



**18TH
ANNUAL REPORT**

OF THE

**OFFICE OF THE
PUBLIC DEFENDER
OF JAMAICA**

CALENDAR YEAR 2018

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Letters of Submission



OFFICE OF THE PUBLIC DEFENDER

“A Voice of the Voiceless... To Loose the Chains of Injustice”

June 7, 2019

The Honourable Parnel Charles, C.D., M.P., JP
Speaker of the House of Representatives and
Chairman of the Public Defender’s Commission
Gordon House
81 Duke Street
KINGSTON

Dear Speaker:

I have the honour to submit the **Eighteenth (18th) Annual Report** for the Office of the Public Defender for the period **January 2018 to December 2018**.

The Report is submitted pursuant to Section 23 (2) of the **Public Defender (Interim) Act 2000** of Jamaica.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Arlene Harrison Henry'.

Arlene Harrison Henry
PUBLIC DEFENDER



OFFICE OF THE PUBLIC DEFENDER

“A Voice of the Voiceless... To Loose the Chains of Injustice”

June 7, 2019

Senator the Honourable Tom Tavares Finson, C.D., Q.C., J.P.
President of the Senate
Houses of Parliament
Gordon House
81 Duke Street
KINGSTON

Dear President:

I have the honour to submit the **Sixteenth (18th) Annual Report** for the Office of the Public Defender for the period **January 2018 to December 2018**.

The Report is submitted pursuant to Section 23 (2) of the **Public Defender (Interim) Act 2000** of Jamaica.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Arlene Harrison Henry', with a long horizontal flourish extending to the right.

Arlene Harrison Henry
PUBLIC DEFENDER

MISSION STATEMENT

The Office of the Public Defender will, in accordance with the principles of Natural Justice and the Jamaican Constitution, investigate complaints brought by any member of the public against the state, seek redress for Constitutional and Administrative injustice and provide, where necessary and possible, the attorney's fees needed to pursue Constitutional remedies in court.

THE MOTTO

“A voice of the voiceless to loose the chains of injustice”

NOTICE

To: All complainants and visitors to the Office of the Public Defender

“You have a RIGHT to prompt, courteous and
efficient attention and service.

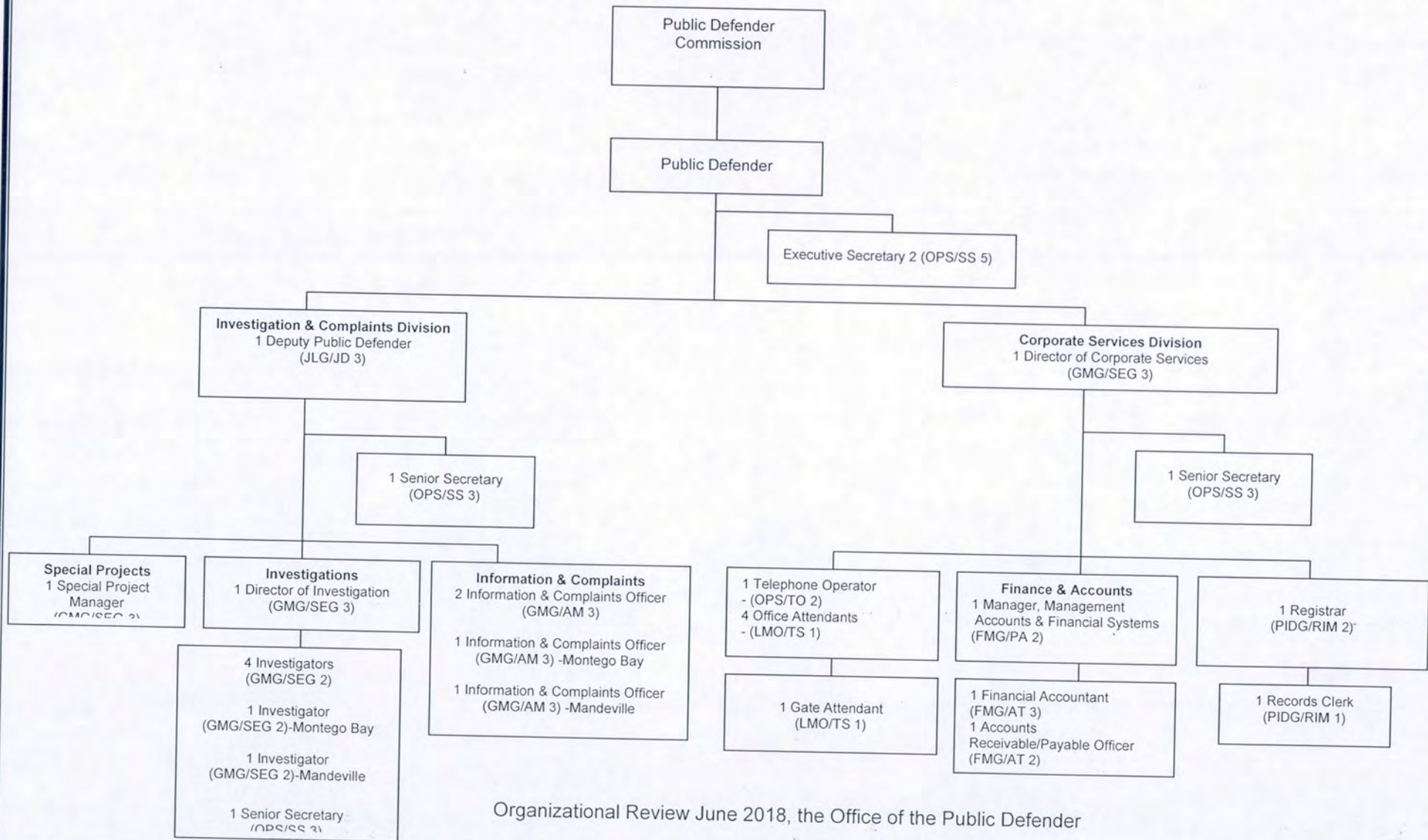
INSIST on it, POLITELY.

The Public Defender

Existing Organizational Chart

Office of the Public Defender

Existing Organisational Structure
Jan. – Dec. 2018



Organizational Review June 2018, the Office of the Public Defender

INTRODUCTION

The Eighteenth (18th) Annual Report in the history of the Office of the Public Defender is hereby submitted for presentation to the Parliament of Jamaica. This Report outlines our core functions and activities conducted within the period **January 02, 2018 to December 31st 2018.**

In accordance with our statutory mandate, the Commission has included the statistics for the period which detailed the amount of complaints received by geographical location, gender, total cases investigated, closed and pending. Enclosed in this Report are copies of some case studies of matters in which we had interventions and “Thank You” letters/cards from our clients. This Commission had also participated in outreaches across the country in which the reports are submitted quarterly but are also included in this report.

Of mention is the special submission to the Internal and External Affairs Committee of Parliament which speaks to how communities and particularly the youth have been impacted by what is euphemistically called by some, special security measures or enhanced security measures in reference to the states of emergency imposed upon some communities.

We endeavour to be more efficient in the delivery of service to complainants and citizens and to be more accessible to all. We were successful in the opening of our western Regional Office which is situated at 4 St. Clavers Avenue, Shop #18, St. Clavers Plaza, Montego Bay, St. James and managed day-to-day by two young Jamaican men.

We now look forward to the opening of our Central Regional Office in Mandeville within the new fiscal year 2019/2020. Sincere thanks and commendations are extended to our valued and sincere stakeholders and to the highly committed staff appointed by the Public Defender. We are therefore proud to say that we remain “A Voice of the Voiceless...to Loose the Chains of Injustice.”

HISTORY OF OFFICE OF THE PUBLIC DEFENDER

The idea of having an Ombudsman in Jamaica came about through the inspiration of Mr. Dudley Thompson, one of our pioneers, when he first spoke about it in 1966. The Ombudsman's Act was passed in Jamaica in November 1978. The Office was located at 78 Harbour Street, until September 2014.

Mr. Errington George Green (E.G Green) was Jamaica's first Ombudsman to start the mission towards justice for all citizens who had suffered mal-administration by the State or its Agencies. He was appointed by the Governor General, Sir Florizel Augustus Gaspole to guide, protect and assist Jamaican citizens who believed they had been wronged and to provide redress where appropriate. Mr. E.G. Green took up the mantle from 1978 to 1990 acting as a guardian of the rights of the people, and held Office for 12 years doing extraordinary work. Mr. E.G Green passed the baton to Mr. Justice James Kerr, a retired Justice of Appeal and former Director of Public Prosecution. Often described as a 'giant of a man,' erudite in the Law with a remarkable sense of humour, Justice Kerr served as Ombudsman for Political Matters for 10 years and was Parliamentary Ombudsman from 1991 to 1998.

He wanted this Commission to achieve its full potential and to be statutorily mandated to protect the constitutionally rights of citizens to meet the growing demands of citizens for justice and fair play. Justice Kerr wrote to Governor General Sir Howard Cooke and the Parliament suggesting that the remit of the Ombudsman be expanded beyond the investigations of allegations of mal administration and to include investigations relative to allegations of constitutional violations.

By April 16, 2000 Parliament enacted the **Public Defender (Interim) Act, 2000**. This Commission, with its new name, Public Defender, and its **expanded jurisdiction** was now under the leadership of Mr. Howard R. Hamilton Q.C. History was made in Jamaica when he became Jamaica's first Public Defender continuing the legacy that previous great men passed on. He gave this Commission eight (8) years

of significant service from the period 1998 -2006, two (2) years as Parliamentary Ombudsman and six (6) years as Public Defender. and On September 13, 2006, Mr. Earl Windsor Witter Q.C.was sworn into Office as Jamaica's second Public Defender by the then Professor Kenneth Hall. He was very eager to begin his tasks in his new place of duty and vowed to carry out his duties confidently on behalf of the Jamaican citizens. Mr. Earl Witter retired on April 7, 2014 and Mr. Matondo Mukulu, Deputy Public Defender assumed Office as the Acting Public Defender on April 7, 2014.

On January 16, 2015, Jamaica welcomed its first female Public Defender, Mrs. Arlene Harrison Henry. She took Office as a seasoned legal practitioner having served at the public and private bar with distinction. Mrs. Harrison Henry was sworn in by the Governor General, Sir Patrick Allen.

Mr. Matondo Mukulu, Deputy Public Defender resigned on July 2, 2015.

Mr. Herbert McKenzie was sworn as the Deputy Public Defender on September 1, 2015. A man of erudition, great knowledge of the law continues to serve the people of Jamaica as the Deputy Public Defender.

Auditor General's Report 2014/2015



AUDITOR GENERAL'S DEPARTMENT
40 KNUTSFORD BOULEVARD
P.O. BOX 455
KINGSTON 5
JAMAICA

Tel. No.: 926-8309/926-5963/926-5846
Fax Number: 968-4690
Email: audgen@auditorgeneral.gov.jm

ANY REPLY OR SUBSEQUENT REFERENCE
TO THIS COMMUNICATION SHOULD BE
ADDRESSED TO THE AUDITOR GENERAL
AND NOT TO ANY OFFICER BY NAME
AND THE FOLLOWING REFERENCE
QUOTED: 501-1601-60-5-3

February 18, 2019

Accounting Officer
Office of the Public Defender
22-24 Duke Street
Kingston

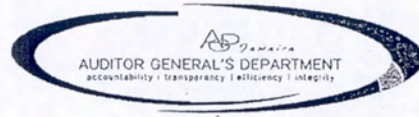
RE: CERTIFIED APPROPRIATION ACCOUNT: HEAD 0300-OFFICE OF THE PUBLIC DEFENDER 2014-15

Pursuant to Section 28 of the Financial Administration and Audit (FAA) Act, please find enclosed the certified Appropriation Account in respect of Head 0300 - Office of the Public Defender for financial year 2014-15.

