Introduction

Surveillance and the use of video recordings play an increasingly important role in law enforcement and criminal prosecutions. Such monitoring can broaden the detection of possible breaches of the peace and provide real evidence if a case is to be taken to court. These measures flourish in the covert world without much attention. This report explains what is needed to make the legal arrangements in Jamaica sufficiently robust, to protect inhabitants against arbitrary and disproportionate intrusions into their private affairs. Under the Constitution our human rights are protected by the State's obligation to promote universal respect for, and observance of, human rights and freedoms, as well as the obligation of all persons to respect and uphold the human rights of others. The state must ensure that there are laws and systems to circumscribe, forbid, detect and punish breaches of these rights. One of these rights is to life and security of the person. The State must take reasonable steps to protect persons so that their life and bodily integrity may be secured. In short, the State must endeavor to control crime.

1 R (on the application of Middleton) v West Somerset Coroner [2004] UKHL 10 at [2], [2004] 2 AC 182 at [2]
“Now is the time to make justice a reality for all.”

Martin Luther King Jnr.
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COMPACT DISC

1st Quarterly Report: January to March 2017
New Complaints: January to March 2017
Commission’s Reports Completed: January – March 2017

(In compliance with Section 17(3) (C) of the INDECOM Act)
PART TWO: THE LEGAL DEPARTMENT

In the Legal Department, 249 Commission’s Reports were distributed and completed. The nature of these files included: discharge of firearms (91), fatal shootings (51), assaults (50) and false imprisonment (16). 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.

PART THREE: LESSONS LEARNT

The requirement for training in proportionate use of force in shooting incidents without a recovered firearm, continue to illustrate important lessons. Of 56 persons shot who were killed or injured, 26 persons had no firearm, while eight (8) of those persons had another weapon (machete, bottle, stone, knife, piece of wood). The analysis and observations from these incidents are discussed in this section.

PART FOUR: PUBLIC INFORMATION

The Commission’s Senior Management Team in the Operations Unit had two (2) meeting with members of the JCF High Command to include the inspectorate of Constabulary for the period. The matters discussed included body worn cameras, Caribbean Use of Force Conference, INDECOM/JCF MOU, fatal shooting statistics and JCF policies, practices and protocols.

The Commission participated in awareness exercises equaling 1184 man hours for the period.

The Public Relations Unit issued 12 press releases for the period. The titles of these are listed in this section.

The Commission reviewed the MOCA Bill, as presented to Parliament, and there are concerns about the oversight of the new agency and independent investigations. Further analysis is provided in this section.

INDECOM, has partnered with United Nations, Department for International Development (DFID) and the US Embassy to host a 3-day Caribbean Use of Force in Law Enforcement Conference beginning May 31, 2017. International experts, local and Caribbean Security Force members and their oversight agencies, local and international NGOs and policymakers will come together to draft a Caribbean Use of Force policy.
Human rights are deserving of protection so long as they do not infringe the rights of others. These rights are however not absolute and permit abrogation, abridgement and infringement in accordance with laws that are "demonstrably justified in a free and democratic society".

Another of these fundamental rights is often called "the right to privacy". To provide protection from arbitrary search and entry, statute and common law have developed a framework of laws and principles to guide state agents. Cameras provide a new means by which the privacy may be breached. Technology has afforded greater stealth so much so that surveillance may be conducted without alerting the subject. Further, the video recording may be a vivid, permanent and easily transferrable image of our private spaces and activities. Most importantly, the technology is relatively new when compared to the centuries of the traditional home search. Given the common law's dependence on judge-made (or judge-developed) law it may well mean that law enforcement can operate, or are operating, in a "grey period" without proper regulation of the infringement of our rights.

In Jamaica the situation is particularly concerning given that agents of the state have not always shown due regard for the need for home searches ordinarily to be by warrant or for "stop and search" to be based on reasonable suspicion. Given these antecedents, it is understandable that there might be some apprehension as to how Jamaica's security forces will comport themselves (or are comporting themselves) in the new unregulated frontier of intrusion into our lives brought by new technology.

"Private Life"

The right to privacy is broadly cast as it has been held that "private and family life" includes privacy of relationships, reputation, image, business affairs, and legal advice. The right to privacy has been accepted to be a broad notion which encompasses a variety of more specific rights protected by the common law or by statute, including the right to be left alone, the right to communicate privately, the right not to have personal information published without lawful authority, and rights of access and control over the use of personal information. "Private life" includes the ability of a person to establish and develop relationships with others. That is, our ability to function socially.

Given how broadly the right is cast, the courts have to ensure that the area of infringement is sufficiently serious to engage concern. In today's modern world individuals are accustomed to their visage being routinely captured by CCTV or, if you are famous, by the paparazzi. These ordinary encounters do not infringe what is known as "the reasonable expectation of privacy". In Ductos v Aubry, CBC Interventing the Quebec Court of Appeal ruled that although right to an image is a feature of the right to privacy, said right was not breached merely by the taking of the picture but, could be, by its publication without permission.

Where there is a reasonable expectation of privacy the constitutional right is involved and the next issue is to find the balance with other rights particularly the State's general obligation to secure the nation's inhabitants and the right to freedom of expression. An important case on this issue is the European Court of Human Rights' (ECHR) decision in Peck v United Kingdom. P, a man suffering from severe depression, was captured by CCTV walking on a public street with a large knife. He would later attempt suicide, but this part of the event was not recorded. The local police was notified and they arrested P. Later images were released for public broadcast without pixilating P's face and these images were in fact so published in a newspaper and on television. The aim was to herald the efficacy of the system. P's consent was not sought.

Two media commissions agreed that P's privacy was invaded but the High Court refused, on a judicial review application, to grant any remedy against the public authority saying that the authority had not acted irrationally.

The ECHR held, on the privacy issue, that the question was whether the images were depicting an event of a private or public matter. Although P was in a public place, he was not participating in a public event neither was he a public figure. As the images were envisaged for limited or general release, the disclosure interfered with his private life as it far

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2 S. 13(1)
3 S. 13 (2)
4 See for example: Random searches will continue says Ellington, Jamaica Observer July 1, 2013
5 Bensaid v United Kingdom (2001) 33 ECHR 205 at [47]
6 Von Hannover v Germany (2004) 43 EHRR 139
7 Varec SA v Belgium [2008] ECR 1-581 [48]
8 Ibid paragraph 321
91998 1 RCS 591
10 (App no 44647/98) - [2003] ECHR 44647/98

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exceeded any kind of exposure that P could have reasonably foreseen.

Similarly, in R (on the application of Wood) v Metropolitan Police Commissioner\textsuperscript{11}, the police took and retained pictures of a man on the public road on the way to a meeting of a limited company where he was expected to join a protest. The man was a member of a group that organized protests against the company but he had no convictions and had never been arrested. The court held that there was an expectation of privacy.

"In accordance with law" and "Demonstrably justified in a free and democratic society"

For an interference with human rights to be justifiable it must satisfy the captioned criteria. The permissible infringement must have a legitimate aim, a "pressing social need", and that the degree of infringement must have been proportionate to the legitimate aim pursued\textsuperscript{12}. There must be a reasonable relationship of proportionality between the means employed and the aim sought. This means that there must be a rational connection between objective and the means, a fair balance between demands and interest of the community and the protection of an individual's rights, and relevant or sufficient reasons for restriction or interference.

The state must regulate possible infringements of rights to protect inhabitants from arbitrary actions. It is important to set out the principles under which rights might be restricted. Such rules must be accessible to the public so that they may, perhaps with legal advice, regulate their conduct\textsuperscript{13}. The rules must be accessible, enforceable and foreseeable to the general public\textsuperscript{14} but need not release details of covert methods. The law must not be too wide so as to be arbitrary and open to abuse. Rules should be promulgated that support and follow the statutory framework.

Uzun v Germany\textsuperscript{15} was an ECHR case concerning the lawfulness of the use of GPS surveillance. The ECHR held that compatibility with the rule of law necessitated that domestic laws provide adequate protection against arbitrary interference with the right to privacy. All attendant circumstances must be assessed including "the nature, scope and duration of the possible measures, the grounds required for ordering them, the authorities competent to permit, carry out and supervise them".

In the United Kingdom covert investigations methods are regulated by the Regulation of Investigative Powers Act, 2000 (RIPA). Previously, their legislative arrangements were piecemeal: the Interceptions of Communication Act (1985) for telephones; the Security Service Acts of 1989 and 1996 for bugging of premises, and Part III of the Police Act (1997) for entry onto property or wireless telegraphy. Before RIPA, the regime was much criticized in Strasbourg. In Malone v UK\textsuperscript{16} the court disparaged the absence of clear statutory rules for the Secretary of State's granting a warrant to intercept telephone communication. The citizenry were denied the minimum degree of legal certainty. In response the Parliament passed the Interception of Communications Act to control interception of telephony.

Bugging of premises was first regulated by the Security Services Act of 1989. Hewitt and Harman v UK\textsuperscript{17}, like Malone, held that given the absence of a statutorily regulated arrangement, the right to privacy was breached.

In R v Khan\textsuperscript{18} one ground of appeal argued that evidence of incriminating conversations was obtained by bugging devices placed at the appellant's residence in what would have amounted to trespass. Whilst dismissing the appeal the court thought that statutory control analogous to that for intercepting telephone conversations ought to have been enacted. The court noted that although the adage: "An Englishman's home is his castle" was not a legal maxim, it "is a tenet jealously held and widely respected". At the House of Lords the absence of statutory control was described as "astonishing".

