



**THE NZINGA KING REPORT**  
**APRIL 5, 2022**

## Table of Contents

<i>Summary</i>	<i>iii</i>
<i>List of Appendices</i>	<i>iv</i>
INTRODUCTION .....	1
BACKGROUND .....	2
JURISDICTION .....	3
TERMS OF REFERENCE .....	4
THE INVESTIGATION .....	5
IPROB’s Approach to OPD .....	5
OPD’s Approach to INDECOM .....	5
Visit to Four Paths Police Station .....	6
Notices of Intended Adverse Report .....	6
THE COMPLAINANT NZINGA KING .....	7
Ms. King at the Taxi Stand .....	7
Ms. King at May Pen Police Station .....	8
Ms. King at the Parish Court in May Pen .....	9
Ms. King at Four Paths Police Station .....	9
Ms. Kings Mother – Shirley McIntosh .....	12
EVIDENCE PURSUANT TO PUBLIC DEFENDER’S SUMMONS .....	13
The Witness JCF/15619 Cons. Careem Riley .....	13
The Witness JCF/9941 Cons Clinton Cohen .....	16
The Witness JCF/9603 W/Cpl. Angel Mitchell-Lewis .....	21
The Witness JCF/- - - W/Insp. Marcia Calquhoun .....	27
The Witness JCF/78555 Cons Vivian Brown .....	29
The Witness JCF/20526 Cons. Richard Roye .....	29
The Witness JCF/- - - Cons. Jordan Ashley .....	30
The Court and its Administration .....	30

Institute of Forensic Science & Legal Medicine Unit .....	30
The Social-media Post .....	31
FINDINGS AND OBSERVATIONS	
Nzinga King and the Incident at the Taxi Stand .....	32
Offences Charged and the Proceedings in Court .....	32
Failure to Wear Mask in Public Place .....	33
Disorderly Conduct .....	33
Abusive Language .....	34
Penalties under the Statute .....	34
Four Paths Police Station .....	32
Phone found during Cell-Search .....	37
THE CUTTING OF HAIR	
Issues in Criminal Law .....	38
Issues in Tort .....	40
Issues in Constitutional Law .....	40
DENIAL OF ACCESS TO THE PUBLIC DEFENDER .....	41
REDRESS .....	43
RECOMMENDATIONS	
Compensation .....	43
Remission of Fines .....	43
Actions against Police Officers .....	44
For the JCF .....	44
Legislative Amendments .....	44
CONCLUSION .....	45
THE UNREPRESENTED DEFENDANT .....	47
EPILOGUE .....	48

## Table of Contents

<i>Summary</i>	<i>iii</i>
<i>List of Appendices</i>	<i>iv</i>
INTRODUCTION .....	1
BACKGROUND .....	2
JURISDICTION .....	3
TERMS OF REFERENCE .....	4
THE INVESTIGATION .....	5
IPROB’s Approach to OPD .....	5
OPD’s Approach to INDECOM .....	5
Visit to Four Paths Police Station .....	6
Notices of Intended Adverse Report .....	6
THE COMPLAINANT NZINGA KING .....	7
Ms. King at the Taxi Stand .....	7
Ms. King at May Pen Police Station .....	8
Ms. King at the Parish Court in May Pen .....	9
Ms. King at Four Paths Police Station .....	9
Ms. Kings Mother – Shirley McIntosh .....	12
EVIDENCE PURSUANT TO PUBLIC DEFENDER’S SUMMONS .....	13
The Witness JCF/15619 Cons. Careem Riley .....	13
The Witness JCF/9941 Cons Clinton Cohen .....	16
The Witness JCF/9603 W/Cpl. Angel Mitchell-Lewis .....	21
The Witness JCF/- - - W/Insp. Marcia Calquhoun .....	27
The Witness JCF/78555 Cons Vivian Brown .....	29
The Witness JCF/20526 Cons. Richard Roye .....	29
The Witness JCF/- - - Cons. Jordan Ashley .....	30
The Court and its Administration .....	30

Institute of Forensic Science & Legal Medicine Unit .....	30
The Social-media Post .....	31
FINDINGS AND OBSERVATIONS	
Nzinga King and the Incident at the Taxi Stand .....	32
Offences Charged and the Proceedings in Court .....	32
Failure to Wear Mask in Public Place .....	33
Disorderly Conduct .....	33
Abusive Language .....	34
Penalties under the Statute .....	34
Four Paths Police Station .....	32
Phone found during Cell-Search .....	37
THE CUTTING OF HAIR	
Issues in Criminal Law .....	38
Issues in Tort .....	40
Issues in Constitutional Law .....	40
DENIAL OF ACCESS TO THE PUBLIC DEFENDER .....	41
REDRESS .....	43
RECOMMENDATIONS	
Compensation .....	43
Remission of Fines .....	43
Actions against Police Officers .....	44
For the JCF .....	44
Legislative Amendments .....	44
CONCLUSION .....	45
THE UNREPRESENTED DEFENDANT .....	47
EPILOGUE .....	48

## *Summary*

This case formally came to the Public Defender by way of a complaint lodged by Ms. Shirley McIntosh, mother of the then 19-year old Nzinga Candace King. Nzinga King, and Ms. Shirley McIntosh, as indeed the entire McIntosh family, are members of the Rastafari faith. They all wear long flowing locks

Nzinga King was charged by the May Pen police with offences under the Disaster Risk Management Act (DRMA), and the Towns and Communities Act. She appeared in the Clarendon Parish Court at May Pen on the 22<sup>nd</sup> July 2021, to answer the charges.

The Court records indicate that Nzinga King pleaded *guilty* to the offences under the Towns and Communities Act, but *not-guilty* to the DRMA offence. The latter was adjourned for trial on a subsequent date. On the issue of the offences under the Towns and Communities Act, Nzinga King disputes the records of the Court with respect to the plea. Ultimately, she was fined \$3,000.00 on each of those offences, and in default of payment she was to serve a term of ten days imprisonment.

With the fines not immediately paid, Nzinga King was transported from the May Pen Courthouse to the Four Paths Police Station on the same day. Four Paths is a small town in Clarendon, to the east of the capital May Pen. The Clarendon Police uses the lock-up at that Station to house female remandees.

On the same day she was received in the custody of the Four Paths Police, Nzinga King's locks were shorn. She alleges that it was done by a female officer at the Station; and identified that officer as W/Cpl. Angel Mitchell-Lewis. However, W/Cpl. Mitchell-Lewis and her immediate supervisor (W/Insp. Marcia Colquhoun) who was present at the Station at the material time, both denied the allegations. The essence of the version of the events relied on by the policer officers, is that Nzinga King "*popped out*" her own locks.

Having completed the investigation the Public Defender found *inter alia* that it was the police officer who had forcibly cut Nzinga King's hair, and in so doing hand violated Ms. King's constitutional rights. In the final analysis, the Public Defender recommends that:

- (a) Nzinga King be compensated for the infringement of her constitutional rights
- (b) criminal proceedings be visited upon W/Cpl. Angel Mitchell-Lewis;
- (c) disciplinary proceedings be taken against W/Insp. Marcia Colquhoun;
- (d) a portion of the fines imposed by the upon Nzinga King, be remitted;
- (e) amendments be made to-
  - (i) the Towns and Communities Act
  - (ii) the Parish Court Jurisdiction Act, or alternatively, the Criminal Justice (Reform Act.
- (f) the JCF Command reminds or inform its members, through its Force Orders, of the provisions of the Public Defender (Interim) Act, as it relates to the JCF.