A handwritten signature in cursive script, appearing to read 'K. Salmon'.

Kelisha Salmon (Ms.)
for Auditor General

Encl



HEAD 0300
OFFICE OF THE PUBLIC DEFENDER
AUDITED APPROPRIATION ACCOUNT
FOR FINANCIAL YEAR ENDED
MARCH 31, 2015

The Office of the Public Defender – Head 0300
Appropriation Account
Year ended March 31, 2015

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AUDITOR GENERAL'S DEPARTMENT
P.O. BOX 455
KINGSTON 10
JAMAICA

Email: audgen@auditorgeneral.gov.jm

AUDITOR GENERAL'S REPORT

To the Accounting Officer
of the Office of the Public Defender

Opinion

I have audited the accompanying Appropriation Account of the *Office of the Public Defender - Head 0300 (Recurrent)* which comprises the Appropriation Account by Objects, Activity/Projects and Explanatory Statement of the causes for variation between approved estimates and expenditure as at March 31, 2015.

In my opinion, the attached Appropriation Account is a fair representation of the financial transactions for the year ended March 31, 2015 in accordance with Section 24 I (1) (a) (b) of the Financial Administration and Audit Act.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the *Auditor's Responsibility for the Audit of the Appropriation Account* section of this report. I am independent of the *Office of the Public Defender* in accordance with the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (IESBA Code) and I have fulfilled my other ethical responsibilities in accordance with the IESBA Code. I believe that the audit evidence I obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, were of most significance in my audit of the Appropriation Account for the year ended March 31, 2015. These matters were addressed in the context of the audit of the Appropriation Account as a whole and in forming my opinion thereon. I have determined that there is no key audit matter to report.

Management's Responsibility for the Appropriation Account

The Accounting Officer is responsible for the preparation and presentation of the Account in accordance with the Financial Administration and Audit Act. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and presentation of the Appropriation Account that is free from material misstatement, whether due to fraud or error; applying the requisite government accounting policies; and ensuring that transactions and events are executed in accordance with laws and regulations that are appropriate in the circumstances.

Auditor's Responsibility for the audit of the Appropriation Account

My responsibility is to express an opinion on the Account based on my audit. I conducted my audit in accordance with the Financial Administration and Audit Act and the auditing standards issued by the International Organization of Supreme Audit Institutions (INTOSAI). Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the Appropriation Account is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Account. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement in the Appropriation Account, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the preparation and presentation of the Appropriation Account in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of the explanations provided by management, as well as evaluating the overall presentation of the Appropriation Account.

As part of an audit in accordance with ISSAIs, I exercised professional judgment and maintained professional skepticism throughout the audit. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

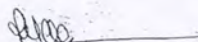
I also:

- Identified and assessed the risks of material misstatement of the Appropriation Account, whether due to fraud or error, designed and performed audit procedures responsive to those risks, and obtained audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Obtained an understanding of internal controls relevant to the audit in order to design audit procedures that were appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls.
- Evaluated the appropriateness of accounting policies used and related disclosures made by management.
- Concluded on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the Appropriation Account or if such disclosures are inadequate to modify my opinion. The conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern.
- Evaluated the overall presentation, structure and content of the Appropriation Account including the disclosures, and whether the Appropriation Account represents the underlying transactions and events.

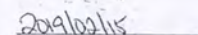
I have communicated with Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that were identified during the audit.

Report on Additional Requirements of the Financial Administration and Audit Act

I have obtained all the information and explanations, which to the best of my knowledge and belief were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Appropriation Account is in agreement therewith and gives the information required in the manner so required.



Auditor General



Date

**Auditor General's Report for the years 2012/2013; 2013/2014; 2015/2016; 2016/2017 –
are outstanding from Auditor General's Department of Jamaica**

STATISTICS

OFFICE OF THE PUBLIC DEFENDER
2000 - 2018

Particulars	Figures	Total
Number of complaints received from 2000 - 2017	13,164	
Number of complaints received in 2018	350	
Total number of complaints received from 2000 - 2018		13,514
Number of complaints closed from 2000 - 2017	9,189	
Number of complaints closed in 2018	117	
Total number of complaints closed from 2000 -2018		9,306
Number of complaints pending as at 2017	3858	
Number of complaints pending for 2018	233	
Total number of Complaints pending as at 2018		2,151
Total Non-Investigatory and Consultation Cases for 2018	292	
Number of Cases closed in 2018	117	
Total Number of Cases Closed for 2018		409

Registry January to December 2018 Report Cases by Agency

Complaints by Agencies

Agency

Accountant General	9
Admin Gen Dept	2
CDA	2
Court	12
Child Protection & Family Services Agency	1
Firearm Licence Authority	2
Financial Services	2
Govt Forensic Lab	1
Housing Agency	1
JA Council of Persons Disability	1
Ja Fire Brigade	2
JUTC	1
KSAMC	2
LAMP	1
Min of Econ Growth & Job Creation	2
Min of Finance	5
Min of Justice	6
Min of Local Govt	6
Min of Transport & Works	3
Min of Industry & Commerce	1
Min of Agriculture	1
Min of Education	19
Min of Health	19
Min of Housing	1

Min of Labour & Social Security	24
MONS/JCF/DCS(not including complaints from SoE)	111
Min of Science Technology & Energy	1
Parish/Municipal Council	4
Natl Rd Operaton Company	1
NEPA	2
NHDC	1
NHT	7
NLA	3
Non Authority	10
NWA	3
NWC	7
OUR	2
PICA	1
PMMC	4
Port Security	1
RGD	1
SLB	10
Strata Commission	2
Tax Administration	1
Transport Authority	2
WML Municipal Council	2
UDC	1
Grand Total	303

Complaints by Gender

Gender

Female	128
Male	174
Other	1
Grand Total	303

Complaints by Age

Age

20-25	1
20-30	1
21-30	9
31-40	13
41-50	15
51-60	23
60-70	1
61-70	20
Over 60	1
Over 70	9
Unknown	210
Grand Total	303

CASE MANAGEMENT & STATISTICAL ANALYSIS
 THE OFFICE OF THE PUBLIC DEFENDER
 WESTERN REGIONAL OFFICE
 PERIOD: JANUARY 10, 2018 - DECEMBER 31, 2018
 INVESTIGATOR - DAVID CLARKE (JANUARY - DECEMBER)
 INFORMATION AND COMPLAINTS OFFICER - PHILEMAN WYNTER (JULY - DECEMBER)

Authority	Cases & CNI						Gender			Parishes					Age Breakout				
	Total Cases	Closed Cases	Total Ongoing Investigations	% Closure Rate	Consultations & Non-Invigatory Interventions	Total Cases & CON/OWN	Males	Females	Total	St. Elizabeth	St. James	Westmoreland	Hanover	Trelawny	Total	Age (Yrs)	Male	Female	Total
Jamaica Constabulary Force	24	5	19	21%	13	37	19	18	37	0	33	2	2	0	37	0-20	2	1	3
Jamaica Defence Force	0	0	0	-	1	1	1	0	1	0	1	0	0	0	1	21-30	5	2	7
National Housing Trust	1	0	1	0%	1	2	1	1	2	0	1	0	1	0	2	31-40	3	4	7
Ministry of Labour (NLS)	4	1	3	25%	0	4	2	2	4	1	3	0	0	0	4	41-50	9	7	16
Ministry of Labour & Social Security	0	0	0	-	1	1	1	0	1	0	0	1	0	0	1	51-60	7	3	10
Registrar General Department	1	0	1	0%	1	2	1	1	2	0	2	0	0	0	2	61-70	8	3	11
Ministry of National Security	1	0	1	0%	0	1	1	0	1	0	0	0	0	1	1	71 & UP	3	12	15
Accountant General Department	0	0	0	-	8	8	2	6	8	0	7	1	0	0	8	Unknown	3	1	4
Western Regional Health Authority	4	0	4	0%	0	4	2	2	4	0	2	1	0	1	4				
Western Regional Family Court	0	0	0	-	1	1	1	0	1	0	1	0	0	0	1				
St James Health Department	1	0	1	0%	0	1	1	0	1	0	1	0	0	0	1				
St James Municipal Corporation	4	0	4	0%	0	4	2	2	4	0	3	0	1	0	4				
Jamaica Fire Brigade	2	0	2	0%	0	2	0	2	2	0	2	0	0	0	2				
Institute of Sports	1	0	1	0%	0	1	1	0	1	0	1	0	0	0	1				
Ministry of Justice	1	0	1	0%	0	1	1	0	1	0	1	0	0	0	1				
Admin. General	0	0	0	-	1	1	1	0	1	0	1	0	0	0	1				
Department of Corrections	1	0	1	0%	1	2	2	0	2	0	0	1	1	0	2				
Tax Administration Jamaica	0	0	0	-	1	1	0	1	1	0	0	0	0	0	1				
Transport Authority (Jamaica)	1	0	1	0%	0	1	1	0	1	0	0	0	0	1	1				
Miscellaneous (Outside of remit)	1	1	0	100%	7	8	6	2	8	1	6	1	0	0	8				
Totals	47	7	40	15%	36	83	46	37	83	3	65	7	5	3	83		45	38	83

RANDOMLY SELECTED CASE STUDIES

C321/16

The Office of the Public Defender investigated a matter which was brought to the Office. The Complainant stated that she had worked with the Ministry of Education but was not in receipt of a pension.

Upon investigations we were informed that she had not attained the years of service which would qualify her for a pension. This complainant had also done several surgeries and felt that she could no longer perform her duties after so many procedures. In this case an assessment by a Medical Board would have to be conducted and she be deemed unfit to carry out her duties.

The complainant's file was examined at the institution where she worked and a letter from the Permanent Secretary was observed. This letter requested that medical records be submitted to allow for consideration by a medical board in that regard. However, the Complainant had resigned thereafter as she had not received such information.

We therefore submitted a Special Report to the Ministry of Finance and the Public Service along with a copy of the comprehensive medical reports from the doctors. Finally, in July 2018 a Cabinet Decision was received which gave approval for her to receive a pension. Several contacts were also made with the Accountant General's Department and eventually we were advised that a gratuity was lodged to her account. We were also advised that an amount in respect of pension would be received on a monthly basis.

The file was therefore closed.

C57/16

The Office of the Public Defender received a complaint from a citizen stating that he had worked with the National Water Commission (NWC) and had sustained injuries whilst working on the job. The Complainant reported that because of the injuries he received, he had undergone several surgeries and which left him with a partial disability. As a result of this disability, he would not be able to work again.

Subsequently, this Commission began an investigation and after making several contacts with the NWC all was proven futile as the NWC refused to respond to our request. We therefore sought the assistance of an Attorney-at-law to represent this complainant. This was to ensure that the limitation period had not expired before receiving redress.

The complainant has since advised OPD that the matter was remedied in favour of the complainant.

The file was subsequently closed.

C151/15

A Complaint was made to the Office of the Public Defender by a complainant who sustained injuries received whilst walking on the roadway. The Complainant informed us that on January 29, 2015 at approximately 7:00 p.m., she was walking along the roadway on Molyne's Road when she came upon a little ditch in the vicinity of Cowper Drive. She further stated that whilst trying to avoid the rut her right foot went into a ditch between the sidewalk and the roadway. She was assisted by passers-by who took her from the ditch whilst her daughter came and took her to the hospital.