At Strasbourg\textsuperscript{19} it was held that the absence of statutory control meant that the right to privacy was breached. Although internal guidelines existed, they did not satisfy the requirement of legal regulation as they were not legally binding, not accessible to the public and there was no scheme to independently deal with complaints.

The Secretary of State is empowered, by RIPA, to establish codes of practice for the interception of communications, surveillance, and the use of covert human intelligence sources. RIPA treats with directed and intrusive methods.

\textsuperscript{11}[2009] 4 All ER 951
\textsuperscript{12} S v UK [2008] 25 BHRC 557, [101]; Handyside v UK 24(1976) 1 EHRR 737; Barthold v Germany (1985) 7 EHRR 383 [55]
\textsuperscript{13} Purdy v DPP [2009] UKHL 45;[2010] UKHL 345
\textsuperscript{15} [App. No. 35623/05] - [2010] ECHR 35623/05
\textsuperscript{16} [1985] 7 EHRR 657
\textsuperscript{17} [1992] 14 EHRR 657
\textsuperscript{18} [1997] AC 538
\textsuperscript{19} 2001] 31 EHRR 1016

AC 558, Khan v UK (2001) 31 EHRR 1016, Kennedy v UK (2011) 52 EHRR 4
“Directed surveillance” means covert methods likely to obtain private information, whilst intrusive surveillance extends to devices and persons deployed in the home or a private vehicle. Directed surveillance may be authorized by named senior officers. Intrusive surveillance must be authorized by named very senior officers and be approved by a Surveillance Commissioner. Authorizations must only be granted if the measure is necessary and proportionate. RIPA, specifically enumerates the legitimate aims to make surveillance necessary. These include national security, detecting and preventing crime, public order and the economic well-being of the state. The Act further provides for the appointment of independent commissioners to review the conduct of persons given authority under the Act and a tribunal to hear complaints.

**Law Reform**

The arrangements in Jamaica roughly approximate to where the UK was prior to RIPA. Only some areas of possible intrusions are covered. The **Interception of Communication Act** governs telephonic monitoring but we have no law covering video surveillance. It is rather contradictory to have well developed laws regulating searching of premises when the police may employ technology to see into our homes and to have well developed laws on intercepting our telephone conversations when the police can use technology and eavesdrop on our non-telephonic conversations. This unregulated frontier provides conditions under which abuses can thrive. These could include using the technology for personal reasons, and improper disclosure of private information. Lord Nolan in **R v Khan** stated:

“There is only one further word which I would add. The sole cause of this case coming to your Lordships’ House is the lack of a statutory system regulating the use of surveillance devices by the police. The absence of such a system seems astonishing, the more so in view of the statutory framework which has governed the use of such devices by the Security Service since 1989, and the interception of communications by the police as well as by other agencies since 1985.”

Jamaica needs bespoke legislation, followed by operational policies to safeguard against abuse of covert surveillance measures by providing for a fair and independent procedures for the prior authorization.

Following and adapting **Kopp v Switzerland** at a minimum what is required is a law that states:

a. the nature of the offences or aims which may give rise to a surveillance order;
b. a definition of the categories of persons liable to have different kinds of surveillance;
c. a limit on the duration of surveillance;
d. the procedure to be followed for examining, using and storing the data obtained;
e. the precautions to be taken when communicating the data to other parties; and
f. the circumstances in which recordings may or must be erased or the tapes destroyed.

**Conclusion**

The need for secrecy in the use of new surveillance technology is no excuse for failing to provide a proper legal framework that endeavours to control infringement of our right to privacy. RIPA provides a template. A balance can be found between national security and the detection of crime, on the one hand, and our privacy on the other. If this is not achieved the State will have failed in its responsibility to secure our rights and expose us all to capricious, unnecessary and abusive invasion into our intimate affairs.

Such abuses are not fanciful. The Commission has investigated a number of cases where unregulated covert tactics have featured. The lack of regulation has obscured accountability. In Liverpool, England operators of a CCTV system used it to spy on a lady in her apartment as she undressed, some members of the US governments National Security Agency employed state surveillance assets to spy on their romantic partners, and for a long time the FBI conducted covert, and often unlawful surveillance of domestic political organizations some of which posed no threat to national security or public order.

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20 S. 26.
21 s.28
22 s.32
23 s.36
24 See for example s.28
25 s. 57 to 59 and 62
26 s.65
27 (1999) 27 EHRR 91 at [72], 4 BHRC 277 at [72], ECHR.
29 http://news.bbc.co.uk/2/hi/uk_news/england/mersyside/4503244.stm
Dr. Martin Luther King, Jnr being amongst them\textsuperscript{31}. Regarding the latter Nicholas Katzenbach, counsel to Robert Kennedy said:

"You cannot, in our society, allow any person in the Executive Branch, be it the President, be it the head of the FBI, the head of the National Security Agency, to have an unsupervised power to invade the privacy of people on national security grounds."

\textsuperscript{31} http://www.npr.org/templates/story/story.php?storyId=5161811
In Part One, the document discusses new complaints received by the Commission. A bar graph shows the distribution of new complaints, with Assault being the most common at 73 cases, followed by Discharge of Firearm at 56 cases and Fatal Shooting at 34 cases. Other categories include Shooting Injury with 13 cases, and Destruction of Property and Threat with 8 cases each. Unprofessional Conduct follows with 6 cases, and Abuse of Office and Unlawful Detention with 3 cases each. Other less common complaints include Neglect of Duty, Unduly long detention, Misappropriation of Property, Wrongful Arrest, Perversion of the course of Justice, Seizure of Property, Illegal Search, Unlawful Wounding, and Death in Custody, each with 2 or 1 case.

* There were 42 deaths from 34 fatal shooting incidents and 14 injuries from 13 shooting injury incidents.

Figure 1: The bar graph shows all categories of new incidents for which complaints were received by the Commission for the period of January to March 2017.
INCIDENT SCENE RESPONSE

Incident Scene Response

![Graph showing incident scene response by month](image)

Figure 2: The above figure shows the number of scenes to which the Commission's Forensic Unit responded for the period of January to March 2017.

NATURE OF INCIDENT SCENE RESPONSE

Nature of Incident Scene Response

![Graph showing nature of incident scene response](image)

Figure 3: The above graph shows the nature of the incidents to which the forensic unit responded for the period of January to March 2017.
COMPLAINTS BY PARISH

Figure 4: The above graph shows the number of new complaints (fatal and non-fatal) related to all parishes for the period of January to March 2017.

FATAL SHOOTINGS BY PARISH

Figure 5: The chart above shows the number of fatalities in relation to parishes for the period of January to March 2017.
**FATALITIES BY TEAMS**

![Fatalities by Team Chart]

Figure 6: The above graph shows the number of fatalities in relation to the teams within the Commission for the period of January to March 2017.

**FATALITIES BY ORGANISATION**

![Fatalities by Related Organizations Chart]

Figure 7: The above pie chart illustrates the State agency to which the fatalities recorded for the period of January to March 2017 are related.
# Security Force-Related Fatalities

JCF – Jamaica Constabulary Force  
JCF-OD – Jamaica Constabulary Force Off Duty Officer  
JDF – Jamaica Defence Force  
DCS – Department of Correctional Services  
DIC – Death in Custody

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Deceased</th>
<th>Location of Incident</th>
<th>Related State Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Jan</td>
<td>Tavoy CHRISTIE</td>
<td>Gordon Crescent, Granville, St. James</td>
<td>JCF</td>
</tr>
<tr>
<td>2-Jan</td>
<td>Dabian CAMPBELL, Martin ROYES</td>
<td>5 Yacca Ave, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>3-Jan</td>
<td>Christopher DRYSDALE</td>
<td>Hudson Ave, Kingston 11</td>
<td>JCF</td>
</tr>
<tr>
<td>12-Jan</td>
<td>Shaquille MORRIS</td>
<td>Pacific Ave, Kingston 11</td>
<td>JCF</td>
</tr>
<tr>
<td>14-Jan</td>
<td>Marion SAMUELS, Oswyn JARRETT, Devon MILLS, Deno PRYCE, Ronado FOWLER, Andre DALEY</td>
<td>Goodwill Main Road, St. James</td>
<td>JDF</td>
</tr>
<tr>
<td>16-Jan</td>
<td>Christopher FAIRWEATHER</td>
<td>Wayne Rd, Port Antonio, Portland</td>
<td>JCF</td>
</tr>
<tr>
<td>21-Jan</td>
<td>Rojae BURKE</td>
<td>Smithfield, Sav-la-Mar, Westmoreland</td>
<td>JCF</td>
</tr>
<tr>
<td>23-Jan</td>
<td>Gary MCKENZIE</td>
<td>Gregory Park, Portmore, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>25-Jan</td>
<td>Curtis WILSON</td>
<td>45 Hugh Brown Drive, May Pen</td>
<td>JCF</td>
</tr>
<tr>
<td>27-Jan</td>
<td>Troy VASSELL</td>
<td>101 Luke Lane, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>29-Jan</td>
<td>Phillip GRANT</td>
<td>Spring Bank, Portland</td>
<td>JCF</td>
</tr>
<tr>
<td>30-Jan</td>
<td>Jermaine SAMUELS</td>
<td>Settlement, Old Harbour Bay</td>
<td>JCF</td>
</tr>
<tr>
<td>30-Jan</td>
<td>Andre DENTON</td>
<td>12 Metcalfe Rd, Olympic Gardens, Kingston</td>
<td>JCF</td>
</tr>
</tbody>
</table>