# Appendices

*(The Nzinga King Report)*

- Appendix 1** - Notice of Intended Adverse Report to Officer of Commissioner of Police.
  
- Appendix 2** - Notice of Intended Adverse Report to W/Insp. Marcia Calquhoun.
  
- Appendix 3** - Notice of Intended Adverse Report to W/Cpl. Angel Mitchell-Lewis.
  
- Appendix 4** - E-mail date-time-stamped Friday, January 07, 2022, 4:10PM over the signature block Karina Powell-Hood, Assistant Commissioner of Police, JCF Staff Officer for Commissioner of Police.
  
- Appendix 5** - Response from Office of the Commissioner of Police (Letter dated 2022-01-20.)
  
- Appendix 6** - Statement of W/Cpl. Angel Mitchell-Lewis.

# THE NZINGA KING REPORT

## INTRODUCTION

1. Jamaica became an independent sovereign State on the 6<sup>th</sup> of August 1962 at which time it received a written Constitution from Britain. Along with that Constitution, Jamaica received a set of laws modelled on the British system. Under the doctrine of reception, the common law principles and norms as existed in England at the time, were implanted in Jamaica.
2. Some of these laws and principles were inimical to the (post-colonial) Jamaican society from the very beginning; for example, the Legitimation Act of 1909, otherwise called the bastardy law (which thankfully, has been repealed), and the Obeah Act of 1898, which is still in force today. Others like the Unlawful Possession of Property Act of 1952 have outlived any useful purpose they may have had, but somehow, are still retained among current legislation.
3. As a maturing nation, Jamaica has inexplicably clung tightly to some of these old colonial laws and principles. For example, the new Sexual Offences Act, passed in 2011, introduced a provision whereby a husband who has sexual intercourse with his wife without her consent, cannot be liable for rape, unless the victim wife proves one of several conditions. That provision reprises in Jamaica, an ancient English tradition whereby married women were regarded as the property of their husbands. The Towns and Communities Act of 1843, which is still operational, represents another vestige of the colonial past to which Jamaica has remained wedded. Despite amendments made in the last century, many of its archaic provisions have been left in place. For instance, the provisions like shaking rugs or mats in thoroughfares; emptying privies at improper hours; discharging cannons in town or within specified distance of a dwelling house, constitute an insult to our national pride and a mockery of the legislature.
4. But it is not only old and outdated colonial laws that have infected Jamaica as a jurisdiction, but some of the principles and social practices from the mores of British society have created flash points for controversy when sought to be replicated in the Jamaican society. One such practice relates to the grooming of hair. Hair, of Afro-centric nature and type, is one which has featured in almost every controversy over hair styles in this country. Underlining all these controversies is the subtle and oftentimes distinct unequal regard for hairstyle of the Afro-centric type as against those of Euro-



centric and Asian origins. The preference in the Jamaican society for hairstyles and hair that are not one hundred percent African-bred, is clear. It has led to the development in our lexicon and seared in our psyche, the concept of “pretty hair,” “good hair” “bad hair” and the like with unflattering, and denigrating remarks to describe typically African hair.

5. Rastafari, whose outward display of the faith is the characteristic, long and flowing locks, is never far from the centre of such controversies.
6. Not long ago, and not in the distant past, it was an established practice that Rastafari admitted into prison had to be shaved. It is recorded that during the Coral Gardens incident of 1963 Rastafari who were detained were shorn of their locks. As a people predominantly of African descent, many of us adopted practices to cleanse ourselves of very vestige of Africa. Such has been the systemic deep-rooted refutation of self amongst some.
7. Ms. Nzinga Candace King is a young Jamaican black woman, born and raised in the Rastafari religion. At home she is called by the pet-name *Kette*. She was charged by the police for offences, including breaches of the Towns and Communities Act. Whilst in the custody of the police Ms. King was forcibly shorn of her locks. Her account that it was done by a police officer, sparked a public outrage in the country and reignited the controversy surrounding the issue of *hair* in Jamaica.

## **BACKGROUND**

8. At the time of the material incident Ms. King was a 19 year-old woman of diminutive stature, weighing no more than 100 pounds. She is of the Rastafari faith and wears a dread-locks hair style consistent with that religion. At the relevant time she was living with her mother, her father, and siblings in the rural community of Lionel Town in south Clarendon.
9. The family members are all devout and proud members of the Rastafari faith. They are of the Nyabinghi Order, and their House of Worship is at Scotts Pass in Clarendon. Ms. King was enrolled as a student nurse at a private school on the outskirts of the capital, May Pen.
10. On Tuesday the 29<sup>th</sup> June 2021, Ms. King had an interaction with the police which resulted in her being arrested and charged with offences under the Disaster Risk Management Act (DRMA) and the Towns

and Communities Act. She was placed before the Clarendon Parish Court on the 22<sup>nd</sup> July 2021, at which time, she, according to the Court records, pleaded guilty to the offences under the Towns and Communities Act, and not guilty to the DRMA offence.

11. The said Court documents recorded the sentence on each of the Towns and Communities Act offences as \$3,000.00 or imprisonment for a period of ten days. The DRMA offence for not wearing a mask was set down for trial on the 23<sup>rd</sup> November 2021.
12. The fines not having been paid, Ms. King was transported to the Four Paths Police Station. This is the Station in the Clarendon Police Division where females are kept.
13. The records at the Clarendon Parish Court confirm that Ms. King was unrepresented and appeared before the court alone. The records reveal that there was no application to extend time in which to pay the fine; nor was she advised that such a possibility existed. Of note is that on Ms. King's appearance in court the arresting police officer was not in court, nor was she provided with a copy of any statement explaining the charges laid against her and the facts supporting such charges.
14. Ms. King's mother paid the fines on Monday 26<sup>th</sup> July 2021, whereupon Ms. King was released. She alleged that on the 22<sup>nd</sup> July 2021, the very day on which she was sentenced and placed in custody, her locks were cut off by a female police officer at the Four Paths Police Station. Ms. King's allegations became the focus of national concern.
15. Subsequently, the attention and the jurisdiction of Public Defender were engaged.

## **JURISDICTION**

16. The Public Defender is a Commission of Parliament created by section 4 of the Public Defender (Interim) Act of 2000. This Commission of Parliament is, *inter alia*, mandated by the statute to protect and enforce constitutional rights.
17. For the purpose of protecting and enforcing such rights, the Public Defender, by virtue of section 13 of the Public Defender (Interim) Act, is vested with jurisdiction to investigate any action taken by any organ of the State (subject to the said section 13), where she is of the opinion that any person has suffered, is suffering, or is likely to suffer an infringement of his constitutional rights, as a result of

that action. The exercise of the Public Defender's jurisdiction may also be invoked at the instance of a complaint made by any citizen, resident or entity or group of persons.

18. Thus, the jurisdiction of the Public Defender is exercisable on the Public Defender's own initiative, as well as upon the receipt of a complaint.

19. The case of Ms. King came to the attention of the Public Defender by media reports, followed by telephone calls from concerned citizens. Subsequently, the mother of Ms. King, approached the Office of the Public Defender with the complaint on behalf of her daughter. The investigative jurisdiction of the Public Defender therefore arises on two levels in this case.