She suffered a right hip fracture and had to be further transported by ambulance to the Kingston Public Hospital (KPH). There she received treatment until her discharge. She therefore sought the assistance of the Public Defender in securing compensation for the injuries received and for other medical expenses.

The OPD conducted an investigation into the matter in which the National Works Agency (NWA) advised us that they were not liable due to the common law principle of nonfeasance. The nonfeasance stated that a highway authority was not liable for injuries to road users due to failure to repair the highway.

Nonetheless the Attorney General Chambers suggested that an ex-gratia payment be offered to her. She indicated her acceptance of the ex-gratia payment which was deposited to her bank account. The Complainant also confirmed receipt of the payment during her visit to this Office.

In light of the foregoing, the file was closed.

C169/18

The Complainants submitted to the Office of the Public Defender a statement regarding their Marriage and the Bridal Certificate. They said that later they submitted an application to the RGD to acquire Marriage Certificates, however they were told by the entity's representative that the document which was previously received was fraudulent. They were also directed to take the matter to the Court.

The Complainants retained an Attorney-at-law to handle their case with the RGD, however all of this was proven futile. The Complainants therefore sought the intervention of the Public Defender who investigated the matter with the RGD.

As a result of the intervention of this Commission, the RGD produced and delivered two (2) copies of Marriage Certificates evidencing the solemnization of their marriage and a letter of apology. They were also offered a refund of the service fee that was paid at the time of their application and also instructions were given as to the procedure to be followed in order for a refund to be obtained.

The couple received all relevant documents which were produced and the file was closed.

C41/18

The Complainant stated that she was employed as a Resource Assistant, with the Ministry of Education, for nine and a half years (9 ½) years before she was terminated. The period of employment was from 2007-2016. She further explained that she was employed on a contractual basis in which renewal of the contracts were done on a three (3) or six (6) months basis. However, for the most part throughout the last six (6) years it was done annually.

She was sent on vacation leave for three (3) weeks after her attendance at a General Meeting where she learnt by way of letter that her position had been made redundant. This was as a result of the restructuring process conducted by the Ministry of Education. She was also told that the new positions would be competitive and therefore would be advertised both internally and externally.

The Complainant applied for one of the positions advertised but to date had not received any response to her application.. She made several contacts with the Executive Director but to no avail. She felt that her years of service were undermined and wrote specifically to the Human Resources Manager regarding a gratuity payment. She however had not received a response.

Subsequently, the Office of the Public Defender intervened in this matter. A submission was prepared by the entity to the Ministry of Finance and the Public Service for a compassionate gratuity for her years of service to be considered.

The Complainant received the payment thereafter and the file was referred for closure.

C78/18

This complainant wrote to this Office seeking our assistance into her matter. She stated that she was pursuing a Bachelor's in Education Degree, specializing in Visual Arts at the Mico University College in August 2013. The complainant said she believed that this would have been a two (2) year course.

She said that although her tuition was paid in full from 2014, most of her grades were unavailable to her. She also had attended summer classes to complete her degree and could not understand why she was meted out with such scant treatment hence her complaint to us. She had meetings with the Dean of Faculty of Humanities and Liberal Arts concerning her missing grades. She stated that she had been trying to get a feedback regarding the outcome but to no avail.

Consequently, this Commission of Parliament wrote to the University College and requested to be apprised of the matter concerning the missing grades. A response was derived thereafter in which the gaps were recognized and detailed. In answer to our query the University College prepared the complainant's Progress Report and she was advised that she would have to complete the outstanding courses as well as additional courses to complete the programme.

This Commission advised the complainant and she expressed her gratitude for our assistance.

The file was closed.

C184/17

The Complainant stated that she took the decision to register her child in the name of her current boyfriend as oppose to the name of the biological father. She said the reason was the fact that the biological father was not playing an active role in the life of the child.

Subsequently, the circumstances changed and the biological father requested that the child be allowed to bear his true name.

The three (3) parties agreed, that is, the mother, the biological father and the step father to undergo a DNA test. The result established that the child was not fathered by the boy friend. The matter was brought before the Family Court and the Judge ordered the cancellation of the original birth registration form. The child was therefore to be re-registered, this time bearing the surname of his biological father and not the surname of his mother's current boy friend.

The Complainant said that when the Court Order was presented to the Registrar General's Department, she was advised to take it back to the Family Court as the name could not be changed. She therefore sought the intervention of the Public Defender.

The Public Defender wrote to the RGD and after several follow-up communications, the Court Order was effected. She was then advised by the Office of the Public Defender to proceed with the application for the new Birth Registration for her son.

The File was therefore closed as there was no further challenge/problem in this regard.

C81/18

This matter was brought to the attention of the Public Defender in which the complainant stated that when his father died, he received a Funeral Grant. He was however told that there was also an additional sum to be received as a benefit.

He made several trips to the National Insurance Head Office at the National Heroes Circle but was told to check back on each occasion. He therefore sought the intervention of the Public Defender in getting the additional amount.

The Public Defender initiated investigations into this matter and it was confirmed that there was indeed an outstanding benefit to be paid. The matter was pursued and the application for the outstanding amount approved. The cheque was received and handed over to the complainant who was very pleased and extended his appreciation for the job well done done by the OPD.

The File was subsequently closed.

SPECIAL REPORT TO PARLIAMENT

THE SUBMISSIONS- OFFICE OF THE PUBLIC DEFENDER

INTRODUCTION

1. By letter of September 27 2018 the Internal and External Affairs Committee (IEAC) of Parliament invited the Office of the Public Defender to make submissions, on how key stakeholders have been impacted by the "...special security measures..."
2. The IEAC in examining the current states of public emergency now commonly and euphemistically referred to as the "special security measures" or "enhanced security measures," has invited key stakeholders to provide feedback on how they have been impacted by these measures.
3. The Terms of Reference under which the IEAC is conducting its examination of these "special security measures" is quoted below:
 - (a) examining all matters relating to the foreign policy of the Government, and analyzing the implications and likely effect thereof on Jamaica;
 - (b) examining treaties and other international agreements and advising the Parliament of their likely impact on Jamaica; and
 - (c) examining matters relating to national security and the administration of justice and making recommendations to Parliament thereon.
4. By virtue of its statutory remit, the Office of the Public Defender would be impacted in ways that impel the Office to focus on matters which relate to Term of Reference C. The thrust of this presentation therefore is primarily with respect to the States of Public Emergency (SoPE), and secondarily the Zones of Special Operations (ZoSO).

5. At the time of compilation of this presentation, the special security arrangements in force are:-
- (a) a ZoSO in Mount Salem St. James declared on 1st September 2017
 - (b) ZoSO in Denham Town declared on the 17th October 2017
 - (c) SoPE in St James declared on 18th January 2018
 - (d) SoPE in St. Catherine North Police Division declared on 18th March 2018.
 - (e) SoPE in West Kingston and St. Andrew South Police Divisions declared on the 23rd September 2018.
6. As can be readily appreciated, a State of Public Emergency and a Zone of Special Operation are entirely different measures: in scope, origin, jurisdiction, and execution.
7. While the ZoSO is the prerogative of the Prime Minister and is statutorily limited to a localised geographical area, the SoPE is by proclamation by the Governor General, and invariably carries a wider geographical reach. In fact, it can lawfully be declared to cover the whole Island, but not so, for a zone of special operation.

A STATE OF EMERGENCY

8. A SoPE is brought into being by proclamation by the Governor General for the purpose of sub-section (4) of section 6 of the Constitution. The Governor General makes the proclamation when he is satisfied that any of the two conditions set out in section 2 of the Emergency Powers Act exists. That is to say—
- “(a) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity; or
 - (b) that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.”

9. By exercising his powers under the said Emergency Powers Act, the Governor General makes Regulations for the conduct of Government Departments and Agencies during the period of the public emergency.
10. Prior to the 18th January 2018 there have been five proclamations declaring the existence of states of public emergency in Jamaica. They occurred in:
 - (a) October 1966 – reportedly triggered by political violence in the West Kingston constituency ;
 - (b) June 1976 – as a result of allegations of attempts to overthrow the existing Government;
 - (c) September 2004 – in anticipation of Hurricane *Ivan*, for the mass evacuation of hundreds of thousands of people in all 14 parishes;
 - (d) August 2007 – which lasted for two day, and was in the wake of the passage of Hurricane *Dean*; and in
 - (e) May 2010 – in Kingston, St. Andrew and St. Catherine in the attempt to execute a warrant of arrest for the extradition of Christopher “Dudus” Coke.

THE STATE OF EMERGENCY IN ST. JAMES

11. The SoPE was declared in St. James on Thursday 18th January 2018. The parish, covering an area of 594.9 km² or 229.6 square miles and with a population of 183,811 (as per the 2011 census), was in the throes of persistent and rising levels of crime, having recorded 335 murders in the previous 12 months. This was the highest amongst all Police Divisions.
12. The security forces commenced the detention of persons immediately upon the announcement of the proclamation.
13. The use of special powers of arrest and detention is the means used by the security forces to address any situation whether in a state of emergency or otherwise.
14. This SoPE has since been extended thrice, and there is an intention for further extension or extensions. Such an extension or extensions would see it at least equaling or outstripping the duration of the 1976 state of emergency. This time, however, both sides, the Andrew Holness led Jamaica Labour Party Administration and the Dr. Peter Phillips Opposition who would have come

together to provide the necessary two thirds (2/3) majority of all members of both Houses of Parliament for the extensions of the states of emergency.

Apprehensions, Detentions and Searches – St. James

15. The St. James Division of the JCF sends to the OPD daily, data on detainees for the previous 24 hours. The data comes to us in what the police describe as “State of Emergency Release Form Booklet.” This data includes Excel work sheets labeled Release Booklet; S.O.E. Detainee Total; Prisoner in Custody; Legal Aid List; Detention Order Request.
16. Up to October 9, 2018 three thousand six hundred and eighty-seven (**3,687**) persons, primarily young men have been detained by the security forces since the declaration of the SoPE on January 18, 2018 in St. James.
17. A detained person is someone who is deprived of his liberty, that is, locked up, without having been convicted or remanded by a court of competent jurisdiction for an offence.
18. This number referred to at paragraph 16, is not static and even as I am making this presentation people are being detained. The number increases every day, as citizens of St. James, young and old alike, are scraped up off the road, on their way to work, at football fields, at pool parties, or other recreational activities, from shops, from churches, at funerals or from their communities, and taken into police custody. That is, they are deprived of their liberty, locked up behind bars at the Freeport Police Station and kept with persons who are charged in the regular system of criminal justice having nothing to do with the SoPE.
19. Women, and children are not excluded. The record up to October 9, 2018 discloses that at least two (2) have been taken into custody, and are kept at the lock up at the Cambridge Police Station. Children are housed in the Barrett Town Police Station Lock Up.
20. At the time of preparing the first submissions, dated October 12, 2018, previously sent to Parliament, the most recent data available to this Office, was at October 9, 2018, and provided by the J.C.F. It revealed that of the number of persons taken into detention up to then in the parish, was **one hundred and thirty-nine (139)** of those detainees have been charged with criminal offences. This means that **three thousand five hundred and forty-eight thousand (3,548)** young men were scraped up out of

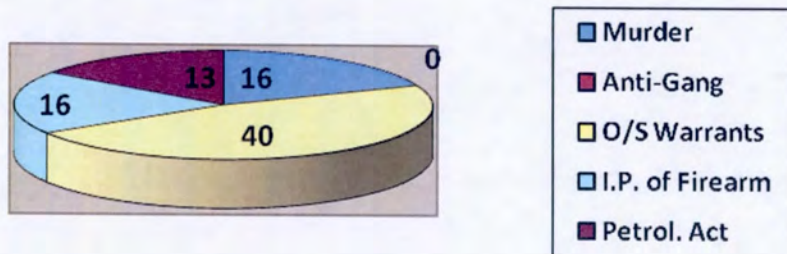
their communities, separated from freedom, families, their normal activities and put into police custody under the SoPE, then processed and released.