**February (14)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Deceased</th>
<th>Location of Incident</th>
<th>Related State Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Feb</td>
<td>Aaron WRIGHT</td>
<td>Century Farm, Port Esquire, Old Harbour, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>3-Feb</td>
<td>Omario BURRELL</td>
<td>Mt Pleasant, Hanover</td>
<td>JCF</td>
</tr>
<tr>
<td>3-Feb</td>
<td>Cordie RUSSELL, Nicholas ROBINSON</td>
<td>Toll Road, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>9-Feb</td>
<td>Antonio SQUIRE</td>
<td>March Pen Road, Spanish Town, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>12-Feb</td>
<td>Aelian GREEN</td>
<td>Main Street, Bog Walk, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>12-Feb</td>
<td>Adrian THOMPSON, Tyree HALL</td>
<td>Palm Villa, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>17-Feb</td>
<td>D/Con Duran Smith</td>
<td>569 Doctorbird Circle, Old Harbour</td>
<td>JCF-OD</td>
</tr>
<tr>
<td>Date</td>
<td>Name</td>
<td>Location</td>
<td>Agency</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------</td>
<td>-----------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>19-Feb</td>
<td>Andrade McDONALD</td>
<td>Blackland, March Pen Road, Spanish Town</td>
<td>JCF</td>
</tr>
<tr>
<td>20-Feb</td>
<td>Ramone CHAMBERS</td>
<td>South Camp Rd (in a gully), Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>20-Feb</td>
<td>Kappel GAYLE</td>
<td>Ellesmere Road, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>27-Feb</td>
<td>Trevor CAMPBELL</td>
<td>Riverton City Landfill, Kingston 11</td>
<td>JCF</td>
</tr>
<tr>
<td>28-Feb</td>
<td>Eric WHITTINGHAM</td>
<td>Treadlight, May Pen, Clarendon</td>
<td>JCF</td>
</tr>
</tbody>
</table>

**MARCH (9) (DIC-1)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Location</th>
<th>Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Mar</td>
<td>Cleon CAMPBELL</td>
<td>Bertram Lane (off Maxfield Ave), Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>3-Mar</td>
<td>Daniel MORRISON</td>
<td>Thompson Pen, Spanish Town, St. Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>4-Mar</td>
<td>Winston SWAROOP</td>
<td>Dias, Hanover</td>
<td>JCF</td>
</tr>
<tr>
<td>9-Mar</td>
<td>Mark FINDLAY</td>
<td>Crane Road, Black River, St. Elizabeth</td>
<td>JCF</td>
</tr>
<tr>
<td>13-Mar</td>
<td>Donovan HOWARD DIC</td>
<td>Tower Street, Adult Correctional Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>23-Mar</td>
<td>Joseph BROWN</td>
<td>Spanish Town Road, Bond Street, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>23-Mar</td>
<td>Derrick URQUHART</td>
<td>Bath, St. Thomas</td>
<td>JCF</td>
</tr>
<tr>
<td>23-Mar</td>
<td>Nicoy TRELEYEN</td>
<td>Armadale District, Alexandria, St. Ann</td>
<td>JCF</td>
</tr>
<tr>
<td>24-Mar</td>
<td>Kevin WRIGHT</td>
<td>Waltham Park Road, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>25-Mar</td>
<td>Jamal JETTO</td>
<td>Cheddisingh Boulevard, Westmoreland</td>
<td>JCF</td>
</tr>
</tbody>
</table>

Table 1: The above list presents the names of the civilians who died in security force-related incidents for the period of January to March 2017.
Nature of Commission's Reports Completed

- Discharge of firearm: 91
- Fatal shooting: 51
- Assault: 50
- False imprisonment: 16
- Conduct unbecoming: 14
- Malicious destruction of property: 10
- Threat: 9
- Shooting injury: 8
- Neglect of duty: 7
- Seizure of property: 4
- Misappropriation of property: 3
- Harassment: 2
- Unlawful search: 2
- Perverting the course of justice: 1
- No remit: 1
- Rape: 1
- Death in custody: 1

Figure 8: The above graph shows the category of complaints for the Commission's Reports completed during the period of January to March 2017.
COMMISSION'S REPORTS COMPLETED

Commission's Reports Completed

Figure 9: The above chart shows the number of Commission’s reports completed and distributed for the period of January to March 2017.

RECOMMENDATIONS MADE FOR COMPLETED COMMISSION'S REPORTS

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>January</th>
<th>February</th>
<th>March</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charge</td>
<td>0 cases</td>
<td>2 cases</td>
<td>2 cases</td>
</tr>
<tr>
<td></td>
<td>0 officers</td>
<td>3 officers</td>
<td>2 officers</td>
</tr>
<tr>
<td>Disciplinary Action</td>
<td>3 cases</td>
<td>3 cases</td>
<td>5 cases</td>
</tr>
<tr>
<td></td>
<td>3 officers</td>
<td>5 officers</td>
<td>7 officers</td>
</tr>
<tr>
<td>Unsubstantiated</td>
<td>86</td>
<td>71</td>
<td>77</td>
</tr>
</tbody>
</table>

Table 2: The above graph shows the recommendations made for Commission’s Reports completed for the period of January to March 2017.
## RECOMMENDATIONS OF THE LEGAL DEPARTMENT – FATAL SHOOTING INCIDENTS

### January 2017 (12)

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>BW obo Sheldon Walker o/c Piper</td>
<td>The complainant, BW alleges that his son, Sheldon Walker o/c 'Piper' was unlawfully shot and killed by police officers on the 7th day of July 2012 in Lauriston, St. Catherine. The police and soldiers involved allege that at approximately 5.05am on the 7th day of July, 2012, they came under gunfire from men that were seen sitting by a wooden structure on a dirt track in the Percy Bush area of Lauriston. First contact was made with a Jamaica Defence Force roving support team. Lance Corporal and Private engaged the gunmen discharging ten (10) and six (6) rounds from their M16 rifles. JDF involvement in the shooting incident terminated thereafter. A JCF team pursued the men into bushes where the gun battle continued and, a man seen coming from the side of a one (1) bedroom board house, opened gunfire in a Constable’s direction. The Constable returned the gunfire killing the man. An M14 Ruger rifle along with four (4) 5.56 cartridges were retrieved.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. The Commission further recommends that this matter be referred to the Special Coroner for him to decide whether an inquest ought to be held.</td>
</tr>
<tr>
<td>2.</td>
<td>Jason Brown</td>
<td>On the 3rd day of May, 2011, Jason Brown, was fatally shot and killed by officers who were on foot patrol in the Riverton City area. The police officers state that they saw a group of men crossing the road from Callaloo Mews and beckoned to the men not to move. The men looked around, pointed handguns in their (the officers') direction and fired at the officers. Some of the officers returned fire in the direction of the men after which Jason was found suffering from gunshot wounds. The other men ran away with a weapon and made good their escape. There were no eyewitnesses to the incident.</td>
<td>No criminal charges be laid or disciplinary action be taken and the file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>3.</td>
<td>Nicholas Higgins</td>
<td>This report concerns the death of Nicholas Higgins who was shot and on the 13th day of November 2011. The deceased was purportedly shot by the concerned officer when he attempted to rob, at gunpoint, a passenger Coaster bus along the Temple Hall Main Road. This version is unanimously reported by the bus's driver and conductor; no contrary version has been received.</td>
<td>No criminal charges be laid or disciplinary action be taken and the file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>4.</td>
<td>Odine Dunn</td>
<td>On the 30th day of September, 2012, Odine Dunn was shot and killed by police officers of the Mobile Reserve Division. The concerned officers indicate that they were on patrol in the Yallahs police area when they received information that armed men were seen in East Albion. Upon arrival at the area, they were challenged to a shootout wherein Mr. Dunn was shot and killed whilst an armed man escaped. A civilian witness, confirmed the version of the police officer. No contrary version has been received.</td>
<td>No criminal charges be laid or disciplinary action be taken and the file be forwarded to the Special Coroner.</td>
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<tr>
<td>No.</td>
<td>Name</td>
<td>Event Description</td>
<td>Outcome</td>
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<td>5.</td>
<td>Horace Ramsay</td>
<td>On the 7th day of January, 2011, Horace Ramsay was fatally shot by police personnel, whilst at his premises at Stephen Lane in Kingston. It is alleged that on the police's entry into his room, he pointed a firearm at a Constable and disobeyed the officer's subsequent command to drop his weapon. In fear for his life and those of his colleagues, the Constable discharged two (2) rounds from his firearm with the result being the infliction of multiple gunshot wounds to the deceased.</td>
<td>No criminal charges be laid or disciplinary action be taken and the file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>6.</td>
<td>Kenroy Thomas &amp; Davian Bryan</td>
<td>On Thursday, December 1, 2011, at about 8:50 p.m., three (3) police officers from the Bog Walk Police Station, were on mobile patrol duty when they received an assignment from Police Control to provide assistance to the Riversdale police in dealing with a report of a motor vehicle accident. Upon reaching a section of the Riversdale Main Road known as “Hog Hole”, the police observed three (3) men walking along the road behaving suspiciously. They accosted the men who then pulled firearm from their waistbands and opened gunfire at the police. A Det. Cons. returned gunfire at the men. Two (2) of the gunmen fell to the ground while the third escaped into bushes at the side of the road. After the shooting subsided, they approached both men who were lying on the ground suffering from apparent gunshot injuries. The injured men were rushed to the Linstead Public Hospital where they were pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>7.</td>
<td>Horace Parkins</td>
<td>On November 4, 2013, Horace Parkins o/c 'Ju-Ju' was shot and killed along Sydenham Avenue in Spanish Town by a Cons. of the Spanish Town Police Station. It is reported that the Cons. was on mobile patrol duty along with a colleague when they received a report of an alleged robbery in the area. They received a description of the robbers and went in search of these men. Whilst patrolling along Sydenham Avenue, the Cons. observed a man fitting the description he was given and he accosted the said man who then pulled a firearm from his waistband and pointed it at the police. The Cons. fired four (4) shots in the man’s direction, hitting him. The man fell to the ground with the firearm in his hand. The firearm was recovered from the gunman and he was rushed to the Spanish Town Hospital where he died whilst undergoing surgery.</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>8.</td>
<td>Solomon Johnson</td>
<td>On October 21, 2013, Solomon Johnson o/c 'Salia' was shot and killed by police at his residence at Belfast District, Morant Bay in the parish of St. Thomas. It is reported that the police received information that Solomon Johnson and two (2) other men were seen in the Morant Bay police area with high-powered weapons. The men were reportedly heading through bushes towards the Dumfries community. The concerned officers quickly proceeded to Johnson’s residence where he and the other men were seen coming from bushes at the rear of the premises with guns. When accosted, Solomon Johnson pointed a firearm at a Constable who discharged two (2) rounds at Johnson in self-defence. Johnson was subsequently found suffering from gunshot injuries but the other gunmen escaped. Johnson was rushed to the Princess</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
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<tr>
<td>No.</td>
<td>Name</td>
<td>Event Details</td>
<td>Charges</td>
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<td>9</td>
<td>Paul Gordon</td>
<td>On September 16, 2012, sometime after midnight, Paul Gordon was shot and killed at or in the vicinity of Lot #16 Chestnut Lane in Denham Town, Kingston by a Lance Corporal of the Jamaica Defence Force (&quot;JDF&quot;). It was reported that the L/Cpl. was part of a joint police/military mobile team in the West Kingston area when the said team was called to Chestnut Lane to provide assistance in clearing a large gathering of persons attending a street dance. The L/Cpl. observed a group of men behaving suspiciously and accosted them. One of the men pulled a firearm from his waistband and pointed it at the L/Cpl. who subsequently discharged a round from his service firearm hitting the alleged gunman. The injured man fell to the ground with the firearm in his hand. The firearm was recovered from the gunman who was then taken to the Kingston Public Hospital where he was pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer.</td>
</tr>
<tr>
<td>10</td>
<td>Demar Beckford</td>
<td>On October 14, 2013, Demar Beckford a/c ‘Chin’ was shot and killed by police officers from the St. Catherine South Division. The concerned officers, were on special operation in the Portmore police area when they accosted the now deceased who was seen walking with another man in a gully, carrying a television set and a bag. The police accosted the men and they ran away. Whilst chasing the now deceased, he turned and pointed a firearm at the police and opened gunfire. The concerned officers returned gunfire hitting him. The concerned officers quickly and cautiously approached the apparently injured gunman and recovered the firearm from him. He was then rushed to the Spanish Town Hospital where he later succumbed to his injuries.</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers.</td>
</tr>
<tr>
<td>11</td>
<td>Glenroy Francis</td>
<td>On June 12, 2012, sometime after 8:30 p.m., Glenroy Francis was shot and killed by the police in the vicinity of the National Heroes’ Circle. It is reported that the concerned officers were on mobile patrol duty in the Park when they were alerted to a gunman in the northern section of the Park. The officers accosted the gunman who opened gunfire at them and ran away. The police returned gunfire at the gunman and went in pursuit of him. The gunman was shot and fell in the vicinity of the Wolmer’s Girls School. A .38 ‘Colt’ Magnum revolver containing live as well as expended cartridges was recovered from the gunman. He was rushed to the Kingston Public Hospital where he was pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers.</td>
</tr>
<tr>
<td>12</td>
<td>Andrew Chung &amp; Elvis Williams</td>
<td>On February 12, 2013, Andrew Chung and Elvis Williams were shot and killed at premises located at 55 North Avenue, Denbigh in the parish of Clarendon by police officers from the May Pen Street Crime Unit. The concerned officers were on special operation in the May Pen police area in search of suspected robbers when they received information that the suspects were at premises located at North Avenue in Denbigh, Clarendon. Based on this information, they went to the location and on arrival they saw and accosted three</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers.</td>
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</table>
(3) men who were standing inside a yard. They shouted to the men: “Policel Don’t move!”, however, the men immediately opened gunfire at the police. The police returned gunfire in the direction of the men, one of whom fell to the ground while the other two ran off to the side of a house in the said yard. The police chased the two fleeing gunmen who continued firing at the police. The police returned gunfire and another of the gunmen fell to the ground, but the third man escaped. After the shooting subsided, the police recovered a 9mm pistol bearing s/n ADP3592A from the second gunman. Both men who fell were observed to be suffering from apparent gunshot wounds and were rushed to the May Pen Hospital where they were pronounced dead.

