 56 rounds of 7.62 cartridges. One Remington shot gun with 123 rounds of 12 gauge cartridge and one Smith and Wesson .40 pistol with serial number VEE0610 and 12 rounds .40 cartridges found. The other three men were identified as MS o/ Zoo, TH o/c Malta and ED o/c Nepaul who escaped from the scene. The injured men were rushed to the Savanna-la-Mar Public General Hospital where they were pronounced dead. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Matel Goffe and Ryan Jackson. |
| 33. | Dameon Morgan | On Friday, September 23, 2016 at about 9:30 p.m., SM was at home alone with her one month old baby and her brother of unsound mind, DM. According to Ms. M, her brother started threatening to kill her and she became fearful for her life and that of her child. It is further alleged that Ms. M called her boyfriend, CM, a soldier, and informed him of her fear. Mr. M told Ms. M to lock herself and the baby in her room until his arrival. He told her that he would stop at the Barrett Town Police Station and make a report before coming home. Reports are that on Mr. M's arrival, DM also started threatening Mr. CM and pulled a kitchen knife on him. When the Police arrived, they were confronted by DM making threats and wielding the kitchen knife. It is alleged that while backing away from Mr. DM, one of the officers and Mr. CM fell on the bedroom floor. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Dameon Morgan. |

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| | | DM came forward with the knife and carried it down in a stabbing motion in the direction of Constable who discharged two (2) shots in fear of his life. DM was carried to Cornwall Regional Hospital where he was pronounced dead. | |
| 34. | Elroy James | On Wednesday, December 7, 2016 at about 5 a.m. a team consisting of 28 police officers went on an operation in New Market Oval, Savanna-la-Mar, Westmoreland armed with a search warrant. It was reported that the aim of the operation was to apprehend ST o/ Gigi who was wanted for wounding with intent. The team was divided and Sgt. led seven police officers to include Cpl. and Cons. to a premises at Dester Street in the same area. Upon the arrival of the police team to the premises Cpl. and Cons. went to the rear door of a house located at the front of the premises where they knocked whilst shouting "police". A male opened the door after which a female ran from an adjoining room. Cpl. and Cons. entered the house and approached the room from which the female ran. A man was seen in the room pointing a firearm in the direction of the police officers. The police officers instructed the man to drop the gun after they fired in the man's direction. The man fell to the floor clutching a hand gun in his right hand. The firearm was retrieved from the man. The man was taken to the Savanna-la-Mar Public General Public Hospital where he was pronounced dead. The deceased man was later identified as Elroy James o/c Ellie. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken in relation to the fatal shooting of Elroy James. |
| 35. | Craig Bowers | On June 17, 2011, at about 4:30 p.m., Craig Bowers o/c 'Sci-Fi' was shot and killed by Corporal and Constable of the Montego Hills Police Station. It is reported that the Officers along with two colleagues went to the Rough Road area of the Glendevon community in St. James in response to reports that men with guns were seen in the area. On arrival in the community, the concerned officers received further information from a resident. They were walking along a dirt track leading up a hill when they saw about 4 men crouching inside bushes about 20 yards away from where they were. The men opened fire at the police and they immediately took cover whilst two Officers and returned fire in the direction of the gunmen. After the shooting subsided, the area was searched and the body of Craig Bowers o/c 'Sci-Fi' was spotted with a gunshot injury to the armpit. The said Bowers was rushed to the Cornwall Regional Hospital where he was pronounced dead on arrival. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Craig Bowers o/c 'Sci-Fi'. |
| 36. | Wayne Lawrence | On March 11, 2015, at about 9:30 p.m., Wayne Lawrence o/c 'Teacher' was shot and killed by Officers of the Portmore Police Station. It is reported that whilst on mobile patrol duty, the concerned officers received information that robbery suspects were travelling in a white Nissan Tiida motor car headed towards the Bridgeport area. Upon reaching a section of Port Henderson Road, the officers spotted a motor car fitting the suspect description and signaled the car to stop. After the car stopped, the driver's and front passenger doors flew open and two men ran from the | The Commission respectfully recommends that No criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Wayne Lawrence o/c 'Teacher'. |

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| | | car, heading in the same direction towards an open lot. The officers contend that the man who ran from the front passenger side pulled a firearm and opened fire at the police. Both officers took evasive action and returned fire in the direction of these men. After the shooting ended, the officers searched the area and found the man who had run from the driver's side, lying face-down on the ground suffering from a gunshot wound. The injured man was later pronounced dead at hospital and identified by a family member as Wayne Lawrence. | |
| 37. | Kevin Black | On March 7, 2016, at about 4:00 p.m., Kevin Black was shot and killed by Officers of the Savanna-la-mar Police Station. It is reported that whilst on duty, the concerned officers were briefed by DSP and dispatched on mobile patrol duty in the Whithorn police area of Westmoreland. The concerned officers received information that a wanted man, namely Mr. RK, was seen in the company of two other men in the Old Road vicinity, and all were brandishing firearms. The concerned officers went to the target location where they were confronted by these men who opened fire at the police. Officers returned gunfire in the direction of these men, and after the shooting subsided, a man (later identified as the now deceased Kevin Black) was seen suffering from gunshot wounds. A chrome 9mm Beretta pistol (serial number erased) was recovered from the said deceased Black. Mr. K and the other gunman managed to escape. | The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken relative to the fatal shooting of Kevin Black. |
| 38. | Herron Richards o/c Cruz | The deceased, Herron Richards was shot and killed by Constable in circumstances alleged to have been self-defence. A firearm was allegedly recovered from the deceased during the incident which was identified as discharging six (6) bullets that made impressions from the interior side of the entry/exit door of the deceased's dwelling. There are no civilian witnesses to the incident as it unfolded, and so the Commission has found that the evidence to discredit the police claim to self defence is non-existent, or insufficient at best. | The Commission hereby recommends that no criminal charges be laid nor disciplinary action be taken in respect of this fatality. |

ARRESTS MADE/CHARGES LAID (JANUARY - MARCH 2020)

| Name and Rank | Charge | Date of Arrest | State Agency |
|-------------------------|--|-----------------------|---------------------|
| Cons. Ricardo Porter | Murder | 27-Feb-20 | JCF |
| Cons. Jafari Pearson | Assault Occasioning Actual Bodily Harm | 11-Mar-20 | JCF |
| Det Cons. Owen McCleary | Assault Occasioning Actual Bodily Harm | 13-Mar-20 | JCF |

Table 6: The above table shows all members of the Security Forces who were arrested and charged for various offences for the period of January – March 2020

PART FOUR

PUBLIC INFORMATION

• **Meeting: Security Forces & INDECOM**

In the 1st quarter of 2020, INDECOM's Senior Management had one (1) meeting with members of the JCF High Command and one (1) meeting with the executive committee of the Jamaica Police Federation. The following matters were discussed:

- Jamaica Eye
- Compliance with notices
- Protected Disclosure Act
- ID Parade
- Declaration on statements
- Caribbean Model Use of Force Policy
- Sexual Offences Investigations
- Disciplinary Procedure
- Quarterly Reports

• **Outreach: Awareness Exercises**

There were no awareness sessions for the first quarter of 2020.

• **Press Releases**

For the 1st quarter of 2020, the Public Relations Unit issued 15 press releases.

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Searching for Truth, Striving for Justice