20. The Public Defender's statutory remit as an investigative body was confirmed by the Court of Appeal in the case of *The Public Defender v AG of Jamaica* [2018] JMCA Civ 27.

21. Chapter III of the Constitution contains the Charter of the Fundamental Rights and Freedoms. At section 13(2)(b) it provides that:

*"Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights."*

The Public Defender has undertaken this investigation to determine, among other things, whether any of the rights of Ms. King, protected by the Constitution, has been infringed.

#### **TERMS OF REFERENCE (ToR)**

22. To enquire into:

- I. the circumstances under which the complainant came to be in the custody of the police.
- II. whether the complainant's detention at the Four Paths Police Station was lawful.
- III. the circumstances under which the complainant's hair was shorn, when and by whom.
- IV. whether there was any infringement of the complainant's constitutional rights, and if so, what were those rights.
- V. whether the conduct of the police officer rises to the level of criminality.
- VI. the redress, if any, open to Ms. King, if it is established that there is any violation.

## **THE INVESTIGATION**

23. During this investigation, evidence was taken on oath, persons interviewed, documents collected and examined, locations visited, and observations made. In some instances, sources were interviewed more than once.
24. Out of respect for the wishes of individuals, and the need for confidentiality, the names of some of the sources are not disclosed in this report.
25. Persons from whom information and evidence were gathered, and whose identities can reasonably and lawfully be disclosed include:

Ms. Candace Nzinga King  
Mrs. Shirley McIntosh  
W/Cpl. Angel Mitchell-Lewis  
W/Insp. Marcia Colquhoun  
Cons. Vivian Brown  
Cons. Richard Roye  
Cons. Jordan Asley  
Cons. Clinton Cohen  
Cons. Careem Riley

### ***Approach to OPD by IPROB***

26. The Office of the Public Defender is cognizant of investigations carried out by INDECOM and by IPROB. Early in the OPD's investigation, an officer from IPROB, presumably the lead investigator, approached the OPD with a view to ascertaining the information which the OPD had up to then garnered. The OPD shared the information with this IPROB officer, who indicated that she was not averse to collaborating with the OPD, but that such a collaboration would have to be formally endorsed by the Head of IPROB. In the wake of the position articulated by the IPROB officer, the OPD wrote to the Head of IPROB, narrating the interaction with the Officer. Up to the time of compiling this report, there was no response from the Officer in charge of IPROB.

### ***OPD's approach to INDECOM***

27. In addition, OPD contacted INDECOM to consider a joint investigation. This proposal was driven by the consideration to utilize resources in the most cost-efficient manner. By a WhatsApp message to

the Deputy Public Defender the Commissioner of INDECOM advised that a joint approach was not feasible.

### ***Visit to Four Paths Police Station***

28. Early in the investigation, the Public Defender dispatched a team to visit the Four Paths Police Station. That was on Wednesday 4<sup>th</sup> August 2021 at which time the team was accommodated and facilitated by the Sub-Office in-charge Sgt. Christopher Gordon. Station Diaries and other documents and records were opened and examined by the OPD's team, courtesy of Sgt. Gordon.
29. After receiving evidence from some members of the JCF, the Public Defender on Monday 6<sup>th</sup> September 2021, herself visited the Station to see the physical layout of the inside of the building of the said Four Paths Police Station. This, for the purpose of getting a better appreciation of the testimony received up to then. On that visit, however, the Public Defender was denied access. The Public Defender was told by the Sub-Officer on duty, that a DSP William Davis, the officer in charge of Administration of the Clarendon Division, said that if the Public Defender wanted to visit the Station, she had to "*write to the Commissioner of Police to visit and view the Four Paths Police Station.*" The Public Defender left the premises.
30. The Public Defender subsequently wrote to the Commissioner of Police, bringing to his attention the obstruction she encountered at Four Paths Police Station. In that letter, which was hand-delivered to the Commissioner's Office, the Public Defender asked whether the denial of access was an adventure of the police officers on the ground, or it was the official position of the JCF.

### ***Notices of Intended Adverse Report***

31. Under the Public Defender (Interim Act) in an investigation of this type, where the Public Defender has made particular recommendations, the Public Defender shall not report or comment adversely on any person, unless that person has been given an opportunity to be heard.
32. Notices of intention to report adversely, were served upon three individuals/entities, namely: the Office of the Commissioner of Police; W/Inspector M. Colquhoun; and W/Cpl. A. Mitchell-Lewis. For transparency, copies of the notices are included in this report at *Appendices 1, 2, and 3* respectively. Only the Office of the Commissioner of Police provided a response.

33. The initial response from the office of the Commissioner is at *Appendix 4*; an e-mail date-time-stamped Friday, January 07, 2022, 4:10PM over the signature-block of *Karina Powell Hood, Assistant Commissioner of Police, JCF Staff Officer for Commissioner of Police*. It was an acknowledgement of the notice and a promise to respond. Two weeks later, the OPD received the response; it was contained in a letter dated 2022-01-20 over the signature of the Commissioner of Police. A copy is at *Appendix 5*.

#### **THE COMPLAINANT - NZINGA CANDACE KING**

34. Ms. King gave a detailed account of the material incident, starting on Monday the 29<sup>th</sup> June 2021, from the time of the first encounter with the police officer at the taxi-stand in May Pen, to the time she was eventually released from the Four Paths Police Station on Monday the 26<sup>th</sup> July 2021.

#### ***Ms. King at the Taxi-Stand***

35. She explained that on the evening of the 29<sup>th</sup> June 2021 she was in a taxi in May Pen, waiting to be transported home. She was on her way home from classes in Bushy Park. Also in the waiting taxi was a lady who was breast-feeding her baby. She and Ms. King were on the rear seat. The driver of the taxi was nearby on the outside soliciting other passengers.

36. Whilst Ms. King was waiting in the taxi, a young man who was not wearing a face mask, came and sat down in the front passenger seat of the taxi. Two police officers walked toward the taxi and accosted the young man. One of the police officers ordered the young man out of the taxi, but the young man refused to get out. A loud argument ensued between the man and one of the police officers. The other police officer stretched his arms through the window and draped the young man in his collar. The young man punched the police in the face.

37. The other police officer intervened and said:

*“Yuh nah cum out? Mi aggo gi yuh someting fi cum out”.*

That police man immediately took out his pepper spray and discharged it towards the face of the young man. The spray diffused in the car and spread to everybody, including the breast-feeding mother.

38. Everybody exited the taxi, coughing, rubbing their eyes, and complaining. The baby who was being breast-fed started crying. Ms. King explained that her eyes were burning her and that the pepper spray which had soaked into her mask, triggered a cough. It became difficult for her to breathe, so she had to remove her mask.
39. Ms. King said that she asked the police officer if he was an idiot; how could he spray pepper-spray into a car with persons inside. It was at that point, Ms. King said that the police officer turned aggressively toward her and accused her of not wearing a mask. According to her, she protested, telling the police that she had to remove the mask, because the pepper spray was burning her eyes and choking her. She admitted that she was speaking loudly, as were all the other passengers who were seated in the car when the policeman discharged the pepper spray. The police officer told her that he was going to lock her up. Ms. King continued her loud protest.
40. On her account Ms. King asked the police officer how she could wear the mask when it was filled with pepper spray. She said that the police officer then ordered her up into the truck. The truck was parked nearby and was being used by the police to accommodate persons who they found not wearing face masks.
41. Ms. King said that she tried getting up into the back of the truck, but because her eyes were burning her, she was not able to see where to hold on to, in order to climb into the truck. She said the police officer who had taken her to the truck, shoved her violently up, whilst someone already inside the truck, held onto her hands and helped her to get in. Everyone on the back of the truck was taken to the nearby May Pen Police Station.