February 2017 (19)

Table 4: Recommendations by the Legal Department for Commission’s Reports completed in February 2017 on fatal shooting incidents

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
</tr>
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<tbody>
<tr>
<td>13.</td>
<td>Demar Cameron</td>
<td>The deceased, Demar Cameron, was shot and killed by a Special Constable on October 3, 2013 in circumstances claimed to be defence of self. There is no evidence to negative this claim.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.</td>
</tr>
<tr>
<td>14.</td>
<td>Gifford Pingling</td>
<td>The decedent, was shot and killed by a Corporal who admitted to firing a round at the deceased in self-defence at the rear of a dwelling house situated at 2A Lincoln Road, Kingston 5, St. Andrew on June 3, 2012. The deceased was seen by a Special Constable attempting to execute the armed robbery of a female on Retirement Road. When accosted, he fired a shot at the Special Constable. Two (2) rounds were discharged at him in the result but, he was not injured.</td>
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<td>The deceased was pursued by a Mobile Reserve patrol unit onto Lincoln Road and he was caught up with at the rear of the dwelling house. A civilian witness attests to seeing the deceased with a firearm when he jumped her fence and made his way into her home. The deceased confronted a Corporal and was shot at close range. He died of thoracic injuries arising from the single gunshot wound he received to his chest.</td>
<td>Having regard to the investigative proceeds in this matter, the Commission hereby recommends that no criminal charges be laid, or disciplinary action be taken.</td>
</tr>
<tr>
<td>15.</td>
<td>Ricardo Meadley</td>
<td>The deceased was shot and killed in a bedroom at 23 Elgin Street, Kingston 14. The police are alleging that Meadley pointed a firearm at them, and that they fired to save life and limb. Two (2) witnesses who were allegedly in the bedroom at the time of the shooting</td>
<td>The Commission hereby recommends the charge for the Murder of Ricardo Meadley.</td>
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state that Meadley was shot while, on police command, he was reaching for his phone on one of the beds. The Commission, having considered the legal position, concludes that the matter is fit to go before a jury.

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<th>16.</th>
<th>Ceyon Olacre</th>
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<td>The deceased, Ceyon Olacre was shot and killed by a member of the Jamaica Constabulary Force on March 23, 2012 at Heartsease District, Manchester. It is alleged that at the time of his shooting death, he and an accomplice were in the process of executing an armed robbery on the person and property of the concerned officer. There are no witnesses to the incident to refute the police version, and the scientific evidence does not speak contrary to the account of the Corporal. Accordingly, no prima facie case to charge exists.</td>
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<th>17.</th>
<th>Nichon Bent</th>
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<td>This report concerns the death of Nichon Bent who was shot and killed by police officers on the 17th day of September, 2013. The concerned officers report that the police team were on patrol when, acting on information of gunmen being in a particular area, they went to a one-bedroom dwelling house at Resource District, Cross Keys, Manchester. Whilst there, they accosted two men (the now deceased and Mr. Stephen Henry) to conduct a search. During a search of the premises one (1) of the men reportedly pulled a firearm from beneath a pillow and pointed it in the direction of the officers. The officers took evasive action and fired in the direction of the man who then ran from the house unto the main road where he sat on a shop piazza suffering from gunshot wounds. He was held by the police and taken to Mandeville Regional Hospital where he was pronounced dead.</td>
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<tr>
<th>18.</th>
<th>Jermaine Gunter</th>
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<td>On Thursday the 23rd day of June, 2011, at approximately 5:35 a.m., the deceased, 27 year old Jermaine Gunter otherwise called “Cha Cha Boy”, was fatally shot at Bamboo Ridge District, Baratons, Old Harbour P.O., St. Catherine. He was shot by officers attached to the Transnational Crime and Narcotics Division as well at the Kingston Western Division. The officers report that they went to the Bamboo Ridge community in search of Jermaine Gunter and members of a gang known as the “Discipline Gang”. The men were wanted in the Kingston Western Division for questioning in relation to a murder and several cases of shooting with Intent committed in the said area. Upon their approaching, the police officers were fired upon by a gentleman. The officers returned gun fire but some men escaped in nearby bushes. Another man fired at them, following which Constables Burton and Gordon returned fire. When the shooting subsided, they found Jermaine Gunter suffering from gunshot wounds. They also retrieved a 9mm Smith and Wesson pistol with serial number PDX7772 along with four (4) live rounds beside him. The said man was subsequently pronounced dead at the Spanish Town Hospital.</td>
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<th>19.</th>
<th>Dane Mason &amp; GW</th>
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<td>The report concerns the death of Dane Mason who was fatally shot by the police on the 16th day of</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. The Commission further recommends that this matter be referred to the Special Coroner for him to decide whether an inquest will be held. It is however recommended that the file be forwarded to the Special Coroner for an inquest to be held into circumstances which led to the death of Nichon Bent.</td>
</tr>
</tbody>
</table>

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.