21. According to the data of the Jamaica Constabulary Force, some of the offences for which the **one hundred and thirty-nine (139) detainees brought into custody under the SoPE** have been charged are:

Murder	16
Illegal possession of firearm	16
Shooting with intent	6
Wounding with intent	2
Human trafficking and child pornography	7
Abduction and rape	1
Assault occasioning grievous bodily harm	1
Harbouring a fugitive	1
Unlawful wounding	3
Breach of the Petroleum Act	13
Simple larceny	3
Indecent language	10

The other charges relate to:

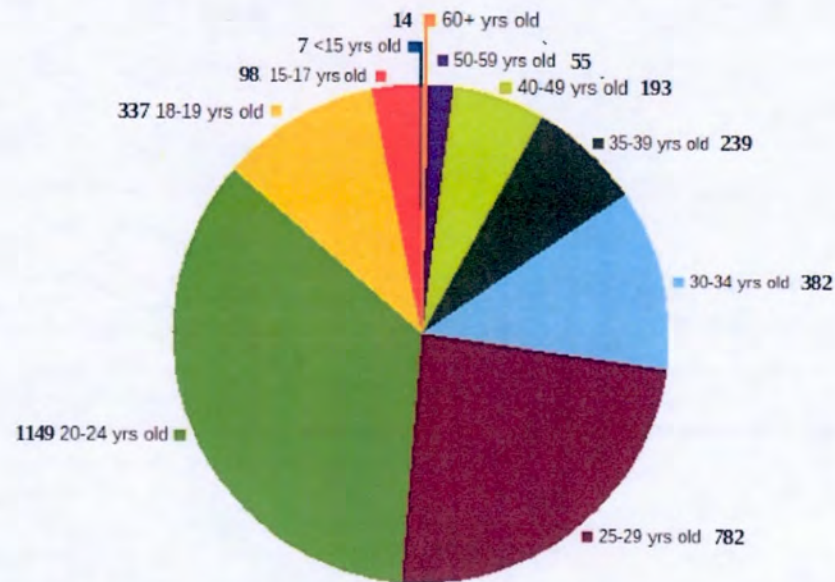
Possession of ganja	1
Dealing in ganja	1
Breach of the Immigration Act	1
Obstructing of the police	1
Over staying in the country	1
Breach of curfew	1
Exposing goods for sale in a no vending area	3
Noise nuisance	4
Outstanding warrants	40



22. It is to be noted that outstanding warrants whether for traffic matters, family/maintenance matters or otherwise are strictly speaking not criminal offences. These persons have breached court orders.
23. One hundred and thirty-nine (139) persons charged represent a mere 3.92% of the total number of persons detained. It is observed that, the situation represented in the data remains the same, more or less, since the end of June 2018.
24. Young males, have been the target or focus of security operations under the SoPE. The stand out communities from which these males originate include Flankers, Salt Spring, Rosemount, Glendevon, Granville, Ramble, Rose Heights, Catherine Hall, Norwood, Mount Salem to name a few.
25. The age of those detained range from as low as fifteen (15) to seventy (70) as per JCF data.

26. At Freeport, the main detention centre and the St. James Divisional Headquarters, persons are kept in a caged area. Some are released from the cage and others are placed in the cells with persons who have been charged for criminal offences.
27. Up to **November 16, 2018** JCF record shows that four thousand and eighty four (4,084) persons had been detained under the SoPE.
28. On average it takes about three to seven days or longer to process each person brought into custody. Processing consists of the detainees being interviewed, photographed and fingerprinted. The information gathered is stored in the JCF criminal data base and no copy of the *“information”* gathered is given to the detainee and there appears not to be any limitation on how long this data will be retained.
29. Regulation 30 of the Emergency Powers Regulations, 2018 empowers an authorized person to take photographs, fingerprints, measurements, and descriptions of any person detained. The information including fingerprints, photographs, measurements and descriptions of detained *“may”* be preserved by the security forces after the detainee has been released.
30. There is no provision in the Emergency Powers Regulations 2018 which provides safeguards as to how the *“information”* gathered on detainees is to be kept, the appropriate security clearance to gain access to the information, in what circumstances should the *“information”* be called into use. Nor is there any oversight mechanism over the *data* gathered.
31. Some of these persons were picked up on the way to work with work identifications and others without identification. According to the police the processing of detainees without identification took longer than those with identification. (Anecdotally there is evidence to the contrary.)
32. It has been reported to the OPD repeatedly that members of the security forces, (both JCF and JDF) demand photographic identification from persons in a manner to suggest that being without a photographic identification is an offence against the law and a basis for detention.
33. Where identity is not proved such a detainee will not be released until his identity is established to the satisfaction of the security forces.
34. As at October 9, 2018 there were twenty six detainees (26) locked up in the Freeport Police Station who cumulatively have spent **two thousand seven hundred and eight days (2,708) or seven point four one years (7.41) since January 18, 2018. And even after this inordinate length of time, there is yet to be a determination of their fate.**

Number of Detainees by Age Group on Detention



- b) The Table below groups persons by age at the time of detention. Some of the dates of birth provided were clearly wrong including some in 2018. As such, in addition to the missing dates of birth, some others were excluded in the data-cleaning process. Below there are 807 of 4,060 records or nearly 20% for which there is no date of birth. In the second table the Mean, Median, Mode and Range for the data is provided. Age is measured in completed years (age at last birthday).

Age Group on Detention

Age of detainee	Frequency	Percent	Valid Percent	Cumulative Percent
<15 yrs old	7	.2	.2	.2
15-17 yrs old	98	2.4	3.0	3.2

b) The Table below groups persons by age at the time of detention. Some of the dates of birth provided were clearly wrong including some in 2018. As such, in addition to the missing dates of birth, some others were excluded in the data-cleaning process. Below there are 807 of 4,060 records or nearly 20% for which there is no date of birth. In the second table the Mean, Median, Mode and Range for the data is provided. Age is measured in completed years (age at last birthday).

Age Group on Detention

Age of detainee	Frequency	Percent	Valid Percent	Cumulative Percent
<15 yrs old	7	.2	.2	.2
15-17 yrs old	98	2.4	3.0	3.2
18-19 yrs old	337	8.3	10.4	13.6
20-24 yrs old	1146	28.2	35.2	48.8
25-29 yrs old	782	19.3	24.0	72.9
30-34 yrs old	382	9.4	11.7	84.6
35-39 yrs old	239	5.9	7.3	91.9
40-49 yrs old	193	4.8	5.9	97.9
50-59 yrs old	55	1.4	1.7	99.6
60+ yrs old	14	.3	.4	100.0
Total	3253	80.1	100.0	
Missing	807	19.9		
System				
Total	4060	100.0		

Statistics

Age on detention

N	Valid	3253
	Missing	807
Mean		26.8506
Median		25.0000
Mode		22.00
Minimum		8.00
Maximum		78.00

- c) The average period of detention was approximately four and a half (4 1/2) days, specifically 4.4 days, with one thousand two hundred and forty-four (1,244) persons detained for two (2) days. There was one instance where the period of detention was two hundred and twenty-five (225) days.
- d) The data showed that eighteen persons were detained for over 90 days (3 months). Of this eighteen (18), three (3) persons were *each* detained for over 200 days. These eighteen persons up to then have spent cumulatively, a total of two thousand five hundred and forty five days (2,545), roughly 7 years, in custody.
- e) The table below summarizes the information on the time spent in detention. Note that there are 929 missing cases. This is due to the fact that either the date of detention or the date of release was missing, or in some cases both. In addition, there were invalid dates and in at least 20 cases the date of release was before the date of detention. Such cases had to be discarded.
- The mean, median, mode and range (minimum and maximum) for the duration of detention is presented in the table below. The total number of days for which persons were in detention is provided as a Sum. The days in detention are taken to include the day detained and the day released.
- (Assuming that the persons, for whom data is missing, spent on average the same amount of time in detention, this would represent an additional 4,097 days for a cumulative total of 17,907 days. This is approximately 50 years.)

Statistics

Number of Days Detained
(Same day released is
considered 1 day)

N	Valid	3131
	Missing	929
Mean		4.4104
Median		2.0000
Mode		2.00
Minimum		1.00
Maximum		225.00
Sum		13809.00

This fifty (50) years of imprisonment represents fifty (50) years worth of lost employment and lost opportunities.

The following table shows the periods of detention and the number of persons detained for the corresponding periods.

Number of Days Detained (Same day released is considered 1 day)

Number of days detained	Frequency	Percent	Valid Percent	Cumulative Percent
1.00	648	16.0	20.7	20.7
2.00	1244	30.6	39.7	60.4
3.00	445	11.0	14.2	74.6
4.00	238	5.9	7.6	82.2
5.00	115	2.8	3.7	85.9
6.00	100	2.5	3.2	89.1
7.00	78	1.9	2.5	91.6
8.00	56	1.4	1.8	93.4
9.00	27	.7	.9	94.3
10.00	33	.8	1.1	95.3
11.00	12	.3	.4	95.7
12.00	11	.3	.4	96.0
13.00	15	.4	.5	96.5
14.00	7	.2	.2	96.7
15.00	6	.1	.2	96.9
16.00	3	.1	.1	97.0
17.00	7	.2	.2	97.3
18.00	2	.0	.1	97.3
19.00	5	.1	.2	97.5
20.00	5	.1	.2	97.6
21.00	3	.1	.1	97.7
22.00	4	.1	.1	97.9
23.00	8	.2	.3	98.1
24.00	1	.0	.0	98.1
25.00	3	.1	.1	98.2

Number of Days Detained (Same day released is considered 1 day)

Number of days detained	Frequency	Percent	Valid Percent	Cumulative Percent
26.00	3	.1	.1	98.3
27.00	1	.0	.0	98.4
28.00	3	.1	.1	98.5
29.00	3	.1	.1	98.6
30.00	1	.0	.0	98.6
32.00	3	.1	.1	98.7
33.00	6	.1	.2	98.9
35.00	1	.0	.0	98.9
41.00	1	.0	.0	98.9
42.00	1	.0	.0	99.0
46.00	2	.0	.1	99.0
49.00	2	.0	.1	99.1
53.00	1	.0	.0	99.1
55.00	1	.0	.0	99.2
63.00	1	.0	.0	99.2
66.00	1	.0	.0	99.2
74.00	1	.0	.0	99.3
75.00	1	.0	.0	99.3
77.00	1	.0	.0	99.3
78.00	1	.0	.0	99.4
82.00	1	.0	.0	99.4
89.00	1	.0	.0	99.4
91.00	2	.0	.1	99.5
92.00	1	.0	.0	99.5
94.00	1	.0	.0	99.6

Number of Days Detained (Same day released is considered 1 day)

Number of days detained	Frequency	Percent	Valid Percent	Cumulative Percent
97.00	1	.0	.0	99.6
102.00	1	.0	.0	99.6
108.00	1	.0	.0	99.6
113.00	1	.0	.0	99.7
128.00	1	.0	.0	99.7
138.00	1	.0	.0	99.7
141.00	1	.0	.0	99.8
149.00	1	.0	.0	99.8
168.00	1	.0	.0	99.8
176.00	1	.0	.0	99.9
191.00	1	.0	.0	99.9
218.00	1	.0	.0	99.9
223.00	1	.0	.0	100.0
225.00	1	.0	.0	100.0
Total	3131	77.1	100.0	
Missing	929	22.9		
Total	4060	100.0		

Multiple Detentions

37. There were numerous instances of multiple detentions, i.e. the same person being detained subsequent to his release from an earlier detention (referred to here as multiple detentions)
38. A study of the data contained in the JCF's Release Booklet, disclosed 3740 records for persons detained. Of these, there are notations for 10 which suggest that the detainee identified came back into custody. It should be noted that more than 150 names appear multiple times in the data. Given such a large number of persons were detained, it could be expected that there would be persons with the same name.