***Ms. King at May Pen Police Station***

42. Ms. King said that she was arrested under protest and taken to the May Pen Police Station where she was questioned about her name, age, address, and other personal information. All that time her eyes were still burning from the pepper spray. She said a police officer accompanied her to a bathroom at the Police Station and told her to use the piped water to wash the spray from her eyes.
43. Ms. King recounted that she did say loudly that she did not like police and that she did want any police to touch her. And she admitted that she said it more than once and in a loud tone and manner.

44. She said that the police officer told her that he was going to charge her for not wearing a mask in public, because that was a breach of the Disaster Risk Management Act. Ms. King said that she repeated to the police the reason she took her mask off: that the pepper spray discharged by the police was burning her eyes and she was forced to take off her mask.

45. Ms. King said that she was charged and offered station-bail in the sum of \$30,000; and booked to appear in the Parish Court in May Pen on the 22<sup>nd</sup> July 2021. She took up the offer of bail, and Ms. Judith Hill, a lady she knew before, stood as Surety for her.

***Ms. King at the Parish Court in May Pen***

46. On Thursday the 22<sup>nd</sup> July 2021, Ms. King attended the Parish Court at May Pen. She said when the case was called, she went inside the Court Room. According to her, she was told by the Judge that she was charged with the offences of disorderly conduct and abusive language. Ms. King said that she told the Judge that as far as she was aware, she was there to answer the charge for *“not wearing mask.”* But according to Ms. King, the judge did not say anything. She said that she raised her hand *“to talk”*, but again the Judge ignored her, and announced that the penalty was a fine of \$3,000.00 on each of the charges which were read out.

47. Ms. King stated unequivocally that she did not plead guilty to any charge at all. She said the fines were announced by the Judge who, after consulting with the Clerk of Court, told her to return to court on the 23<sup>rd</sup> November 2021.

48. She was then escorted by a police officer out of court and taken to the holding area downstairs the courthouse. There she remained with other persons in custody until later that day when she was put in a vehicle with about two male police officers and some other females who were in court that same day and transported to the Four Paths Police Station.

***Ms. King at Four Paths Police Station***

49. She said that when she arrived at Four Paths Police Station, she was directed to sit on a bench inside the Station. The other females were also placed on the same bench. She still had her bag with her, and she sat with it, along with the other females who were transported from the courthouse in the police vehicle.



50. Ms. King explained that whilst she was sitting on the bench, a female police officer, who she later discovered was W/Cpl. Mitchell-Lewis, ushered her into the bathroom. Ms. King said her bag was left on the bench where the other females were still seated. Inside the bathroom, the corporal took a scissors and declared that she was going to trim her hair. According to Ms. King, she told the police officer not to cut her hair, but the officer insisted, saying that the hair had to be cut. Ms. King said that she asked the officer why the hair had to be cut. The police officer did not answer, but instead hissed her teeth. Ms. King said she protested vociferously; but the officer ignored her. The officer then held on to Ms. King's hair and used the scissors to cut it off. Ms. King said that during her time in the lock-up at Four Paths Police Station, she saw other females in the cells who had sister locks hairstyles, but none of them were ever trimmed by W/Cpl. Mitchell-Lewis or any other police officer.
51. Ms. King said that she took up the bulk of the hair off the bathroom floor and kept them in her hand. She kept it with her and retained them in the cell with her. Upon her release, she then presented the bundle of hair to her mother.
52. Although she did not know W/Cpl. Mitchell-Lewis before that Thursday the 22<sup>nd</sup> July 2021, she is nonetheless able to identify her, having spent five days at the Police Station where she saw the corporal close-up many times. In addition, during that period W/Cpl. Mitchell-Lewis was addressed by that name by the other females in custody, and she responded to it. Ms. King explained that she had also heard other police officers refer to the corporal variously as Ms. Lewis; Mrs. Mitchell-Lewis; and Cpl. Lewis, to all of which she answered. Further, Ms. King said that W/Cpl. Mitchell-Lewis' police uniform had two stripes on the shoulder.
53. Ms. King said that she has been a Rastafari all her life, and her hair has never been cut. According to Ms. King, she has absolutely no doubt as to the identity of W/Cpl. Mitchell-Lewis, as the police officer who trimmed her hair at Four Paths Police Station on Thursday 22<sup>nd</sup> July 2021.
54. After her hair was cut-off by W/Cpl. Mitchell-Lewis, she was placed in one of the cells. Two other females were in the cell. The police kept her bag with her belongings. Among the items in her bag with which she left home that morning, was her cell phone.

55. On Sunday 25<sup>th</sup> July 2021, W/Cpl. Mitchell-Lewis did a cell search. In the process of the search a phone was found. She asked aloud who was the owner of the phone, but nobody in that cell claimed the phone. According to Ms. King, when W/Cpl. Mitchell-Lewis came out of the cell, she, Ms. King, recognized the phone as hers. She said the corporal asked again who the phone belonged to. Ms. King said that having seen the phone, she shouted out that the phone belonged to her. She said W/Cpl. Mitchell-Lewis was furious; she smashed the phone against the grill bar of the cell.
56. Ms. King said that she asked W/Cpl. Mitchell-Lewis how she could “*mash up*” her phone when she the corporal did not find it with her. According to Ms. King she informed W/Cpl. Mitchell-Lewis that she, Ms. King, used the phone to do her schoolwork, and that she had left it in her bag which the police had confiscated when she first came in. Ms. King said that W/Cpl. Mitchell-Lewis’ response was “*mi noh care; no phone no fi inna cell.*”
57. Ms. King said that she did not know how the phone came to be in that cell, or in the possession of any other person in custody, because the phone was in her bag up to the time, she left it on the bench on the Thursday (22<sup>nd</sup> July) when she was ushered into the bathroom by W/Cpl. Mitchell-Lewis. Ms. King said she had not seen her bag again after she left it the possession of the police.
58. Ms. King’s cell and the cell in which the phone was found, are across from each other separated by a passage. Ms. King said that she was therefore able to see from her cell, what W/Cpl. Mitchell-Lewis was doing in the other cell.
59. On Friday, the 23<sup>rd</sup> July 2021 Ms. King’s mother went to Four Paths Police Station to visit Ms. King and took clothes and food for her. The police did not allow delivery of the food on the basis that food was already provided for all persons in custody. The clothes were also not permitted on the grounds that those in custody could use them, in particular the pants, to hang themselves.
60. On Monday, 27<sup>th</sup> July 2021, Ms. King’s mother, having paid the fines imposed by the court, attended Four Paths Police Station, and presented her receipts as proof of payment, whereupon Ms. King was released. With the absence of her locks, Ms. King’s mother was almost not able to recognize her.