It is however recommended that the file be forwarded to the Special Coroner for an inquest to be held into circumstances which led to the death of Nichon Bent.
December 2012 and GW who was wounded on the same day and during the same incident. GW states that he was inside a barber shop on the day in question when the now deceased, Dane Mason, ran into the shop. Shortly afterwards he heard explosions and then observed Dane lying on the ground of the shop with a handgun beside him. He then saw a policeman on the ground pointing a firearm towards the barber shop. GW thereafter realized that he was shot in the leg during this incident.

20. Feron Baker

On Saturday July the 21st, 2012, a police party, was on police patrol when they responded to a request from Police Control for assistance with regards to a motor vehicle which had disobeyed a Constable’s earlier instructions to stop. The car was pursued by them and subsequently collided into a utility pole along Oakland road. Two occupants of the vehicle then alighted from the vehicle and traded gunshots with the police in what was described as a shoot out; this ended in one of the two men being killed. There were no eyewitnesses to the incident.

21. Mario Matthews

On the 5th day of December, 2010, at approximately 2:00a.m., Mario Matthews was fatally shot along Darlington Drive, Old Harbour, by officers of the Old Harbour Police Station. The police allege that they were acting on a report of a shop break in progress in the said location and, upon arrival at the location, were greeted with gunfire from four (4) armed men. The officers all state that they returned gunfire and the men ran in different directions. After the shooting subsided they searched the area and one man was found at a nearby premises suffering from gunshot wounds to his chest. A black homemade gun, loaded with one (1) live .38 cartridge was found beside him. A further search was conducted and a Ruger 9mm pistol was found containing a magazine with three (3) cartridges. The injured man was taken to the hospital where he was pronounced dead. There were no eyewitnesses to the incident.

22. Samuel Rattray

The report concerns the death of Samuel Rattray who was fatally shot by the police on the 23rd day of January 2008. The allegations are that Samuel Rattray was in the company of another man on the balcony of the upper floor of a house, when the police confronted them. Both of the men were allegedly armed with firearms. A shoot out ensued and both men ran firing at the police. Samuel fell with a firearm, apparently injured. He was subsequently taken to the hospital where he was pronounced dead. No contradictory version has been received.

23. Steadman Allen & Richard Anderson

On December 17, 2012, Steadman Allen and Richard Anderson were fatally shot by the concerned officers at the Causeway Fishing Village along Dyke Road in Portmore, St. Catherine. The concerned officers report that they received reliable intelligence that gunmen were seen in the area. They went to the fishing village and, whilst patrolling the area, they saw and accosted criminal charges be laid or disciplinary action be taken.

It is recommended that the file be forwarded to the Special Coroner.

It is further recommended that the file be forwarded to the Solicitor General.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.

It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Mr Baker.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.

It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Mario Matthews.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken.

The file be forwarded to the Special Coroner.

No criminal charges be laid or disciplinary action be taken against the concerned officers.

The file be forwarded to the Special Coroner.
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<td><strong>24.</strong> Sanjay Daley</td>
<td>On April 7, 2012, Sanjay Daley was fatally shot by the concerned officers who went on an operation to Manley Lane in Nagojo Head, St. Catherine. The concerned officers reported that whilst on operation in the area, they came upon two (2) men who pulled firearms from their waistbands and opened gunfire at the police. The concerned officers returned gunfire and the gunmen ran away, escaping over a zinc fence at the rear of a yard. A 9mm ‘ADP’ pistol, loaded with five (5) live 9mm rounds was recovered from the ground at the zinc fence where the men escaped after firing at the police. During a subsequent search of the area, the concerned officers observed a blood trail which led to an outside bathroom, in which there were bloodstained clothes. Later that same day, the concerned officers went to the Kingston Public Hospital where they identified the body of a deceased male as one of the gunmen who had earlier fired at the police.</td>
<td>No criminal charges be laid or disciplinary action be taken. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td><strong>25.</strong> Jerome Williams</td>
<td>On July 31, 2013, Jerome Williams was shot and killed by police officers attached to the Mobile Reserve who were on patrol in the Lakes Pen area of St. Catherine around midday. Whilst on patrol and searching for men who were reportedly armed with illegal guns, four men armed with rifles engaged the police team in a shootout. Two officers returned gunfire in the direction of these men. After the shooting subsided and a search of the area conducted, a man was found clutching a M16 rifle and suffering from apparent gunshot injuries. The injured man was taken to the Spanish Town Hospital where he was pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers. The file be forwarded to the Special Coroner.</td>
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<tr>
<td><strong>26.</strong> Doran Fagan o/c &quot;Chubby&quot;</td>
<td>On July 14, 2012, Doran Fagan o/c ‘Chubby’ was shot and killed by a Cpl. along the Roseberry Main Road in Malvern, St. Elizabeth. It is reported that on the day in question the now deceased went to the Malvern Police Station where he violently attacked a W/DC, disarmed her of her service revolver, shot her twice and shot at another officer, and thereafter, fled the station compound with the firearm. The Cpl., who was on duty at the station, pursued the assailant and caught up with him along the roadway walking towards the Roseberry District. When accosted, the assailant pointed the firearm at the Cpl. who, in fear for his life, quickly fired shots from his service firearm at the assailant, hitting him. He was subsequently taken to the Black River Hospital where he was pronounced dead.</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td><strong>27.</strong> Dwight Thomas</td>
<td>On September 15, 2013, Dwight Thomas was shot and killed by a Cpl. along Frazer Avenue in the Westport community of Portmore in the parish of St. Catherine. It is reported that the Cpl. was walking along the avenue, returning home from visiting a friend, when he was accosted and attacked by two men. He drew his service firearm and challenged the men. One of the gunmen opened gunfire at the Cpl. Who then returned</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td><strong>28.</strong> Mario Duhaney o/c &quot;Killa&quot;</td>
<td>On September 20, 2014, Mario Duhaney o/c 'Killa' was fatally shot by police at a dwelling house at Zambia district in Central Village, St. Catherine during an operation to apprehend him. The operation was conducted by police officers from the Mobile Reserve WAT and SWAT, and OCID. It is reported that on arrival at the target premises, the 'breach team,' entered the house and the suspect pointed a firearm and opened gunfire at the police. A Cons., who was at the front of the group, returned gunfire at the said gunman, discharging two (2) rounds from his service 'Glock' 9mm pistol. The gunman was shot and injured, the firearm recovered from him, and he was subsequently rushed to the Spanish Town Hospital where he was pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td><strong>29.</strong> Christopher Lawson o/c &quot;Bitter&quot;</td>
<td>On December 27, 2012, Christopher Lawson o/c 'Bitter' was fatally shot by concerned officers of the Elleston Road Police Station, at Snowden Avenue in the Kingston 3 area. It is reported that around 1:00 a.m., the concerned officers were on mobile patrol duty when they observed a Toyota motor car, registered 4957 GA, driving slowly towards them. This aroused the officers' suspicions and they signalled the driver of the vehicle to stop. However, the vehicle sped away and the concerned officers gave chase. The Toyota motor car stopped along Snowden Avenue at a cul-de-sac and four (4) men alighted from the motor car; two (2) of whom opened gunfire at the police. The police returned gunfire at the men who ran towards a nearby gully. After the shooting subsided, a search of the area was carried out and one of the men was found suffering from apparent gunshot injuries and clutching a .38 'Smith &amp; Wesson' revolver. The concerned officers recovered the revolver and rushed the injured man to the Kingston Public Hospital where he was pronounced dead on arrival.</td>
<td>No criminal charges be laid or disciplinary action be taken against any of the concerned officers. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td><strong>30.</strong> AN UNIDENTIFIED MALE</td>
<td>On October 6, 2014, an unidentified male was fatally shot by at Chesterfield district, Castleton in St. Mary. It is reported that a Sgt. was on duty at the Castleton Police Station on the day in question when he received a report from AM that a suspicious man had come to her business place. She gave the Sgt. a physical description of the man, including that he had an object wrapped in a piece of white cloth stuck inside his waistband. The Sgt., accompanied by a Cons., left the station and went in search of the said man. Whilst travelling along Castleton Main Road, the Sgt. saw a man fitting the description he was given and accosted him. The man ran away and the police, and citizens, chased him. The man attacked the police and citizens with a knife, and jumped on the Sgt., stabbing at him multiple times. In fear for his life, the Sgt. fired one shot</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officer. The file be forwarded to the Special Coroner.</td>
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</table>
### March 2017 (20)

**Table 5: Recommendations by the Legal Department for Commission’s Reports completed in March 2017 on fatal shooting incidents**