39. In analyzing the data, it was considered whether the person had the same date of birth or if the person's name was a common one. The other spreadsheets were also analyzed to see if the information provided was similar.
40. In carrying out this analysis account was taken of what appeared to be mistaken data. So if a name appeared with the same birthday and same address except that if in the birth date the month was denoted by 5 in one instance and by 6 in the other, we concluded that this was the same person. The difference in spelling, such as White and Whyte was also considered. Given the quality of the data, we believe that this is a fair assumption that differences may have been due to poor data capture.
41. Based on the above, we have concluded that 110 persons have been detained more than once. Given that there are over 150 names repeated in the spreadsheet it may be that the number of persons taken in more than once is more than 110. At least one (1) person appears to have been detained 4 times. Another eight (8) have been detained three (3) times.
42. The police identify 10 persons as being detained multiple times. But the data identifies over 150 names repeated.
43. One of the limitations on the analysis, is not knowing how the police obtained the name, date of birth and address of the individual. If this is not obtained from a reliable source then it is possible that the multiple detentions are more frequent than is suggested by the data.
44. The deficiency in the data is captured in the table below. It can be seen that information vital to the accuracy of the data is, in hundreds of cases, missing. The less than desirable data-keeping has implication for citizens' rights.

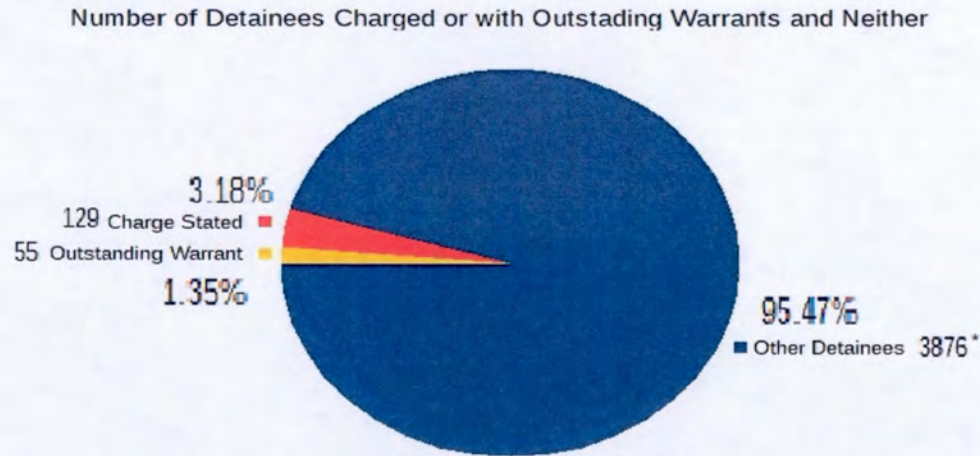
Table 1: Missing Data by Variable (Total Cases 4060)

Variable	Number of Missing Cases	Percent of Missing Cases
Address	253	6.2
Date of Birth	259	6.4
Date in Custody	656	16.2
Date Released	401	9.9

Reasons for Detention

45. On the data provided by the JCF, there was no reason, in the case of persons who were never charged, assigned for detention. The detainee’s custody cards simply stated “SOE” or “SoPE” as the reason for detention. Further, the JCF’s data is devoid of any record of an investigating or apprehending officer in the cases of detention, as would be required by virtue of Regulation 30 of the Emergency Powers Regulations, of January 18, 2018. The data shows, beyond challenge, that the majority of persons detained, “processed” and released without being charged were not detained in accordance with the provisions of Regulation 30, but still apprehended and kept in custody, purportedly by the use of the said Regulation.

46. The Pie chart below makes the point:



* Note includes names on all lists and involves duplications and multiple detentions

The table below lists actual offences for which 153 detainees were charged.

Reason Persons Held and Offence for which Persons Charged

Abduction	1
Assault	1
Assault OB Harm	3
Assault of a Constable/Police Officer	3
Bail Condition, Breach of	2
Child Pornography	7
Curfew Order, Breach of	1
Disorderly Conduct	2
Emergency Powers Act, Breach of	2
Exposing Goods for Sale	3
Failure to comply with terms and conditions of Provisional Dr. License	1
Fraudulent Conversion	1
Ganja, Dealing in	1
Ganja, Possession of	2
Harbouring a Fugitive	1
House breaking	1
Human Trafficking	7
Identity Information/Possession of Identity Information	5
Illegal Possession of Ammunition	1
Illegal Possession of Firearm	12
Immigration Act, Breach of /Over staying In the Country	3
Indecent Language	9
Larceny	1
Larceny from the Person	2
Larceny, Simple	4
Law Reform Act, Breach of	5
Main Road Act, Breach of	1
Malicious Destruction of Property	1
Murder	22

Murder, Conspiracy to	1
Murder, Reasonable Suspicion of	0
Noise Abatement Act, Breach of /Summons Noise Abatement Act	4
Obstructing Police	1
Obtaining money under false pretence	1
Offensive Weapon	6
Offensive Weapon ,possession of in a Public Place	1
Petroleum Act, Breach of	13
Rape	1
Receiving Stolen Property	1
Robbery with aggravation	1
Shooting with Intent	9
Shop Breaking	1
Shop Breaking, Attempted	1
Threat in the view of Police	1
Wounding with Intent	3
Wounding, Unlawful	3
TOTAL	153

It is to be noted that “*Person of Interest*”, “*SOE*”, “*VP*” (Violence Producer) and “*Warrants*” are not offences. Similarly, “*Reasonable Suspicion of Murder*” is not an offence.

The Emergency Powers Review Tribunal (EPRT)

47. The EPRT established pursuant to Regulation 38 of the Proclamations, Rules & Regulations (the Regulations) was comprised of:
- Mr. Ian Wilkinson QC - *Chairman*
 - Mr. Justice Lloyd Hibbert QC, CD Retired Supreme Court Judge
 - Dr. Rev David Henry, Attorney-at-Law
48. The EPRT after hearing extensive submissions from the lawyers for the detainees; from the lawyers from the Attorney General Chambers; from the Public Defender; and from the lawyer for the JCF, ruled that it had no jurisdiction to hear any objection in the absence of Detention Orders.

49. The first set of Detention Orders was not issued by the Minister until April 2018. To date, a total of 18 such Orders have been issued. Sixteen (16) of the persons to whom these Orders relate, objected and their objections were heard by the EPRT. One man, who had a criminal case pending, has since been convicted and is serving a prison sentence. He has therefore not pursued any objection. And there is one who has not objected, or at least not yet filed an objection.

OBSERVATIONS

50. The bases of the detentions are not intelligence driven.
51. The detentions are arbitrary and mainly random, without any legal basis and aimed at particular groups of youth in certain communities. The actions of the JCF and the JDF are largely discriminatory, aimed at young males from particular communities.

CONDITIONS OF DETENTION – FREEPORT POLICE STATION LOCK UP, MONTEGO BAY

52. Freeport Police Station Lock-up is the hub of the activity in the SoPE. With the mass detentions and the ill preparedness of the JCF there was not enough space to accommodate the detainees, resulting in massive overcrowding in the cage and cells. Neither has bedding or proper ablution facilities. In some instances only standing room was available much less a space to lie down and sleep at night.
53. Needless to say, not even card board or newspaper was provided to the detainees on which to sit or sleep.
54. Persons under 18 years of age were also detained and were kept in the same overcrowded, appalling deplorable and shameful conditions. The conditions under which detainees are kept at the Freeport Police Station are unbelievably disgraceful and a shame on Jamaica and our national identity.
55. Detainees are not persons who are charged and in the vast majority of cases, as demonstrated by the statistics herein, are not persons who are even reasonably suspected of any criminal activity. They have been picked up and at gunpoint and loaded on the back of a truck.
56. These young men are locked up at the Freeport Police Station Lock Up with persons who are charged.

57. There is a cardinal principle, apparently unknown to the J.C.F. and other authorities, that detainees are not to be housed in the same space with persons who are charged for criminal offences. A part of a detainee's description within the J.C.F.'s record, is the cell to which he is assigned. Detainees and persons charged are comingled, mixed and blended throughout the lock up.
58. The physical conditions under which detainees and those charged are kept are abject, subhuman and unfit for human habitation. In plain language, *disgraceful!*
59. Those conditions include overcrowding, a lack of such amenities as basic as lighting and ventilation. The cells are hot, filthy, dirty, with wet floors, and walls.
60. Concrete floor is their only bed.
61. Each cell is about 8feet x10feet which houses at least 6 men. There is a small window, inadequate in size to bring in natural light. There is no internal sanitation such as a toilet or a wash basin. Detainees are given buckets for their waste.
62. It is the position of the OPD that the manner in which persons are detained, and the condition under which the detainees are kept is an assault on the dignity of each person. It is the position of this Office that all persons deprived of their liberty whether a detainee or otherwise shall be treated with respect for the inherent dignity of the human person.

REPORTS FROM THE MINISTRY OF HEALTH

63. In monitoring the conditions of the detainees at the Freeport Police Station Lock Up the Office of the Public Defender relied on the services of the Public Health Department of the Ministry of Health, St James.
64. In response to an allegation of overcrowding at the Freeport Police Station Lock Up, a team from the Ministry of Health visited on January 26, 2018. The Team found:
 - a) one hundred and sixteen (116) persons occupying thirty (30) cells.
 - b) the absence of hand washing facilities
 - c) inadequate ventilation and lighting and they received reports of delay in meals and the development of skin rashes.

65. By January 31, the Ministry of Health's team returned to the Freeport Police Station and on that occasion diagnosed and reported on the condition of detainees. They were:
- (a) ten (10) with fungal rashes,
 - (b) one (1) with scabies,
 - (c) four (4) had respiratory illness,
 - (d) three (3) had injuries,
 - (e) three (3) had gastrointestinal problems and
 - (f) one (1) had a urinary tract infection.
66. Out of a visit to the Freeport Police Station Lock Up on April 17 2018 the Health Team reported:
- (a) overcrowding with on average six (6) to eight (8) persons to a cell
 - (b) non- functioning toilets
 - (c) the absence of hand washing facilities
 - (d) soiled shower walls
 - (e) excess dampness,
 - (f) accumulated water on grounds in shower area
 - (g) inadequate ventilation
 - (h) heavily soiled exhaust vents resulting in the inadequate removal of odours, particles and other volatile organic compounds from the indoor air quality and may cause respiratory conditions
67. By April 24, 2018 there was a massive outbreak of gastrointestinal illnesses affecting one hundred and five persons in the cells (105) who had to be treated.

68. The Health Team expressed the view that the absence of proper hand washing strategies among cell occupiers resulted in possible faecal-oral transmissions of diseases.