**Ms. King's mother -- Shirley McIntosh**

61. Ms. King's mother is Ms. Shirley McIntosh. She is a matured Rastafari woman, fully devoted to the faith. She is the mother of two other children, and the nuclear family lives in a modest household in Lionel Town, Clarendon. The yard is neatly kept and fully cultivated with fruit trees and vegetables. All members of the family: father, mother and children are Rastafari, with visibly long flowing locks.
62. The family is of the Nyabinghi Order and attend religious functions and worship functions at the Nyabinghi House in Scotts Pass in Clarendon.
63. Ms. McIntosh said that her daughter was born on the 21<sup>st</sup> December 2001 in the parish of Clarendon, and is registered *Nzinga Candace King*. Her pet-name is *Kette*. Ms. McIntosh said that her daughter's hair had never been cut, as that is not done in the Rastafari faith.
64. The Public Defender summoned and examined on oath the following persons:
- Ms. Candace Nzinga King
  - Mrs. Shirley McIntosh
  - W/Cpl. Angel Mitchell-Lewis
  - W/Insp. Marcia Colquhoun
  - Cons. Vivian Brown
  - Cons. Richard Roye
  - Cons. Jordan Asley
  - Cons. Clinton Cohen
  - Cons. Careem Riley
65. In addition to which, other persons were interviewed who, in the opinion of the Public Defender, were able to furnish information relating to the investigation. As a reminder, such examination is deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act which proscribes serious penalties for the making of false statements which the witness knows not to be true in the proceedings before the Public Defender.
66. There are persons who provided vital information to the Public Defender whose identities cannot be revealed for security and other reasons.

## **EVIDENCE TAKEN PURSUANT TO PUBLIC DEFENDER'S SUMMONS**

67. The summaries of the sworn evidence set out events which started at the May Pen Parish Court and continued all the way to the Four Paths Police Station, on July 22, 2021. The summaries are not in the same order in which the witnesses were called. The evidence on oath of one of the three escorts who accompanied Ms. King and two other females from the May Pen Parish Court to the Four Paths Police Station set the stage for this report.

### **WITNESS JCF / 15619 CONSTABLE CAREEM RILEY**

68. Constable Careem Riley gave evidence on October 6, 2021, that on the 22<sup>nd</sup> day of July 2021, he was stationed at the Four Paths Police Station and was on court and patrol duty which started at 8 am and ended at 6 pm. He was one of three officers who escorted Ms. King from the May Pen Parish Court to the Four Paths Police Station. It was his understanding that she was to be detained at the Four Paths Police Station pending payment of a fine imposed by the Court.

69. On his evidence the three JCF escorts were all male, consisting of himself, the driver, Corporal Robert Black, and Detective Constable Daley.

70. On that day there were three females to be taken from the May Pen Parish Court to be delivered to the Four Paths Police Station. Two had left the Four Paths Police Station earlier that day to attend court while Ms. King joined them as she did not have the money to pay the fine imposed by the court. Not having paid the fine of SIX THOUSAND DOLLARS (\$6,000.00), she was confined in custody pending the payment of the fine.

71. Cons. Careem Riley testified that Ms. King's conduct from she entered the police vehicle at the May Pen Parish Court to the Four Paths Police Station was deplorable and appalling. It was Cons. Riley's evidence that Ms. King was unruly, disrespectful, and loud. This behaviour prevailed in the motor vehicle all the way from May Pen Courthouse, down to Four Paths Police Station. There was no abatement of the conduct during the journey.

72. The Constable described Ms. King's conduct to be loud and boisterous. On route to the Four Paths Police Station. Ms. King roiled repeatedly:

***“police dem wicked”***

She vented against the police all the way, non-stop to the Four Paths Police Station and inside the Guard Room, bathroom, and in the cell.

73. The witness considered if she had a mental problem.

He concluded:

***“She was never pleasant at all”***

74. The escorting police and the females in custody arrived at the Four Paths Police Station at about 2 pm. Ms. King continued her invective spewing of accusations against the police.

75. Cons. Riley testified that Cons. Cohen was at the Guard Room desk, W/Cpl Mitchell-Lewis, the shift supervisor was present, seated at a workstation near to the cell area, Inspector Marcia Colquhoun, the sub-officer in charge of the station was inside her office. According to Cons. Riley, the distance between the workstation and the inspector’s office was about twenty-two feet (22’)

76. Cons. Riley, and the other two escorts entered the Guard Room with the three females. Ms. King was placed on the bench in the Guard Room with the other two females to whom she was handcuffed. She continued in her boisterous disrespectful conduct, loudly making accusations against the police, and voicing her dislike for men. Throughout this time, she kept pointing her finger, and gesticulating. He explained that the finger pointing was not in his face, or in the face of any of the escorts or other police officers, because none was sufficiently close to her. When asked the witness said:

***Question: “In all her boisterous behaviour as you described it, she threatened you?”***

***Answer: “No. She just talk.”***

77. The three females, Cons. Riley testified who were ushered into the Guard Room, were handed over to the custody officer, W/Cpl. Mitchell-Lewis and put to sit on the bench. According to Cons. Riley, Ms. King continued to behave very badly; she was boisterous, loud, shouting. In the words of the witness, he said Ms. King was:

*“cussing about how she did not like police and police fi dead, and how police a wicked”.*

78. In the Guard Room Ms. King continued her tirades against the police. The witness said:

*“Candice King started talk about how police wicked, police fi dead she started saying a lot of things.”*

*Question: “How was she saying it loudly or quietly?”*

*Answer: “Loudly boisterously pon top of her voice and a point her finger and saying unnu wicked, unnu fi dead.”*

79. This witness regarded her conduct as extreme and obscene. This witness spoke to what he regarded as an *“outburst”* of gross, and horrible loud cussing which lasted for about one minute. He also referred to her conduct as extreme. Cons. Riley tried to calm her down encouraging her to display better conduct. He believed W/Cpl. Mitchell-Lewis also asked her to *“calm down.”*

80. Ms. King continued to rant while seated on the bench with the two (2) other females in the Guard Room. Present amid Ms. King’s onslaught of attacks against the police were W/Cpl. Mitchell-Lewis, Cons. Clinton Cohen, Inspector Marcia Colquhoun all being present in the space of the Guard Room, heard and witnessed the disturbing commotion created by Ms. King.

81. With Ms. King’s railing against men, Cons. Riley said that as a male, he and his other male colleagues thought it prudent to remove themselves from the situation; especially since a female officer, namely W/Cpl. Mitchell-Lewis, was present and who received the three women. The escorts left within 5 to 10 minutes after delivering the women to the Four Paths Police Station and handing them over to W/Cpl. Mitchell Lewis.

82. When the three escorts exited the Four Paths Police Station the three females were still seated on the bench while Cons. Clinton Cohen was seated at the Station Guard desk, W/Cpl. Mitchell-Lewis and Inspector Marcia Colquhoun remained at the police station.

83. Up to the time of leaving the station, he did not see anyone cut Ms. King’s hair. He was never accused of cutting her hair. When he left the station with the other escorts he said:

*“when I left the she was not making any noise”*

84. In fact, according to this witness, Ms. King had calmed down.

*Question: “Oh, so she had calmed down before you left?”*

*Answer: “Yes, when I left she was not making any noise.”*

85. Notwithstanding Ms. King’s unrelenting atrocious conduct this witness could not recall her hair style. He said:

*“... me know it never out, me can’t recall her hair” and*

*‘Me can’t remember her hair, I just cannot, me can’t remember.’*

86. By August 3, 2021, Inspector Marcia Colquhoun asked Constable Riley to give a statement of his whereabouts and duties he performed on July 22, 2021. He was told the statement was required pursuant to an investigation. Cons. Riley was unaware of the reason for the investigation, but he gave the statement, as required by the inspector. The content of the statement was consistent with evidence he gave.