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>32.</td>
<td>Rayon Duhaney o/c ‘Boy Boy’</td>
<td>On October 6, 2014, the deceased, Rayon Duhaney allegedly robbed DP with a firearm, taking from DP monies and injuring DP on the left hand and finger. The respondents, one of whom was off duty pursued Mr. Duhaney. Gunfire was exchanged. From the accounts of the civilians, it appears that the shots fired by a Detective Constable caused injury to Mr. Duhaney. Mr. Duhaney was pronounced dead at the hospital. The firearm allegedly in Mr. Duhaney’s possession was submitted to the Government Forensic Laboratory. Ballistic evidence supports the accounts of the civilians and the respondents. A jury would not likely convict the respondents of murder as they acted in self-defence.</td>
<td>In these circumstances the Commission recommends that no criminal charges or disciplinary action be brought. The file is submitted to the Special Coroner for his consideration.</td>
</tr>
<tr>
<td>33.</td>
<td>Kevin McMurrine</td>
<td>The deceased, Kevin McMurrine and another male allegedly assaulted the respondent, a Constable and his girlfriend, RS, on August 30, 2013 at the Waterfront in Downtown Kingston. A firearm was allegedly recovered from the scene. The video evidence and the statement RS support the version of the respondent. As such, a jury would not likely convict the respondent for the murder of Kevin McMurrine.</td>
<td>In these circumstances, the Commission recommends that no criminal charges or disciplinary action. The file is submitted to the Special Coroner of his consideration.</td>
</tr>
<tr>
<td>34.</td>
<td>Rushaine Royale</td>
<td>On Friday, March 9, 2011, the deceased, Rushaine Royale was at a nightclub when he was fatally shot by the respondent, a Special Constable. The respondent alleges that he was attacked by a group of men resulting in him discharging his service pistol. One of these men was fatally shot. Civilian eyewitnesses gave two versions. One of these witnesses, DF states that the deceased was speaking with a male. This man pushed the deceased and another male in the chest. The deceased threw a bottle at the man who had pushed him, but the man, in response, fired at the deceased once. SC states that two men (which included the deceased) assaulted the respondent. The learned Deputy Director of Public Prosecutions made a ruling that the respondent acted in lawful self-defence.</td>
<td>In these circumstances, the Commission recommends that no criminal charges or disciplinary action. The matter is referred to the Special Coroner for his consideration.</td>
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<tr>
<td>No.</td>
<td>Name</td>
<td>Details</td>
<td>Recommendation</td>
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<tr>
<td>35</td>
<td>Unidentified Male</td>
<td>On October 1, 2013, the deceased was shot and killed by the respondents, at Passagefort Drive, Saint Catherine. There is no eyewitness account. The respondents state that the deceased, who had a firearm, tried to shoot at them. In response, they discharged their firearms. Ballistic evidence supports that an attempt to fire was made from the recovered firearm. The Chemistry certificate also shows the presence of gunshot residue on the hands of the deceased. In light of this evidence, it is unlikely that a jury would convict.</td>
<td>In these circumstances the Commission recommends that no criminal charges or disciplinary action be taken. The matter is referred to the Special Coroner for his consideration.</td>
</tr>
<tr>
<td>36</td>
<td>Marcus Gayle</td>
<td>At about 6:00 a.m. on November 20, 2015, a Constable, and civilians: MS, RS, &quot;Kevin&quot;, and CK attended the home of Marcus Gayle. The deceased was heard shouting: &quot;No a no mil&quot; Later he was heard saying: &quot;Lawd Jesus!&quot; Shortly thereafter, the Constable and his accomplices were seen coming from a bushy area along a track towards Marcus Gayle’s house. The eyewitness saw blood on Kevin’s right eye and thought that he was bleeding. However, after further observations and conversation with Kevin, he saw that Kevin was not bleeding. When they passed the eyewitness, he detected the &quot;rawness of blood&quot;, and he saw the men with blood splatter on their clothing. He saw a machete in Kevin’s hand which appeared to have blood on it. When the Constable and his accomplices left the area, the eyewitness walked along the track he had seen them in and discovered the body of Marcus Gayle. He saw several chop wounds on Gayle’s body. His throat was cut, both hands were chopped, and his left foot was also chopped. He took photographs of the body with his cellular phone and left the area. All four (4) civilians were charged. However, the Constable was not charged. The civilians were scheduled to appear in court on November 26, 2015.</td>
<td>Having perused the police investigation of the matter, the Commission confirms the DPP ruling that the Constable be charged for Murder.</td>
</tr>
<tr>
<td>37</td>
<td>Romario Richards</td>
<td>On the 16th October, 2015, the deceased was shot and killed by a Constable in an alleged defence of self. The deceased was in the process of executing an armed robbery at a dwelling house occupied by NR and his spouse. The Constable and other police personnel attached to the Mount Salem Police Station responded and found the deceased there armed. The deceased allegedly pointed a firearm at the Constable who took evasive action and fired three (3) rounds from his service pistol.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. The Commission further recommends that this matter be referred to the Spl. Coroner for a decision to be made as to whether an inquest ought to be held.</td>
</tr>
<tr>
<td>38</td>
<td>Loren Moxam o/c 'Grub Bug'</td>
<td>On February 14, 2013, Loren Moxam o/c 'Grub Bug' was fatally shot by police during an operation to apprehend him in the Frenchman district, Lacovia in St. Elizabeth. It is alleged that Moxam was spotted at a street-dance in the said district and, upon being accosted by the police who identified themselves as such, he pulled a firearm from his waistband and</td>
<td>The Commission recommends that no criminal charges be laid or disciplinary action be taken.</td>
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<tr>
<td>No.</td>
<td>Name</td>
<td>Description</td>
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<tr>
<td>39.</td>
<td>Lundl Mark Thompson o/c ‘Frisco’</td>
<td>On February 3, 2014, Lundl Mark Thompson o/c ‘Frisco’ was fatally shot by police in Denham Town during an operation to apprehend him. It is alleged that police officers from the Kingston Western Division went with a warrant to premises situated at Lot #32, Block ‘B’, Golden Heights in Denham Town and knocked on the front door. The now deceased (Thompson) jumped through a rear window and, when accosted, opened gunfire at the police. The concerned officers returned gunfire at Thompson and he fell, apparently injured. A .45 auto Colt pistol was recovered from him and he was rushed to the Kingston Public Hospital where he was pronounced dead. There were no independent eyewitnesses to the shooting.</td>
<td></td>
</tr>
<tr>
<td>40.</td>
<td>Kevon Davis o/c “Little Man”</td>
<td>On February 6, 2014, the Commission commenced an investigation into the fatal shooting of Kevin Davis o/c ‘Little Man’ which occurred along Dumfries Street in the Kingston Western Police Division. No relative of the deceased came forward to lodge a complaint and there were no eyewitnesses to the shooting. It is reported that the concerned officers were patrolling along Dumfries Street in the Denham Town police area when they were surprised by four (4) gunmen who opened gunfire at the police. The officers returned gunfire and the gunmen ran away; however, during a subsequent search of the area, one of the gunmen was found in a nearby gully suffering from an apparent gunshot injury. He was taken to the Kingston Public Hospital where he succumbed to his injuries whilst undergoing surgery.</td>
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<tr>
<td>41.</td>
<td>Demoy Flowers</td>
<td>On July 3, 2013, at about 11:30 pm, Demoy Flowers was fatally shot by police at the Water Level district, Guys Hill in the parish of St. Catherine. Earlier that night, Mr. Milton Robinson was allegedly murdered at his home in the same Guys Hill community of St. Catherine. Mr. Robinson’s deceased body was found lying face-down in the front of his yard, and the police were summoned to the scene. The concerned officers went to the scene and, whilst processing the scene, information was received from Mr. Robinson’s relatives indicating that someone may be hiding inside the house. A Det. Sgt. entered the house through the bathroom window. Whilst inside, he was attacked by a man who used a knife to stab at him several times. The Det. Sgt. took evasive action and discharged two rounds from his service pistol at the said man who fell to the ground, injured. The injured man was subsequently taken to the Linstead Public Hospital where he succumbed to his injuries.</td>
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<td></td>
<td>Name</td>
<td>Description</td>
<td>Recommendation</td>
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</tr>
<tr>
<td>42.</td>
<td>Marvin Maddo</td>
<td>One June 20, 2013, Marvin Maddo was fatally shot by police at his home at Lot #15 Bryden Street, Kingston 16 in St. Andrew during a joint police-military operation. TM alleges that she was present at the material time. She states that around 5:00 am on the morning in question, she woke up and heard loud knocking on her door. When she opened the door she saw police officers outside. The police asked her whether she lived alone and she told them that her brother was also inside the house. The police removed her from the house and carried her downstairs whilst other officers went upstairs. Shortly afterwards, she heard loud explosions sounding like gunshots and saw the police removing Marvin's body from the house. The police version, on the other hand, is that they knocked on the door to the said premises and immediately heard gunshots coming from inside the house. The concerned officer pushed the door open and saw a man standing inside with a firearm pointing at the police. He fired in the man's direction, hitting him, and the gunman fell. The police tactically entered the house, recovered the firearm and rushed the injured man to the hospital where he was pronounced dead.</td>
<td>No criminal charges be laid or disciplinary action be taken.</td>
</tr>
<tr>
<td>43.</td>
<td>Romaine Hill</td>
<td>On June 15, 2012, Romaine Hill was shot and killed by the concerned officer whilst both were aboard a minibus travelling along the Portmore toll road. It is reported that Hill attempted to rob the concerned officer and passengers at gunpoint and was challenged by the officer. Hill fired several gunshots at the officer, injuring him, and the officer returned gunfire killing Hill.</td>
<td>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken.</td>
</tr>
<tr>
<td>44.</td>
<td>Geraldo Bell o/c “Buju”</td>
<td>On November 6, 2013, Geraldo Bell o/c ‘Buju’ was shot and killed after he pulled a firearm and pointed it at the concerned officers who were attempting to apprehend him. The now deceased was, at the time of his death, a fugitive who had escaped from the Brown's Town Police Lock- Ups in May of the same year. There was a single eyewitness to part of the incident. The matter was reported to INDECOM and investigations thereafter commenced.</td>
<td>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers.</td>
</tr>
<tr>
<td>45.</td>
<td>James Francis</td>
<td>On July 24, 2012, sometime after 6:00 am, James Francis was fatally shot by police at Brooks Level Road in Golden Spring, St. Andrew during an operation to apprehend men who were wanted in connection with a double murder in the area earlier that morning. The police received information that the wanted men were hiding inside a nearby dwelling house. A police team was assembled and dispatched to the target location. On arrival, the police came under gunfire by men who were hiding inside the bushes which surrounded the premises. The police returned gunfire at the men who ran away in different directions. After the shooting subsided, a search of the area was carried out and one of the gunmen was found lying on the ground, injured and clutching a Smith &amp; Wesson .38 revolver. The police recovered the firearm from the injured gunman and he was rushed to the Kingston Public Hospital where he succumbed to his injuries.</td>
<td>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers.</td>
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<tr>
<td>No.</td>
<td>Name</td>
<td>Incident Description</td>
<td>Decision</td>
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<tr>
<td>46</td>
<td>Oshane Griffiths</td>
<td>This report concerned the death of Oshane Griffiths who was shot and killed on the 27th of June, 2011 at the Jamaica Mines. The concerned officers contend that they were on patrol when they were met with gunfire from gunmen; they returned the gunfire in the direction of the gunmen in an attempt to defend their lives. A search of the area was carried out and the deceased was found suffering from gunshot wounds.</td>
<td>No criminal charges be laid or disciplinary action be taken. The file be forwarded to the Special Coroner.</td>
</tr>
<tr>
<td>47</td>
<td>Horace Jomie</td>
<td>Horace Jomie was shot and killed by the police on July 22, 2011 along Waltham Park Road, Kingston. Reports are that two Constables were on mobile patrol duties when they heard explosions sounding like gunshots. They made enquiries of the residents and were told that men with guns were along Marl Road. They went to that location and came upon five armed men, who opened fire at them. They returned fire and the men ran in different directions. They radioed for assistance, and when assistance arrived, they split into two teams and went in the directions the men ran. Two Constables went to the premises at 48 Marl Road and saw a man to the rear. Though they shouted “Police!” the man opened fire at them, causing them to return same, hitting him. He fell to the ground and a Desert Eagle handgun was taken from him. He was taken to the Kingston Public Hospital, where he was later pronounced dead.</td>
<td>Given the foregoing, it is the opinion of this Commission that the matter be referred to the Special Coroner’s Court for the Special Coroner to determine whether an inquest is to be held.</td>
</tr>
<tr>
<td>48</td>
<td>Don Whyte</td>
<td>Don Whyte was shot and killed by police officers on the 28th day of June, 2014 at Fletcher’s Land. The police officers allege that they, acting on information that a wanted man from Jones Town was seen at a particular premise in the New North Street area, went to the premises where they saw a few men standing. On seeing the police, one of the men placed his hand on his waist and ran off to a house on the same premises. The police gave chase but the man pulled a firearm and fired in the direction of the police. One of the officers returned the fire and the man was found suffering from gunshot injuries. He was rushed to the Kingston Public Hospital (KPH) where he was pronounced dead. A .38 revolver, serial number not visible, with two live rounds and three spent casings were recovered. He was identified as Don Whyte who was wanted by the police for Shooting with Intent. There were no civilian witnesses to the incident. The resident close by were unaware of the incident and the identity of the deceased.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Don Whyte.</td>
</tr>
<tr>
<td>49</td>
<td>Allan Mitchell</td>
<td>Mr. Allan Mitchell was fatally shot by the police at his house located at 29 Maple View Road, Kingston 11, on November 5, 2014. According to the police, a team went to a premises located at 29 Maple View Road, and they were confronted by a gunman who pointed at them and fired a weapon. A Constable Stone, who was the person who went into the house and therefore the one to confront the alleged gunman, fired at the man thereby injuring him, the man subsequently died. A firearm was recovered from the incident.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Allan Mitchell.</td>
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<td></td>
<td>Name</td>
<td>Event Description</td>
<td>Recommendation</td>
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<tr>
<td>50</td>
<td>Anthony Powell</td>
<td>On the 11th day of July, 2014, Anthony Powell was shot and killed in Greater Portmore St. Catherine. A Corporal explains that he was on mobile patrol in the said area when he noticed the now deceased on a bicycle. The actions of the deceased aroused his suspicion and so he instructed Mr. Powell to stop; Mr. Powell complied by placing his bicycle on the ground. Mr. Powell however pulled a firearm from his waistband and fired at the officers. The Corporal states that he returned fire at which point the now deceased ran off. A chase and shootout subsequently ensued with the man, police officers and other civilians, to include a retired police officer. The chase of the deceased man ended when Mr. Powell again fired at the officers who returned fire thereby striking and injuring the man. A Sig Sauer firearm along with one live round and one magazine were allegedly recovered from the deceased. This version is supported by another civilian. No contrary account has been received.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Anthony Powell.</td>
</tr>
<tr>
<td>51</td>
<td>Donovan Raffington</td>
<td>Donovan Raffington was shot and killed by a team of officers on the 15th day of August, 2014 at the New Haven Community. The police officers all allege that at approximately 5:20 a.m a group of police officers went to the said community in relation to a persons of interest who were armed and operating in the said area. On arrival at a house located at premises 64, Gordon Terrace, two Constables approached the back of a house; they then saw man with a handgun in his right hand. They instructed the man to drop the weapon but the man, in defiance, pointed the weapon in their direction. A Constable subsequently fired three (3) rounds in the direction of the man who fell to the ground bleeding. The man was taken to the Kingston Public Hospital where he was pronounced dead. They were no civilian eyewitnesses to the incident.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Donovan Raffington.</td>
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**ARRESTS MADE/CHARGES LAID (JANUARY - MARCH 2017)**