FOOD AND DIET

69. It is now a notorious fact that the Government provides the sum of **three hundred dollars (\$300)** per detainee for the provision of three (3) meals per day.
70. Detainees complained:
- (a) of hunger
 - (b) that meals are always late and grossly inadequate
 - (c) the meals taste bad
 - (d) that black tea (which is sugar & water), or ceresse with dry bread is served for breakfast.
71. The Health Team noted that the food served to cell occupiers is not:
- (a) always maintained at safe temperatures
 - (b) stored in an enclosed place and the garbage receptacle is not lined or covered in the food handling area.
72. From our own observations we have seen the black tea and dry bread and we have observed the late delivery and service of lunch. On one occasion, late evening, the food that was in various black scandal bags awaiting distribution, had a putrid smell.
73. Photograph of the food piled up for detainees is attached as Appendix 1.
74. The July 2018 report from the Health Team showed no improvement to the physical condition of the Lock Up.

PROVIDERS OF FOOD/DIET

75. In the report of January 27, 2018 the Health Team noted based on information received from the J.C.F. that food for the detainees was sourced from Mason's Restaurant at the Summit Police Station, and from Thrifty Gas Station Restaurant located on Barnett Street.

76. On a visit to the Freeport Police Station on Friday March 23, 2018 we observed a notice prominently displayed on wall of the guardhouse. The sign faced the shed where families of the detainees wait. The notice contained information reproduced below, to wit:

“NOTICE

With immediate effect Persons detained in the State of Public Emergency will only be allowed visit on visiting days i.e. Tuesday for surnames A-M and Thursday N-Z. Relatives of detainees are allowed to pay for meals at Thrifty Petrol Station on Barnett Street. (across from the Police Station)”

A copy of the Notice is attached as Appendix 2

77. Families complained to the OPD that the police at the Freeport Police Station instructed them to buy meals “at the Thrifty Petrol Station.” Relatives lamented the high price of the meals and the fact that they were never given receipts for their purchases.
78. When the Public Defender brought this matter to the attention of Superintendent Campbell his response was that he had no knowledge of the notice. At the cells the police alleged that detainees wanted food from the Thrifty Petrol Station as it was a status symbol.
79. The Public Defender mentioned this to the Commissioner of Police and shortly thereafter the sign was removed and that arrangement aborted.
80. We observed that the food was always late, strewn about, as if it was intended for the feeding of pigs.
81. An additional photograph of the food and the handling thereof is attached as Appendix 3.

LOGISTICS AND PLANNING FOR A STATE OF EMERGENCY

82. It is plain that the logistics of the operation for a state of emergency was not clearly thought out or at all and, certainly very little thought, if any, given to the processing, accommodation, health and well being of detainees. Absolutely no arrangement was put in place for the handling of detainees.
83. When this Office and the Legal Aid Council brought to public attention the fact that detainees were in a cage the JCF quickly reduced the number of detainees in the cage by placing them in cells on the cell block.

84. The J.C.F. and the authorities thus compounded the problem, making the situation more egregious by co-mingling and persons charged for criminal offences.
85. The existence of a state of emergency does not in any way justify the mal-treatment of detainees, or others who come into police custody.
86. Between the JCF and the JDF there seems to be uncertainty as to the operational command. Similarly, there was uncertainty as to administrative command, at least on the part of the JCF. This dominant uncertainty led to the police at the Divisional level adopting the posture that they the police were merely keepers of persons detained. And that was the extent of their responsibility.
87. So poor was the logistics and ill-prepared was the authorities, that in an attempt to alleviate the over-crowding of the lock-ups in St. James, a truck-load of male detainees was transported to St. Andrew. They were supposed to have been accommodated at the Horizon Adult Remand Centre facility in St. Andrew, pursuant to an announcement by a government official. However when the truck arrived at Horizon, the Department of Corrections which manage and operate the Horizon facility, denied any knowledge of such arrangement, and indeed had no place prepared for that influx of detainees. In the end the truck had to turn around and return to Montego Bay without a soul disembarking.
88. Detainees reported that they had to answer nature's calls on the truck. And that for the entire day and the entire period of the travel, in the heat, no food was served. In fact, it was the police officers at their personal expenses who provided to these detainees to the extent that they could.
89. According to the St. James Divisional Commander, Senior Superintendent Wilfred Campbell, at the time of the Public Defender's first visit to Freeport Station in late January 2018, the police had no responsibility for apprehending anybody. That, he said was the role and responsibility of the JDF, and that the JCF was only responsible for the keeping of persons detained by the JDF and sent to them the police.
90. Even if the Senior Superintendent was to be believed, his understanding was entirely inconsistent with the execution of the operation, and indeed with that which was transpiring on the ground.
91. The Office of the Public Defender surmised that the approach of the Senior Superintendent set the tone for the treatment of the persons being held in the police lock ups in the parish.

92. A sheltered area was made available at the front of the Police Station yard for visiting family members. This was however temporarily discontinued and family had to line-up outside the station yard and wait their turn to take in food and other items on visiting days.
93. On visiting days family deliver food and clothing to the police station for the person in custody. It is not an opportunity to spend time with one's loved one. While the food and clothing are searched by the police the detainee remains in the cell.
94. Family members and neighbours complained bitterly about the lack of information from the police with respect to their loved ones in the lock up. Family wanted, and rightly so, to know why their loved one was picked up by the police, what was processing and when he would be released. Many sat under the shed powerless, waiting for word from the police. Some spent nights under the shed.
95. The police claimed that each one who complained was already apprised of the detainee's status. This was not so.
96. This is not to say that they were not officers who assisted in providing information to family members, and who made calls for detainees to advise that he was in lock up, or to bring identification. There is however no structured form of communication between families and the police about persons detained.
97. In large measure many of the police officers demonstrated a cavalier attitude; an attitude exacerbated with each extension of the state of emergency.

THE STATE OF EMERGENCY IN ST. CATHERINE NORTH

98. The SoPE was declared in St. Catherine North Police Division on the 18th March 2018. The St. Catherine North Police Division does not include the highly populated area of Portmore. It encompasses the areas falling under the responsibility of the following thirteen (13) police stations: Above Rocks; Bog Walk; Brown Hall; Ewarton; Fellowship Hall Police Post; Glengoffe; Guanabo Vale; Guys Hill; Linstead; Point Hill; Riversdale; Shady Grove; Sligoville; and Spanish Town.
99. While St. Catherine North is geographically larger than St. Catherine South, the latter accounts for a significantly greater portion of the population of the parish. By extension, the South, in which Portmore is situated, has a far higher population density.
100. St. Catherine is geographically the third largest parish, behind St. Ann and St. Elizabeth; and the second most populous behind St. Andrew. It has an area of 1,992.4 km² (or 769.1 square miles) and a population of 516,218 according to the 2011 census.

101. In 2017 the parish recorded a total of 242 murders with St. Catherine North accounting for 134. Between January 2018 and March when the SoPE was declared, St. Catherine North had approximately 40 murders recorded.
102. As in St. James, the detention of persons commenced immediately as the declaration was made. The detainees are housed at a space provided at the Tamarind Farm Adult Correctional Centre on the outskirts of Spanish Town.
103. OPD has been severely handicapped to make full submissions on the State of Emergency in St. Catherine North as the JCF has failed to provide OPD with sufficient information on this operation.

Apprehensions, Detentions and Searches

104. As at October 1, 2018 the information received from the J.C.F. revealed that 5,832 persons were detained. Of that amount 374 remained in custody (3 females included) and 51 charged. Some of the offences for which the detainees were charged are:-

Murder	5
Illegal possession of firearm and ammunition	6
Sexual intercourse with persons under sixteen	4
Assault o.b. harm	2
Breach of RTA	1
House breaking	3
Shooting with intent	3
Breaches of anti gang legislation	12
Indecent assault	1
Breaches of the SoPe Regulation	1
Fraud	2
Lottery scamming	3
Malicious destruction of property	1
Rape	1

105. The detainees appear to be mainly from St. Catherine, and a small contingent from St. James, Clarendon, St. Ann, St. Andrew and St. Thomas.
106. The age of these detainees range from nineteen (19) to the early fifties (50's).
107. Of the 374 detainees, including 14 females and 1 juvenile there were three (3) persons who had exhausted 100 days and have not been charged and not taken before a court.
108. There is also situation where persons were detained twice in the same SoPE, despite presenting a Detention and Release slip to the officers.

CONDITIONS OF DETENTION – TAMARIND FARM ADULT CORRECTIONAL CENTRE, ST. CATHERINE

109. The facility at Tamarind Farm is of a higher humane standard, than that at the Freeport Police Station in St. James. The cells at the facility have basic lighting, ventilation and contain bunk beds with single mattresses and sponges. There are also toilets and shower areas in all the cells.
110. Detainees are housed in dormitories and we witnessed no instance of overcrowding unlike the situation in St. James.
111. Food served on a daily basis is often late and appear to be insipid and not good for human consumption. The meals are often discarded by the detainees. It is not uncommon for police officers to share their meals with detainees.
112. There is the recurrent problem of the late serving of what passes for meals, as the breakfast is often served with dinner. The tea and drinks are delivered in 5-gallon oil bottles.
113. The two (2) most evident processing areas in the SoPE – St. Catherine North are Jamaica Police Academy in Twickenham Park and Rosemount Community Centre in Linstead.
114. The detainees at Tamarind Farm are housed independently of those charged.
115. Those who are charged are taken to the Lock-up at the Spanish Town Police Station, or the Division of interest.

116. Each cell holds approximately fifteen (15) detainees.

PROVIDERS OF FOOD/DIET

117. It was conveyed that the food for the detainees is prepared in Linstead.

118. Family members were allowed to take food and drinks for their family members, which is then repackaged into soft containers, i.e. clear plastic bags.

119. The conditions observed at Tamarind Farm are in stark contrast to those at the Freeport Police Station in Montego Bay.

The Emergency Powers Review Tribunal (EPRT)

120. The EPRT established pursuant to regulation 38 of the Proclamations, Rules & Regulations (the regulations) was comprised of:

- Mr. Garth McBean QC - *Chairman*
- Mrs. Dorothy Lightbourne QC, former Attorney General
- Rev. Pusey

The Office of the Public Defender has some concerns about the composition of this Tribunal, as there is the potential for the development of conflicts of interests on the part of some of the members.

121. The Tribunal is yet to commence its sittings because according to the Chairman, no objection has yet been received. One lawyer from Spanish Town has however said that he was not aware of the location of the Secretariat, or where the EPRT will be holding its sittings, hence he does not know where to file the objection.

STATE OF EMERGENCY IN WEST KINGSTON AND SOUTH ST. ANDREW

122. As in the case of St. Catherine North, OPD has been severely handicapped to make full submissions on the State of Emergency in West Kingston and South St. Andrew as the JCF has failed to provide OPD with the requested information on this operation.

123. This SoPE was declared on the 23rd September 2018. Geographically it covers the areas of Arnett Gardens; Central Downtown; Denham Town, Greenwich Town; Hannah Town; Jones Town; Tivoli Gardens; Trench Town; Rose Town; and Whitfield Town.

According to the Prime Minister, this SoPE is “*part of a wider plan to degrade and erode the capacity of criminal organizations to operate and control these spaces*”. It has been extended and will run certainly to the end of the year.

Apprehensions, Detentions and Searches

124. So far we have not been able to obtain any definite information from the police as to how many persons have been detained.
125. However, persons detained are being kept at Tamarind Farm Adult Correctional Centre.
126. Information coming to this Office suggests that thus far over 1000 persons have been detained and processed. Of that amount 24 persons remain in custody.
127. Apart from this information the OPD has not been provided with any data with respect to the State of Emergency in West Kingston and South Saint Andrew.

The Emergency Powers Review Tribunal (EPRT)

128. As far as the Office of the Public Defender is aware, at the time of the preparation of these submissions, the members of the EPRT have not yet been appointed.

