



## OFFICE OF THE PUBLIC DEFENDER

*"A Voice of the Voiceless... To Loose the Chains of Injustice"*

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### PRESS STATEMENT FROM THE OFFICE OF THE PUBLIC DEFENDER

#### RE: FINDINGS OF THE JCF ADMINISTRATIVE REVIEW -WESTERN KINGSTON COMMISSION OF ENQUIRY

The findings of the Wray Palmer led JCF Administrative Review as published in today's Gleaner has come as no surprise to the Office of the Public Defender.

We respond as follows:

- 1) The Wray Palmer administrative review committee does not have legal capacity or authority to act as an appellate body or a review body over a Commission of Enquiry established by the Governor General in his representative capacity as Head of the Jamaican State pursuant to section 2 of the Commissions of Enquiry Act.
  
- 2) Based on the article in the printed media, it seems that the Jamaica Constabulary Force administrative review committee has arrogated unto itself, appellate jurisdiction over the Western Kingston Commission of Enquiry (CoE). An administrative review committee has not such authority.
  
- 3) By appointing itself and giving itself appellate jurisdiction over the Hon. David Simmonds Q.C. led Commission of Enquiry the JCF according to the media account **"... has highlighted several instances in which it questioned the procedures used by the commissioners to accept evidence and make its conclusions."** The review committee referred to the Commissioners as **"confused"** **"biased"** **"convenient."** The Office of the Public Defender regards these utterances and findings as contemptuous as the Commission of Enquiry exercises quasi-judicial authority and was properly constituted under the laws of Jamaica.
  
- 4) The posture of the JCF as reported has aggravated the JCF's conduct. And it is a posture which is consistent with that adopted by the police in the May 2010 operation, and does not enure to good order.

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5) If aggrieved, the proper and responsible way of challenging, any report or aspect of a report or finding from a Commission of Enquiry is by way of court action and not through any internal administrative review process.

6) It is known that the Commission of Enquiry heard evidence on oath, conducted its proceedings in public and was open to the world. The same cannot be said of the JCF internal administrative review. Perhaps had the JCF administrative committee taken the time to simply read section 9 of the Commissions of Enquiry Act then it would not have complained about or criticised **"... the procedures used by the commissioners..."**

7) The facts remain, on the Public Defender's account 74 dead, on the police's account 69.

In light of the JCF's stance as published, what now obtains is the impugning of the report of a Commission of Enquiry (lawfully constituted by the representative of the Head of State) by an agency of the State. In our view, this is highly undesirable and equally offensive.

We demand that the JCF WITHDRAWS this report forthwith and the recommendations of the CoE implemented with priority.

  
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Public Defender

August 9, 2017

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