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<thead>
<tr>
<th>Name and Rank</th>
<th>Charge</th>
<th>Date of Arrest</th>
<th>State Agency</th>
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<tr>
<td>Cons. David Williams</td>
<td>Murder</td>
<td>7-Feb-17</td>
<td>JCF</td>
</tr>
<tr>
<td>Det. Cons. Ricardo Johnson</td>
<td>Murder</td>
<td>7-Feb-17</td>
<td>JCF</td>
</tr>
<tr>
<td>Sgt. Phillip Currie</td>
<td>Discharge of firearm</td>
<td>29-Mar-17</td>
<td>JCF</td>
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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 2017.
PART THREE

LESSONS LEARNT

Weapon control and De-escalation

Law enforcement officers will often be required to use deadly force to protect us and themselves. These officers must also be trained to endeavour to reduce resort to deadly force and to act proportionately. The shooting incidents of this quarter will each be investigated and recommendations made. At present, they already illustrate important lessons.

The decline in security force fatalities, from above 200 killed per annum, for many years, fell to 115 in 2014. This was a 55% reduction. Fatalities dropped to 101 in 2015 and 111 in 2016.

However, the first quarter of 2017 (Jan – March) has seen a 75% increase in fatal shootings over the same period of 2016; 42 fatalities as against 24 in 2016. NB: 42 fatalities was not reached until mid-May, in 2016.

Fatal shootings in January, 2017, amounted to 19, a figure last observed in January 2014. Explanations provided by the JCF for this increase and subsequent months was reported as a rise in police confrontations with criminal gangs.

Table 1 Comparison data January- March, 2016 and 2017

An analysis of the first quarter shootings reveals that a significant proportion of security force related shootings involved citizens who were either completely unarmed with any weapon, or, with a weapon which was not a firearm. See pictograph below.
Fifty-six (56) people were shot by the Security Forces in the first quarter of 2017. Twenty-six (26) of those people had no firearm recovered from them. Thus nearly half (46%) of all people shot did not have a firearm in their possession.

Eighteen (18) people, of the fifty-six (56), had neither a firearm nor any other weapon recovered from them. This equates to 32%. Thus one third of all persons shot in this period were completely unarmed at the time of shooting.

**Shot & killed**
- Nine (9) people killed had neither a firearm nor other weapon recovered from them.
- Five (5) people had, reportedly, another weapon, other than a firearm. This included: x3 machete, x1 piece of wood, x1 knife.

**Shot & injured**
- Nine (9) people shot and injured had neither a firearm nor other weapon recovered from them. It should be noted that three of these incidents were reported as ‘accidental discharges’, during which two police officers were injured in one incident, (one of them seriously) a child in a second incident, and the other was a missed target.
- Three people shot and injured had, reportedly, another weapon, other than a firearm. This included: x1 bottle, x1 machete, x1 stone(s)

**Additional Observations:**

**Police handling of weapons**
- Three people were shot, owing to poor weapon handling practices. Two were JCF officers - one of whom was seriously wounded, whilst on police premises. There are critical errors arising from the incident which require further training and weapon safety awareness for all JCF members.
- A nine year old child was shot and injured, having gained possession of his father's loaded and 'armed' weapon. Such incidents are entirely preventable with greater weapon control and self-discipline. The shooting injury of the child is the fourth such incident in the past 36 months, whereby an officer's unguarded, insecure weapon has been taken by a child, within the home, with critical consequences to either the child or another.
- Lessons are not being learnt and seemingly insufficient sanctions to deal with infractions which could easily lead to loss of life.

**Missed targets**
- Three incidents involved police officers firing and allegedly missing their intended target. In one case this resulted in the tragic death of a police officer, and in the second, an injury to a 68 year old man in the street. It is noted that neither officer was from an operational background. Firearm use and regular training is an essential element in ensuring a reduction in such events.
- The third involved the fatal shooting of a 50 year old male, within his home, struck by a high velocity round. At time of this report a fourth person has been similarly killed by a misaimed police round striking a male in his home.
- The discipline of aimed shots is noticeably absent from numerous police related shooting incidents. Multiple rounds fired, with very few rounds actually striking an intended target.

**Multiple death incidents**
- It is regularly observed that where multiple fatalities arise, out of a single shooting incident, it is often the situation that the number of weapons reportedly recovered do not correlate with the number of deceased.
- In the three double fatality incidents during this period, only a single weapon was reportedly recovered in each case. In a multiple death incident, involving six fatalities, only four weapons recovered, one of which had not been fired.
- From these eleven Security Force fatal shootings, five were evidently unarmed.