IMPACT ON THE OFFICE OF THE PUBLIC DEFENDER

129. There is an increase in the number of complaints received from family members of detainees. Based on our remit, as the gatekeepers of human rights, our responsibilities have been heightened and we have to ensure a constant vigilance and presence at these detention facilities.
130. These SoPE’s have stretched our limited resources, and have made us appear to be averse and antagonist to the “...enhanced security measures...” Quite the contrary!
131. In an effort to fulfill our sworn duties/mandate, we are accused of obstructing the police from carrying out their duties. On one occasion in the St. Catherine North SoPE the PD asked Inspector Dodd who headed a team of 3 in the process of interrogating a

shackled detainee “if he had advised the detainee of his right to have an attorney-at-law present”. In response, to the query the PD and her team were accused of obstructing the police. The PD was regaled with a string of obscenities. The police officer announced that the PD was telling a police officer of “... **over 31 years of service how to do his fucking job...**” He said further, that he was going to log that he was obstructed from doing his work by the PD and her team and he would detain him for 90 days.

RECOMMENDATIONS

132. That upon detaining an individual the Community and Safety Department does a follow through to make sure that children and the elderly for whom the detained is responsible are not left unattended.
133. Where a detainee has a prior appointment that an intervention team seek to make contact with the entity to verify same, and seek to expedite the processing of the detainee.
134. Reduction in the processing time to 48 hours.
135. That the police allow the detainees to make contact with their families before their phones are confiscated.
136. That liaison officers be appointed to provide information from the JCF to family members.
137. That there be a cessation in the violation of Regulation 30. For clarity it provides :

“30.—(1) An authorized person may arrest, without warrant, and detain, pending enquiries, any person whose behavior is of such a nature as to **give reasonable grounds for suspecting** that he has—

- (a) acted or is acting in a manner prejudicial to the public safety; or
- (b) has committed, is committing, or is about to commit an offence against these Regulations.

(2) ... (5)... “

[Emphasis added]

138. There have been a handful of detention orders applied for by the JCF and even fewer signed by the Minister of National Security. It is a stretch of the imagination to see how persons playing football could have come within regulation 30(1), so as to justify arrests and detentions by the police. It is another stretch to rationalize how it is that a young male picking up someone at a pool party could be detained along with those at the pool party. Eventually after spending three weeks in detention custody, one who was an organizer of the pool party, was charged for breach of the Noise Abatement Act taken to court and fined five thousand dollars (\$5,000.00) and released by the court. The police however took three weeks to take this young man to court.
139. Regulation 30 demands that there has to be:
- (a) behaviour of such a nature as to give reasonable grounds for suspecting that a detainee has acted in a manner prejudicial to public safety or
 - (b) that the detainee has committed, is committing, or about to commit an offence against the Regulations
140. Regulation 30 not only demands demonstrated behaviour of a particular nature; it also calls for “pending enquiries” or ongoing investigations about each detainee taken into custody.
141. A minimum of three thousand five hundred and forty-eight (3,548) young men were taken into custody, detained and then released. This Office says the detention of most was unlawful.
142. The security forces have interpreted Regulation 30 in a manner that gives them authority to and at will detain young men “pending enquiries.” Their understanding of the expression “pending enquiries” relate to, for example, taking fingerprints and matching those prints against police records etc.
143. The Regulation however speaks to behaviour, present and past that gives rise to reasonable grounds for a detention. The expression “pending enquiries” as used in Regulation 30 calls for an investigation or enquires based on conduct. It does not mean taking persons into custody and then embarking on enquires as now obtains.
144. Regulation 30 provides its own regime of detention and appears to or may be interpreted to exclude court’s intervention for at least three (3) months.
145. In effect the powers vested in the security forces under the SoPE has nothing to do with their power to arrest without warrant or to detain as they can already do so without emergency powers. The real effect of the Regulation 30 is to put into the hands of the police, the power to keep a citizen in custody for at least three (3) months without judicial intervention.

146. A SoPE is a tool designed to deal with an emergency situation; it is a tool the purpose of which is to rapidly bring back normalcy to the community.
147. The numbers of murders and serious crimes having been reduced in the parish of St. James and other areas, that the parish returns to normal policing.
148. That those who have suffered from unlawful detentions be compensated whether in money, schooling or employment.
149. That the three hundred dollar (\$300) per person for three (3) meals be uplifted to a realistic daily sum.
150. That detainees picked up under the SoPE not be housed with persons who are charged.
151. That detainees be housed in facilities outfitted with beds, running water, ventilation, bathroom facilities, adequate food commensurate with each being a human being.
152. That the JCF contacts duty counsel for each detainee from the moment of detention.
153. That the security forces devise and agree on a uniform document for the Detention and Release Form to be used in all SoPE.
154. That the security forces and in particular the police cease and desist from ripping up, throwing away or otherwise discarding the Release and Detention Slip presented by a detainee upon his second or subsequent detention.
155. Body cameras be worn by officers operating within the SoPE.
156. The appointment of the EPRT and the naming of its members immediately after the declaration of a SOPE.
157. Amend the laws to expressly allow a detainee to apply to the EPRT at **any** time including on the date of his detention.
158. That Parish Court Judges be sensitized to the fact that the remedy of habeas corpus does not cease to exist with the proclamation of or during a state of emergency.
159. The relevant Minister should sign detention orders with promptitude otherwise persons end up being held at the pleasure of the police.

160. Reconsider the imposition of a SoPE in an area where a Zoso already exists if that Zoso has already entered its building phase.

In closing, this Office commends those members of the security who acted honourably and who have demonstrated humanity in exceedingly difficult circumstances.

ARLENE HARRISON HENRY
PUBLIC DEFENDER
NOVEMBER 19, 2018

CORPORATE AND SOCIAL RESPONSIBILITIES

The year 2018 was characterized by the Office's heavy involvement in States of Emergency (SoE). The first was declared on the 18th January for the parish of St. James. Later in the year States of Emergency were declared in St. Catherine North Police Division, and Kingston West.

One of the notable developments of 2018 was the relocation of OPD's Western Regional Office to its own space. It was moved out of the office of the Consumer Affairs Commission, to our space at Shop No.18 St. Clavers Plaza on St. Clavers Avenue.

The Office continued the enquiries into socio-economic and living conditions of the survivors of the April 1963 Coral Gardens incident. These enquiries were as a result of the request of the Prime Minister, following the full report presented earlier.

CONSULTATIONS and NON-INVESTIGATORY INTERVENTIONS

There were over 120 non-investigatory interventions by the investigating and complaint staff. These included consultations; quick-resolved matters and consultations by walk-in complainants.

COURT, TRIBUNALS, AND COMMITTEES ATTENDED

There were a number of days in 2018 when the Public Defender had to be, or had to be represented in, or otherwise involved in various courts and tribunals.

Supreme Court

On invitation the Public Defender attended the special sitting of the Supreme Court to pay tribute to the retiring Chief Justice, the Honourable Mrs. Zalia McCalla. The occasion also marked the recognition of the Honourable Mr. Bryan Sykes as her successor.

In July the case of **Ashton Pitt v Westmoreland Parish Council, Attorney General et. al.** was heard and determined by the Supreme Court. It was an application for judicial review following Westmoreland's Parish Council's decision not to abide by the recommendations made by the Public Defender arising out of an investigation into a complaint made by Mr. Pitt

Certiorari was issued quashing the decision of the Parish Council with cost in favour of Mr. Pitt. There was a threat to appeal the Supreme Court's decision.

The OPD was involved in the matter of **Assets Recovery Agency v Donna Thompson**. The Agency (ARA) had sought a Pecuniary Penalty Order in the excess of J\$32 million, based upon her 2015 conviction in the Corporate Area Parish Court (at Halfway Tree) for breaches of the Dangerous Drugs Act. Mss. Donna Thompson had complained about the unfair and the high-handedness of the ARA. The case went over into 2019 when ended with a Pecuniary penalty Order in the amount of just over J\$1.5million was made.)

The matter of **Roberto Kelly v JDF and Attorney General** saw the OPDs involvement in the Supreme Court. Mr. Roberto Kelly was a long standing complainant of the OPD. His case was carried over into 2019. The decision is still pending.

Parish Court

The Office of the Public Defender was represented in the Corporate Area Parish Court (Civil Division) at Sutton Street Court on the 23rd February; 22nd June; 24th September; and 27th December 2018, for the civil suits for false imprisonment brought on behalf of the approximately 30 citizens of West Kingston, arising out of the May 2010 joint police-military operation.

All these matters were set down for Mention on the 7th March, 2019, as the OPD continued its quest to find all the plaintiffs.

The Family Court in Montego Bay saw the involvement in a matter against a minor Levaughn Cook. He was criminally charged following a family altercation with his step-father. His mother had complained to the OPD. The court dates were 7th August; 10th September and 1st October.

Emergency Powers Review Tribunal (EPRT)

The Emergency Powers Review Tribunal (EPRT) was convened and had its sittings at the Wexford Court Hotel in Montego Bay. Its members were Mr. Ian Wilkinson QC; Mr. Justice Lloyd Hibbert (retired Supreme Court Judge) and Dr. The Reverend David Henry, attorney-at-law.

The OPD was invited to participate and to make submissions. The initial sittings were held over the periods 26th – 27th March; 4th – 5th April; and 4th -6th June.

Parliamentary Submissions

Between October and November the Public Defender, at the invitation of Parliament's Internal & External Affairs Committee, deliver her findings in Parliament on the state of affairs in SoE for the parish of St. James.

Internal Hearings

Pursuant to her statutory powers, the Public Defender conducted hearings into complaints under investigations. In some of the cases, summonses were issued in order to secure the attendance of persons in authority.

These hearings arose out of complaints lodged by the persons/entities listed below, against the authorities indicated. In some instances there were site visits by the Public Defender, while in others, on-site meetings were held with the parties involved.

The hearings were in complaints made by:-

- (a) Mr. Peter DePass against the (Police) Criminal Records Office
- (b) Sharon Denny-Tomlinson against Ian Pitter, Bailiff Manchester RM Court (this hearing was discontinued following the death of Mr. Ian Pitter)
- (c) Vendors of the Constant Spring market against the KSAMC, regarding their relocation for the widening of the Constant Spring Road.
- (d) Residents of Broadgate, St. Mary, against the NWA for land acquisition, rock-blasting and excavation as part of the road widening programme in Junction. Several meetings (on and off site), and visits were carried out by the OPD.

OTHER ACTIVITIES

(a) Outreach Programmes

- (i) Participation in the 280th Anniversary celebration of the Accompong maroon in St. Elizabeth.
- (ii) The Public Defender delivered presentation to the Clergy at the invitation of Archbishop Charles Durfor.
- (iii) At the request of the Public Defender a meeting was held with the Minister of State in the Ministry of National Security for the purpose of discussing matters related to mentally ill persons in the custody of the Correctional Services.
- (iv) The OPD participated in the Inter-parliamentary meeting for the Partnership for Transforming Gender Relations

- (vii) The Public Defender was invited and attended the opening of the Caricom Heads of Government meeting held in Montego Bay on 4th July.
- (viii) Court Management Services Public Education Day expositions on 15th September at the Clarendon parish Court
- (ix) Department of Corrections annual 4-H Achievement Exposition at St. Catherine adult Correctional Centre held over the period 25th – 26th June.
- (x) The OPD participated in the national M & E Assessment Workshop staged by the HIV/STI/ TB Unit of the Ministry of Health, and held at Melia Brac in Trelawny on from the 18th – 20th July
- (xi) The Office was also invited to participate in the National HIV Policy Consultation sessions held at Alambra Inn, Kingston on 24th July.
- (xii) On the 6th November the Public Defender invited to deliver the key note address at the launch of the Clarendon Municipal Corporation Citizens' Charter. The launch was held at the Corporation's office in May Pen, Clarendon.
- (xiii) Upon an invitation, the Public Defender met with Mr. George Abu Alzulof of the UN Country Office with a view to considering a possible partnership with the OPD on the Human Rights day Project for 2018.
- (xiv) Representatives from the Office delivered a presentation on the role and function of the Public Defender, to the Duckefield High School academic staff. This was at the school in St. Thomas.
- (xv) The Public Defender participated in the Legal Aid Council Justice Education Fairs, staged on:--
 - 21st March at Tackey High school in Trelawny
 - 31st June at Independence Park, Savanna-la-mar in Westmoreland
 - 28th September at St. Matthew's Church Hall in Allman Town Kingston
- (xvi) A representative from the OPD attended and participated in the National Family Planning Board's (NFPB's) Enabling Environment & Human Rights training seminar at Alhambra Inn on 13th August.
- (xvii) On the 15th August, the OPD, by invitation, participated on a 1-day Workshop on "Collaborative Proactive Solutions" put on by the Christian Life Fellowship. The Workshop was held at 21 Gordon Town Road.