#### **The witness JCF/9941 Cons. Clinton Cohen**

87. Up to 22<sup>nd</sup> July 2021, Cons. Cohen was an officer with 19 years of service. He was the Station Guard at the material time. His tour of duty commenced at 8:00 am on that day and ended at 6:00 pm. He testified before the Public Defender on the 6<sup>th</sup> October 2021.

88. He confirmed that Ms. King and two other females arrived at Four Paths Police Station at around 2:00 pm on 22<sup>nd</sup> July 2021. At the time he was engaged in performing station guard duties. Constable Cohen was seated at the station guard desk. W/Cpl. Mitchell-Lewis was also present in the guard room and about five feet (5’) from the Constable while Inspector Colquhoun was nearby in her office about eight to ten feet (8’-10’) from the said Constable.

89. All three females were handed over at about 2:00 pm to W/Cpl. Mitchell-Lewis, who was the Custody Officer.

90. According to this witness his attention was on Ms. King whose conduct was loud from the moment of her arrival at the police station. She cursed that she: ***“don’t like police”*** The cursing took place in the guard room and straight to the bathroom and to the cell block.

91. His evidence was:

***Question: “...Now having paid attention to Nzinga King and the boisterous behaviour occurred, started from the moment she arrived in the station?”***

***Answer: “Yes.”***

***Question: “And it continued up to the time she carried her to the bathroom?”***

***Answer: “Yes”***

92. It is his evidence that Inspector Marcia Colquhoun came from her office, entered the guard room, and gave instructions to W/Cpl. Mitchell-Lewis to take control and have the prisoner searched referring to Ms. King. The Inspector remained in the Guard Room to observe, according to the witness, what was happening or ***“the process”*** to mean: ***“the whole dealing and handling of prisoners.”***

93. In striking contrast to W/Cpl. Mitchell-Lewis’ evidence, as will be seen, Cons. Cohen testified that W/Cpl. Mitchell-Lewis took Ms. King into the bathroom ***“to search her”***. Cons. Cohen said this was done to all three females. On his evidence, Ms. King was the second to be taken to the bathroom to be searched by W/Cpl. Mitchell-Lewis. Once inside the bathroom, the corporal, and the females, would be, and were out of visual contact.

94. This witness provided information as to the circumstances under which he gave a statement to a DSP in charge of crime which statement is dated August 6, 2021. The statement related to the allegation raised by Ms. King that her hair was trimmed by W/Cpl. Mitchell-Lewis at the Four Paths Police Station on July 22, 2021. The Constable testified that he did not see Ms. King’s hair being cut and that no one accused him of cutting her hair.

95. During his evidence, he produced a copy of the statement he had given to the DSP whose name he could not remember. At page 1 of the statement Constable Cohen stated that W/Cpl. Mitchell-Lewis



escorted Candace King to the bathroom area to be searched and she complied. The Constable testified that he stood by the content of his statement and went further to say that Ms. King was the second of the females to be escorted to the bathroom to be searched by W/Cpl. Mitchell-Lewis.

96. Cons. Cohen provided some details of the Four Paths Police Station:

***Question: "From where you were at the guard desk if anyone was shouting in the cell block could you have heard?"***

***Answer: "Yes"***

***Question: "Now at the position where W/Cpl. Mitchell-Lewis was in the guardroom if anybody was shouting on the cell block could she have heard?"***

***Answer: "Yes"***

***Question: "Based on your knowledge of the location of Inspector Colquhoun office if anybody is shouting on the cell block could you stay in that office and hear?"***

***Answer: "Yes if the door is open"***

97. The bathroom was about eight feet (8') from where Cons. Cohen was standing in the Guard Room.

98. The Constable stated that when Ms. King was escorted to the bathroom to be searched by W/Cpl Mitchell-Lewis, he was standing at the station guard desk about eight (8) feet from the bathroom. When Ms. King was taken to be searched the third female remained on the bench in the Guard Room to be searched.

99. Constable Cohen, in describing the location of the bathroom to which Ms. King was taken to be searched by W/Cpl. Mitchell-Lewis, said it was adjacent to the Guard Room and:

***"it joined the guard room."***

100. The cursing continued while Ms. King was taken to the bathroom, and he could hear her cursing when she was inside the bathroom. During her time in the bathroom her cussing and loud conduct continued; but Constable Cohen said in evidence that he did not and could not remember one word of anything Ms. King said when she was in the bathroom being searched.

101. His evidence is:

**Question: "It continued up to the time she carry her to the bathroom?"**

**Answer: "Yes...I could hear her cursing towards the cell, I could not see her"**

**Question: "You could hear her when she was in the bathroom too, Nzinga King?"**

**Answer: "Yes"**

**Question: "You remember what she was saying in the bathroom?"**

**Answer: "I don't remember what she was saying in the bathroom. I don't remember what she was saying in the bathroom. When she was in the Guard Room she was saying stuff"**

**Question: "Tell me some of the things that you remember she was saying when she was in the Guard Room."**

**Answer: "She was cursing that she don't like police. And Mr. Riley was saying something to her and she was cursing at Mr. Riley. "**

102. This point was further probed with Cons. Cohen:

**Question: "... tell me if I am misquoting you. She came in and behaving boisterously all throughout, so that caused you to be paying attention to her of the three detainees who came?"**

**Answer: "Yes"**

**Question: "So while she is on the bench she was behaving boisterously and you remember she was saying she nuh like this she nuh like that. Two to three minutes after her arrival she was escorted to the bathroom you could still hear her in the bathroom but you can't remember what she was saying?"**

**Answer: "Yes"**

103. The ultimate position of the witness is:

**"I don't remember what she was saying in the bathroom."**

104. This officer had a recall of the things Ms. King said while she was in the Guard Room, but had absolutely no recollection of anything she said while she was in the bathroom. In the Guard Room where she remained for a period of two to three minutes, Ms. King was cursing the police and saying "stuff" but while in the bathroom it is Cons. Cohen's evidence that he had no recollection whatsoever

of anything Ms. King said while she was in the bathroom. When challenged about his non recollection of what Ms. King was saying in the bathroom, he offered that he was paying **“attention”** to Ms. King. Notwithstanding the declaration that he was paying attention to Ms. King he had no recollection of what she said while in the bathroom or in the cell area.

105. In answer to questions relating to Ms. King’s hair, Constable Cohen, in spite of the attention he was paying to Ms. King described her hair in rather vague terms as:

***“Her was groomed in one, catch up in one.”***

***And ...it was all in one and it appears to be stranded.”***

106. When shown the CR 12, Police Profile Form prepared by the May Pen Police describing Ms. King’s hair as **“dreadlocks”** and **“long”** Cons. Cohen explained thus:

***Question: “During the time you were paying attention to her would you regard that that description accurately described Nzinga King’s hairstyle?”***

***Answer: “At the present?”***

***Question: “No, no, not now, at the time you were observing her?”***

***Answer: “It would more to be natural, but it was in one. So, if it was dreadlock, it is a possibility that you would not see it, if it was because it was catch up in one that is what I remember it was in one. If it was let out then you would observe it better.”***

107. Constable Cohen denied seeing Ms. King on her return from the bathroom:

***Question: “When she came back from the bathroom with Corporal Mitchell the hairstyle was the same way catch up in one?”***

***Answer: “She was not seen by me.”***

***Question: “Where did she go when Corporal Mitchell came from the bathroom with her?”***

***Answer: “I overheard her cursing towards the cell”***

***Question:” Who Corporal Mitchell”***

***Answer: “No”***

108. He however stated while in the bathroom and on her return from the bathroom to the cell area Ms. King was still cursing **“continuously;”** but the Constable on his sworn evidence said he did not hear a

word of what her cursing was about. He had no recollection of what she was cursing about once she left the Guard Room and taken to the bathroom by W/Cpl. Mitchell-Lewis.