**Other weapons**
- Eight people were shot, five of whom were killed, whilst not in possession of a firearm. Whilst it is fully recognised that other weapons, especially bladed weapons, can cause significant risk to officers and public alike, there is a requirement for less lethal weapons, greater training in officer safety tactics and an awareness in addressing non firearm incidents. It is considered that, with greater care and planning, fatalities and injuries could be curtailed.
- The use of stones. a bottle or a 2' piece of wood, should not, ordinarily, result in any fatality or shooting injury. Particularly where, as in each incident, multiple officers are present and other defence tactics can be considered.
- The machete remains a tool of the rural Jamaican man. The JCF are in regular and frequent contact with such citizens. Three fatal incidents and one shooting injury occurred with men identified as of unsound mind, in possession of a machete.
Recognition of the mental well-being of such men is a critical element which requires leadership and supervision upon attending such scenes with a greater appreciation of the JCF Use of Force policy and planning.

- Tactics of less lethal use of force weapons, retreat, containment, negotiation are all alternative viable tactics.

**Shooting at vehicles**

- Repeated reminders seeking a halt to the practice of shooting at moving vehicles has not been effective. The JCF policy is very clear. Three people, (one, a thirteen year old girl) were shot and injured in vehicles. None were armed with any weapon, but the vehicles were fired upon.

**Summary**

The JCF, through greater leadership, effective sanctions, enhanced firearms awareness and training could significantly reduce the level of fatalities and shooting injuries. Many of these cases did not involve armed or criminal gangs, but rather the unarmed, the elderly, the young, females and men of unsound mind and upon whom the evidence shows were unarmed.

Awareness of the critical factors arising out of these shooting incidents should contribute to a culture of ‘Learning the Lessons’, and enable the JCF to identify opportunities to address the issues being encountered.

Within these shooting cases lie a range of different factors. The data represents a snapshot of a continuing pattern and practice of police firearm incidents, over many years, which arise because of a frequent failure to comply with the JCF Use of Force Policy.

Adherence to a greater firearm discipline, exercise of more restraint, a deployment of less lethal force, and implementation and deployment of tactics involving ‘containment, retreat or negotiation’, could further reduce the fatal and non-fatal shooting incidents.
PART FOUR

PUBLIC INFORMATION

- **Meeting: Security Forces & INDECOM**

Meetings with Security Forces and INDECOM:

In the 1st quarter of 2017, INDECOM senior managers in the Operations Unit had two (2) meeting with members of the JCF High Command and the Inspectorate of Constabulary. The following matters were discussed:

- Body worn cameras
- Statements
- MOU
- Caribbean Use of Force Conference
- Fatal shooting statistics
- Planned operations
- Disciplinary action reviews
- Examination of records at police stations

- **PRESS RELEASES**

For the 1st quarter of 2017, The Public Relations Unit issued 12 press releases. They are as follows:

1. INDECOM investigates fatal shooting of six men in St. James
2. INDECOM investigates fatal shooting of unidentified man in Gregory Park
3. INDECOM investigates shooting injury at Coral Gardens Police Station
4. INDECOM probing fatal shooting of Christopher Fairweather
5. INDECOM probing multiple fatal shootings
6. INDECOM arrests two JCF officers
7. INDECOM probing fatal shooting of unidentified man
8. INDECOM probing fatal shooting of 3 men in St. Catherine
9. INDECOM probing fatal shooting of two men
10. INDECOM probing fatal shooting of unidentified man
11. INDECOM welcomes body worn cameras, inclusion needed
12. INDECOM investigating two fatal shooting incidents

- **OUTREACH – Awareness Exercises**

<table>
<thead>
<tr>
<th>Unit/Division/Station</th>
<th>Group Size</th>
<th>Contact hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>JCF Mounted Troop Division</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>Community Meeting – New Testament Church of God</td>
<td>280</td>
<td>0.5</td>
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<tr>
<td>Cotterwood District, St. Elizabeth</td>
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<tr>
<td>Community Meeting – Mountainside</td>
<td>85</td>
<td>3</td>
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<tr>
<td>Adult Correction Centre – Fort Augusta</td>
<td>23</td>
<td>1</td>
</tr>
<tr>
<td>Rotary Club</td>
<td>22</td>
<td>2</td>
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<tr>
<td>Sewell Avenue</td>
<td>13</td>
<td>2</td>
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<tr>
<td>Courts of Jamaica Public Education Day – Supreme Court &amp; Court of Appeal</td>
<td>110</td>
<td>6</td>
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Page 34 of 37
• MOCA Bill Review

The Bill creates an agency with remit to investigate and prosecute serious crimes and corruption, thus taking over some functions from the JCF. INDECOM is concerned that the proposed arrangements for investigating possible abuses by MOCA officers do not conform to the Constitution.

The agency is a body corporate under the aegis of the Minister of National Security. Sole operational control is vested in the Director General (clause 14) but the Minister directs policy, approves the strategic plan (clause 11), and can instruct the Director General to “provide specified assistance to another law enforcement agency” (clause 9(3)). The Minister also has some control over the membership of the oversight committee (clause 32 (3)) and its investigation of allegations against MOCA’s operatives (clause 34(3)).

The Bill proposes an oversight committee as the exclusive agency to investigate complaints made or to conduct investigations (clause 34). The oversight committee is also charged with other functions of performance monitoring of MOCA. An oversight committee, so created, will be an important internal tool to ensure compliance with targets and standards but, in excluding external oversight, the bill is proposing and arrangement that is contrary to the Constitution. The public are not sufficiently protected against possible abuses by officers of MOCA.

The settled legal principles may be briefly rehearsed. The Constitution protects certain human rights, including life, liberty and the security of the person. An implied procedural obligation follows from this protection, that is, for there to be an official investigation of alleged breaches of these rights. This official investigation must be both effective and independent. Effectiveness indicates that the investigation must be able to identify perpetrators, and where the evidence so provides, lead to the prosecution and punishment of offenders. Independence means that the investigation must be conducted from the outset by personnel who are not part of the same institutional or hierarchical structure as the persons being investigated. In this regard, the principles are also breached where an independent body reviews, or takes over an investigation, that was initially conducted by investigators who shared the same institutional or hierarchical structure as the parties being investigated (see for example: Michael Gayle v Jamaica IACHR Report 92/05 and Ramsahai v Netherlands [2007] 46 EHRR 983).

First, the oversight committee, as proposed, shares the same hierarchical and institutional structure with the officers of MOCA. Any investigation that they conduct touching on possible breaches of the rights of persons will breach the Constitution because of this lack of independence.

Secondly, the oversight committee is not arranged to be able to commence investigations promptly or to conduct investigations in the field. To conduct enquiries the oversight committee will require ministerial permission to bring in external law enforcement investigators (clause 34(3)). This continues to undermine independence. Further, as it facilitates investigations being corrupted at the early stages before possible misconduct comes to the notice of the oversight committee, it engenders ineffectiveness.

Thirdly, the provision of exclusive investigative authority will mean that complaints that would normally be within the jurisdiction of the police or INDECOM will now be solely investigated by the oversight committee. Thus, if a MOCA agent kills someone during an operation, the scene will not be preserved or processed. No statements will be taken until the oversight committee convenes. Once they have convened, they will need to appoint persons to do the “boots on the ground” parts of the investigation. They will have to seek the Minister’s permission. Such an investigation will take, at best, many days to commence. In this time forensic evidence will be lost and collusion facilitated.

These concerns were recognized in various critiques of the former arrangements for the investigation of allegations of human-rights abuses by the JCF. These arrangements were brought into conformity with the Constitution by the Independent Commission of Investigations (INDECOM) Act. Currently MOCA is a formation of the JCF, and its operatives subject to INDECOM investigation. Under s. 2 of that Act, the new MOCA could fall under that effective and independent investigative oversight by ministerial order.

MOCA is obviously modeled on the United Kingdom’s National Crime Agency (UKNCA) as the bill has adopted many provisions of the UKNCA’s parent act, The Crime and Courts Act (UK) (“the UK Act”). Interestingly, by s. 11 (6) of the UK Act, INDECOM’s UK counterpart, the Independent Police Complaints Commission (IPCC), was conferred jurisdiction to investigate the UKNCA.
Caribbean Use of Force in Law Enforcement Conference

Caribbean Use of Force in Law Enforcement Conference

MAY 31 - JUNE 2, 2017
JAMAICA CONFERENCE CENTRE

BACKGROUND & RATIONALE
- Reassess and proportionate use of force and accountability for the use of force remain significant issues for Jamaica and the Caribbean region.
- The English-speaking Caribbean territories have much in common in terms of constitutions and legal systems.
- We record disproportionately high numbers of homicides, and in particular, police involved fatalities.

EXPECTED RESULTS
This initiative will employ the use of the UNODC-OHCHR Handbook, and the knowledge of international experts, to facilitate dialogue toward:

- Drafting a Model Use of Force Policy for Caribbean Security Forces
- Encouraging implementation, or improvement, of jurisdictions legislation and policies regarding use of force by Caribbean Security Forces
- Informing upgraded training on the use of force, and
- Assisting supervisors and oversight institutions in their scrutiny of the use of force.

CAUCUSES
I. Setting the boundaries for Use of Force in Law Enforcement: Concepts & Human Rights Framework
II. Responsibility of Law Enforcement Authorities & Supervisors
III. Instruments of Force & De-escalation
IV. Policing Situations & Detention
V. Monitoring, Oversight & Investigations

PARTICIPATION
- Caribbean Security Forces
- Security Forces oversight bodies
- Human Rights NGOs
- Policymakers
- Technical officers in the Ministries of National Security and Justice

INDECOM JAMAICA
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