- (xviii) Representative of the OPD delivered a two-part presentation to the St. Catherine Adult Correctional Centre Staff on the 24th April and the 8th May. The presentation was on the rights of citizens under ZoSO and under SoE; and the differences between these two enhanced security measures.

(b) Internal Meetings

- (i) In our effort to computerize our file management system, the OPD had meetings with different IT companies. All the meetings were exploratory, and involved demonstratins from these companies.
- (ii) In October the Public Defender came up with a training/sensitization for staff programme, whereby different Departments and Agencies of Government, and statutory bodies would on a weekly basis make presentations to the staff of roles, functions, and organizations of such entities. The two hours between 10:00 am and 12:00 noon on Fridays were used for these presentations. This Friday session came to be known as the “*Weekly In-house lecture series training session*”. Implementation of the programme commenced in November. Entities which presented in 2018 were:

National Land Agency.....	2 nd November
GeoLand Titles Ltd	16 th November
National Works Agency.....	23 rd November
INDECOM	30 th November
Office of Utilities Regulation ..	7 th December
Consumer Affairs Commission..	14 th December

- (iii) The In-house lecture series training sessions continued into 2019. A decision was eventually taken to make it a fortnightly session

(c) External Meetings

- (i) At the request of the NFPB, the Public Defender attended and participated in the Board’s document review session.
- (ii) The OPD was invited to, and took part in the National Action Plan for an Integrated Response to Children and Violence (NAPCV) and information sharing. This was staged by the Child Protection & Family Service (CPFS) Agency, in collaboration with the Ministry of Education.

- (iii) The Public Defender met with Mr. Dave Coughran, Political & Economic Affairs Officer in the US Embassy to discuss issues related to human rights.
- (iv) There was a meeting on the 24th October with representative from the Rastafari commune at Bobo Hill in Bull Bay, in St. Thomas. The Rastafari leaders had invited the OPD.
- (v) Several meetings were held with the DCS and the NFPB in preparation for the 2018 International Human Rights Day commemoration activities planned by the three parties. The commemorative activity was a joint family fun day at Top Hill Juvenile Detention Centre for boys. It was eventually held on Saturday 8th December
- (vi) As a prelude to its investigation, the Public Defender and supporting staff journeyed to Portland to meet with resident of Golden Vale regarding issues of ancestral land ownership.

(d) Overseas Meetings/Conferences

- (i) The OPD was invited, and attended the 39th US Ombudsman Association conference, held in Portland, Oregon from 24th – 28th September.
- (ii) Between the 22nd – 25th October two members of the OPD staff attended the IOI Conference/Seminar on Ombudsman Own Initiative Investigations, in Belfast, Northern Ireland.
- (iii) A representative from the OPD attended the Business Forum on Human Rights at the UN in Geneva Switzerland over the period 26th – 30th November.

(e) Media Programmes

- (i) The 15-minute weekly radio programme which was previously commenced, was continued on RJR 94fm. It is aired live on Thursdays at 1:15 pm during the talk show *Hotline*. The programme is titled "*Constitutionally Speaking*". In 2018 the time was changed to 11:15 am.
- (ii) Throughout the year the Public Defender on the invitation of various media outlets, appeared, or was interviewed for comments on subjects which dominated national discussions.

THE HILL TOP JUVENILE CORRECTIONAL CENTRE
BAMBOO, ST. ANN

International Human Rights Day is observed every year on December 10. This year's celebration was held under the theme, "Let's stand up for equality, justice and human dignity." It was also in celebration of the Seventieth (70th) Anniversary of the Universal Declaration of Human Rights.

In an effort to inform Jamaica and in particular our youths about our Human Rights, we took the decision to celebrate with the wardens and staff of the Hill Top Juvenile Correctional Centre in Bamboo, St. Ann on Saturday, December 8, 2019. The Office of the Public Defender partnered with the National Family Planning Board (NFPB) in celebrating at the facility

There was an Opening Ceremony in which there were presentations from the Public Defender and the National Family Planning Board. The National Family Planning Board also performed skits which were well received by all. Other activities included the Provision and Sharing of Lunches, Six-a-Side Football Competition and a Closing Ceremony. During the closing ceremony, there were presentations of gifts and awards.

The event was well executed and we achieved our goal. We were absolutely pleased to have partnered with the National Family Planning Board who performed a skit which resonated with all who were in attendance. The testimonial and encouragement by the Director also impacted the audience.

It was indeed a pleasure being at the Hill Top Juvenile Correctional Centre and we were delighted to have chosen such facility.



The Office of the Public Defender

In partnership with the
National Family Planning Board

Present

HUMAN RIGHTS DAY CELEBRATION

on Saturday, December 8, 2018

@

HILL TOP JUVENILE CORRECTIONAL CENTRE

Bamboo, St. Ann

Theme:

Let's stand for Equality, Justice and
Human Dignity

In continuance of the celebrations, the Office of the Public Defender participated in Art for Human Rights (reasoning, conversation and exhibition) at the Edna Manley College of the Visual and Performing Arts. This was also in celebration of seventy (70) years Universal Declaration of Human Rights and there was also an exhibition of the students Art Work.

Curatorial Message

“The students work in this exhibition creatively, expresses new voices of advocacy to the various aspects of Human Rights that arrest the viewer’s thoughts, attention and resonates universally. Students from the visual Communication, Textiles and Fibre Arts and Painting department are featured in this exceptional presentation. The works on view capture the imagination and ignite within us, a celebration yet provokes contemplation to the work that is yet to be done. The language of the pieces is in instances visceral, delicately contemplative, universal, amusing, thought-provoking, and arresting.

Over the decades Art has been a strong platform for Human Rights in all its various forms. It is hoped that this exhibition will not only fuel the imagination but spark a movement to action.”

The Public Defender was asked to bring greetings at the ceremony. We were also invited to view the exhibition by the students. During the ceremony the first (1st), second (2nd) and third (3rd) placed winners were announced and awarded.

The Office of the Public Defender deemed it an honour to have participated at such event which was quite educational and informative.



25.

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21.

20.

THANK YOU, LETTERS,

Your love and concern for those who are helpless in unjust has been greatly appreciated. Words cannot expressed how grateful I am for what you have done for me. May God bless you abundantly. Continue to keep up the good work, and again I say thank you very much.

Love always,

Aldeene.

To: Mrs. Banner Davis

To thank you
for your thoughtfulness
and to tell you
how very much it meant.

Fr. Aldeene.

TO ALL OF YOU.
AT THE OFFICES
HERE DEFENDERS A 1000
PUBLIC TO JIM BARRETT
I WANT TO TAKE A COURSE
ON MATTER OF
STATE. ON A COURSE
COMPLETED.
THANKS AGAIN

for being so thoughtful!

Tower Street Adult Correctional Centre
2-4 Tower Street
Kingston

February 6, 2019

Miss Davis
Office of the Public Defender
22-24 Duke Street
P.O. Box 595
Kingston

Re: Showing my gratitude for a job well done

My name is _____ and I work at the above mentioned institution. I was having a very serious problem at work where I was being victimized and treated unjust for my promotion, so I put my case forward to your office. The Public Defender Office put my case forward and I was promoted to the rank of Overseer.

I would like to take this time to show my sincere gratitude to your office and the job well done and I know you will continue to help people in Jamaica along their way.

Thanks for you cooperation

ols Edwards C

C518/05

Sydenham Villa Drive
Brambleton Beach P.O.
St Catherine
May 11th, 2018

To the Public Defender/ Deputy Defender.

22-24 Duke Street

King Jamaica

Dear Sir/ Madam,

I do hereby writing this letter to you to let you know that I have received my name and I am saying thank you for all the letters that you have written & given to me. I am asking please for a closure of my file. Please & Thanks,

Thank you all for your cooperation.
yours truly,

C296/16.

Florida 34761
U.S.A.
November 30, 2018

Office of The Public Defender
22-24 Duke Street
P.O. Box 695
Kingston
Jamaica W.I.

Attention: Mr. Herbert McKenzie
Deputy Public Defender

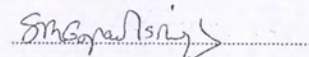
Dear Sir,

Re: Payment of Pension

I am writing to inform you that I have received two checks from the Jamaican Consulate in New York. The total sum of US\$35977.30 was received being payment for gratuity and arrears of pension, as well as monthly pension payment for September – November 2018.

Again, I would like to thank your Office for your timely intervention which has enabled me to finally begin receiving a monthly pension after waiting over six years.

With much appreciation.


.....

6.4.2018

Public Defenders

Good day to you all.

I am Mrs Vanessa
on behalf of my son Micheal Angela
Asteroson. So I am taking this Privilage
to express my gratitude for the work you
had done on Micheal Angela's file.
So Mrs Banner I thank you very much
for a report that has been well done.

Thank you
God Bless you

T.yavall

Office of the Public Defender
22-24 Duke St.
Kingston.

March 27, 2018

Dear Mrs. S. Banner Davis,

I would like to thank you personally for your help with my case. The result were great and I appreciate your valuable time and honesty with my situation. I am pleased with the outcome and your handling of my case. I will gladly recommend your service to any of my family or friends that may ever need it. Thank you again for your help. May God continue to bless and use you mightily.

Sincerely,

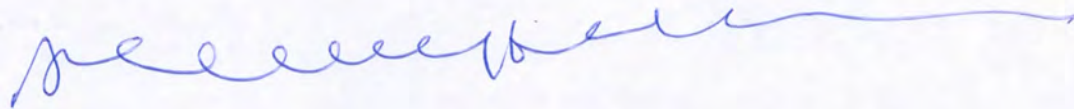
ACKNOWLEDGEMENT

The Public Defender, Officers and Agents express our sincere appreciation to the citizens of our country, our partners, other stakeholders and staff of the Public Defender.

We thank you for giving us the opportunity to serve you, for partnering with us, consulting with us, sharing and advising us. Special thanks to the hard working, dedicated, committed and resilient Staff of the Public Defender who endeavour to serve you at the highest level. We do acknowledge that “You have a RIGHT to prompt, courteous and efficient attention and service” and therefore we provide just that.

The Office of the Public Defender is extremely thankful for all your participation and contribution. We have the resilience; we are astute and we remain committed in serving you to ensure redress for all those who have suffered mal-administration or violation of your constitutional rights.

We stand by our Motto, “A Voice of the Voiceless...to Loose the Chains of Injustice.”

A handwritten signature in blue ink, appearing to be 'J. J. [unclear]', written in a cursive style.