109. This witness testified that Ms. King's bellicose conduct continued from the time she entered the Four Paths Police Station back-to-back from the bench in the Guard Room, to the bathroom for search by W/Cpl. Mitchell-Lewis, to the cell area. Constable Cohen continued to hear her loudness even when Ms. King was out of his sight. He remained in the Guard Room. This police officer described Ms. King's inexhaustible cursing as continuous from her arrival at the Guard Room, to the bench, to the bathroom and to the cell area. He did not recognize any calming period.

110. Not once did he see her after she was escorted from the bathroom to the cell area though the bathroom was a mere eight feet (8') from his location.

111. At no time did Cons. Cohen hear any of the females in custody shouting from the cells that:

***"The new girl ah pop out her hair"***

Nor did W/Cpl. Mitchell-Lewis or Inspector Marcia Colquhoun make any report or comment to that effect to him.

112. This witness did not see the grounds man or janitor, anyone sweeping up or disposing of hair from the cell area or anywhere else from the station:

***Question: "You saw anybody that day sweeping up any hair off the floor of the police station in Four paths, anywhere in the station?"***

***Answer: "No"***

113. The frequency of his resort to ***"I can't recall"*** or ***"I do not remember"*** during his testimony, was cause for concern. His recall seems to be selective on some topics.

#### **The witness JCF/9603 W/Cpl. Angel Mitchell-Lewis**

114. W/Cpl. Mitchell-Lewis was born on the 10<sup>th</sup> February 1976, which makes her 45 years old at the time of the incident. She enlisted in the JCF on the 5<sup>th</sup> February 2001, and had been at the Four Paths Police Station since 2015.

115. By the time she appeared before the Public Defender on the 1<sup>st</sup> September 2021, in answer to the summons, W/Cpl Mitchell-Lewis had already been transferred from the Clarendon Division. She was by then moved to Area 3 Headquarters, in Mandeville. It took some amount of questioning to pry out of her, her exact posting in Area 3. She testified that the transfer was effective from the 5<sup>th</sup> August 2021, and was done orally by her Clarendon Divisional Commander. According to W/Cpl. Mitchell-Lewis, she had never seen her transfer in writing and certainly, none up to the time of giving evidence.
116. On her evidence at the time, she met with the Divisional Commander SSP Miller, W/Cpl. Mitchell-Lewis understood that the allegation was that it was she, W/Cpl. Mitchell-Lewis, who had cut Ms. King's hair. Her removal from the station by way of transfer was to facilitate IPROB's investigations into the allegations raised by Ms. King that it was she who had cut Ms. King's hair on July 22, 2021, at the Four Paths Police Station.
117. A witness with a more obnoxious attitude is hard to find. She was evasive, she equivocated, and some of her answers seemed calculated to mis-lead and obfuscate. She resorted to "*I cannot recall*" in response to questions, the answers to which she reasonably ought to know.
118. Her toxic demeanor was somewhat dampened after a brief adjournment. It appeared that her counsel may have used the opportunity to have a mature discussion with her; for upon the resumption of the proceedings, W/Cpl. Mitchell-Lewis was far less disrespectful in the tone and tenor of her responses. Her narrative, however, remained incapable of belief.
119. She admitted that she was on duty at Four Paths Police Station on the 22<sup>nd</sup> July 2021. Her tour of duty for that day started at 8:00 am and ended at 6:00 pm, and she was the Shift Supervisor for that tour.
120. W/Cpl. Mitchell-Lewis admitted that she was present when a female named Candace King was taken to the Station. It was her evidence that she did not know of the name Nzinga King; the person who was taken to the Police Station was Candace King. That was what the documents which accompanied her said, and that was the names she saw for her.
121. W/Cpl. Mitchell-Lewis testified that Candace King was one of three females brought to the Station that day. The Corporal explained that on Candace King's arrival at the Station, she, W/Cpl. Mitchell-

Lewis enquired of her name, address, age, and other biodata. W/Cpl. Mitchell-Lewis described the person whose name was Candace King as:

***“She is slim, dark, appear as if she has “sister locks” in her hair.”***

In trying to solicit more details of the “sister locks” W/Cpl. Mitchell Lewis was asked:

**Question: “Could you describe the length of her hair?”**

**Answer: “No, I couldn’t”**

122. However, she did not observe that Candace King was a Rastafari:

***Question: “But you observed that she was a Rastafari?”***

***Answer: “No.”***

***Question: “And her biodata didn’t say anything about her being Rasta?”***

***Answer: “No.”***

***Question: “Okay. So the sister locks that you said she had, how did that -- where was her hair, on her shoulder or on her back?”***

***Answer: “I could not say.”***

123. This witness admitted that Candace King’s hair was in one though she could not recall if it was styled in a ‘bun.’

124. In her evidence on oath in the presence of her attorney, W/ Cpl. Mitchell-Lewis categorically denied cutting Ms. King’s hair. She denied seeing anyone cut Ms. King’s hair.

125. It is W/Cpl. Mitchell’s evidence that Ms. King was in custody at the Four Paths Police Station for disorderly conduct and indecent language. Ms. King was taken to the cells and left in the passage area while W/Cpl. Mitchell-Lewis went back to the Guard Room to deal with other prisoners.

126. The W/Cpl. specifically stated that Ms. King was left in the passage area of the cells. Her evidence was:

**Question: “You put her in the cell?”**

Answer: ***"She was left in the passage area."***

Question: ***"... she was alone?"***

127. W/Cpl. Mitchell-Lewis elaborated and said that Ms. King was left alone in the passage area while she returned to the Guard Room to attend to other prisoners. The Guard Room was no more than 12 to 15' from where Ms. King had been left according to the witness.

128. It is W/Cpl. Mitchell-Lewis's evidence that while she was in the Guard Room *"to deal with other prisoners"*

***"We heard the prisoners shouting that the new girl a pop out her hair. Pop out or a tear off her hair"***

129. The witness testified that when she heard the shouting she went around the cell where she saw hair on the floor. W/Cpl. Mitchell-Lewis called Inspector Colquhoun's attention to the hair on the floor.

130. W/Cpl. Mitchell-Lewis testified that she went around the cell and there, she saw the hair on the floor. The hair she saw looked like *"sister locks,"* but she could not provide any details as to the number of locks she saw on the floor, nor could she provide an estimate as to the quantity of hair seen on the floor.

Question: ***"How did Candace now appear to you after you had seen the locks on the floor?"***

Answer: ***"There was locks on her head, the hair was still on her head, so she was placed in a cell."***

131. According to this witness Ms. King still had *"locks"* on her head and at that point she was put in a cell. The witness explained that the hair looked *"shorter."* She testified as follows:

Question: ***"So how did she look after the locks was still on the floor?"***

Answer: ***"The hair appeared shorter."***

Question: ***"The hair appear shorter?"***

Answer: ***"Shorter"***

132. The W/Cpl. went on to explain that the Inspector came and looked but said nothing.
133. W/Cpl. Mitchell-Lewis provided more details as to the location of the hair she saw. She said the hair was in the passage area of the cell. When W/Cpl. Mitchell-Lewis was asked if she saw the hair in the passage of the cell area before or after Ms. King was brought to the Four Paths Police Station, she stated that her observation of the hair in the passage area of the cell was after Ms. King was brought to the Police Station.
134. W/Cpl. Mitchell-Lewis said that she swept up the hair, and subsequently, the person who does janitorial work, came in and collected the swept-up hair and dumped it:

***Question: "Are you saying that those locks that were swept up were thrown away so far as you know?"***

***Answer: "That is as far as I know."***

135. W/Cpl. Mitchell-Lewis could not describe the hair which she swept out, other than to say that:

***"it looked like sister locks".***

136. According to W/Cpl. Mitchell-Lewis, she saw the hair on the floor of the cell area about five minutes or less, after putting Ms. King into the passage.
137. In short W/Cpl. Mitchell-Lewis's account of how Ms. King's hair was cut was that she Ms. King popped out her own hair causing her hair to look "*shorter.*"
138. After her duty ended on the 22<sup>nd</sup> July 2021, W/Cpl. Mitchell-Lewis left the Police Station. Her next tour of duty was Sunday 26<sup>th</sup> July 2021. She assumed duty at 6:00 pm, and again she was the supervisor for that shift. When she commenced duty, Ms. King was in Cell No. 3.
139. During her tour of duty on the Sunday, W/Cpl. Mitchell-Lewis and her team carried out a search of the cells. She found a telephone in Cell No. 1., Ms. King was at the time being kept in Cell No. 3. The phone was not found on anyone in particular, it was found in a bag. According to W/Cpl. Mitchell-Lewis, "*a prisoner in Cell No.1 said that the bag belonged to her*". (The name of that detainee was given, but for the purpose of this report it is not necessary to name her.)



140. W/Cpl. Mitchell-Lewis testified that the cell phone was damaged when she found it, and that she placed it in the *Strong Pan* at the Station. On her account, she made an entry in the Station Diary recording that the phone was found during the cell search.

141. W/Cpl. Mitchell-Lewis said that Ms. King claimed ownership of the same phone; however, she W/Cpl. Mitchell-Lewis did not seek to ascertain the true owner of the phone, since it was found in a cell other than the one occupied by Ms. King, her explanation being:

**“because the phone should not have been in the cell.”**

142. In offering an explanation as to how phone may have been damaged, W/Cpl. Mitchell-Lewis offered:

**“During the search we use a -- I used a wooden baton to hit the structure of the building including the bunk bed, including items on the bed and during that time, I am not sure if the phone was damaged, or it was damaged during the search, but when the phone was recovered, it was damaged.”**

According to W/Cpl. Mitchell-Lewis she used the baton that was issued to her, to assist with carrying out her duties, and she **“hit the item.”** She maintained however that she was not sure how the phone was damaged.

143. W/Cpl. Mitchell-Lewis said that she gave a statement to INDECOM; that she gave a statement to IPROB; and that she gave a statement to her Divisional Commander. Later in her evidence under further questioning, it emerged that it was one and the same statement:

**Qu: “Okay. So I am understanding you to say that you gave Divisional Commander a statement different from what you have given to IPROB and INDECOM?”**

**Ans: “No.**

**Qu: “It is the same?”**

**Ans: “I handed it over to the SSP for him to give to IPROB.”**

144. The statement which W/Cpl. Mitchell-Lewis said that she gave was not available at the time she gave evidence before the Public Defender. Repeated requests finally yielded a copy of the one statement W/Cpl. Mitchell-Lewis gave in answer to the allegations that she had cut Ms. King’s hair. That statement with personal details information redacted is at Appendix 6.

145. The statement is dated 6<sup>th</sup> day of August 2021 and offers a different account of what transpired at the Four Paths Police Station on July 22, 2021, and on the day the telephone was discovered in a cell.
146. In that statement W/Cpl. Angel Mitchell-Lewis describes Ms. King's unbecoming conduct of loud talking, pointing of fingers in the direction of Constable Riley and Ms. King's utterances of her dislike for men and the police. Inspector Marcia Colquhoun intervened and instructed the W/Cpl. to take charge of the situation. At that point the W/Cpl. took Ms. King to a place that she describes as the "restroom" and in that "restroom" she instructed Ms. King to "loosen" her hair to search for "hidden contraband." In her search for hidden contraband and having asked Ms. King to loosen her hair one might reasonably expect that the W/Cpl. must have made observations of her hair to be able to provide OPD with a description of Ms. King's hair. This W/Cpl. could not give OPD a description of Ms. King's hair except that it looked like "*sister locks.*"
147. Another area of material discrepancy is that W/Cpl. Mitchell Lewis states that on the completion of the search Ms. King was put in a cell. Her evidence was contrary to that assertion, in that evidence of W/Cpl. Mitchell Lewis and Inspector Marcia Colquhoun was clear that Ms. King was placed in a passage in the cell area and not a cell.
148. Added, the W/Cpl. states that when she discovered the cellular telephone it was damaged and that while she was closing the cell the phone fell to the ground. She took up the "*shattered phone.*"

**The Witness JCF/---- W/Insp. Marcia Colquhoun**

149. W/Insp. Marcia Colquhoun was the officer with overall responsibility for the Four Paths Police Station. She was present at the Station on the 22<sup>nd</sup> July 2021 and at the time the incident occurred. She is a member of the JCF for thirty years and more.
150. Her evidence was that she knows W/Cpl. Mitchell-Lewis for some years and regards the corporal as a good and trusted sub-officer. She does not think that W/Cpl. Mitchell-Lewis would have forcibly cut "*the prisoner's hair*". Inspector Marcia Colquhoun's office was in ear-shot of the Guard Room and on her own evidence, she could have stayed in her office and heard what was happening in the Guard Room.

151. This Inspector testified that when Ms. King arrived at the Police Station on the 22<sup>nd</sup> July 2021, sometime around 2:00pm, she Ms. King had hair **“up in a bun”**.

152. At around that time Inspector was in her office. She made it clear in her evidence that her office was just behind the Guard Room and that she heard everything said in the Guard Room. She met Candace King in the Guard Room. She was talking in a loud voice saying: **“mi nuh like police and mi nuh like men”** Inspector explained that she heard Ms. King from her office. Her further evidence was:

***“...anything being said in the guard room I could hear.”***

153. When Inspector came out of her office to see who was talking so loudly, she saw Ms. King. At that time, she was pointing up in the policeman’s face who had escorted her and was saying:

***“mi waah yuh lou mi out, mi nuh like police a hide mi, and mi nuh like man.”***

154. It was at this point, according to Inspector, that she instructed W/Cpl. Mitchell Lewis to **“take charge of the situation.”** So, instead of allowing the male police to speak to Candace it was Inspector’s instructions for W/Cpl. Mitchell-Lewis to talk to Ms. King instead of allowing the male police officer to do so. On the Inspector’s evidence, the male police officers were asking Ms. King for information like her name, and date of birth, in order to make the entry in their records; but she refused to cooperate.

155. The Inspector gave evidence of some of the duties of W/Cpl. Mitchell-Lewis as the person responsible for females coming in and out of the cells. According to the Inspector Ms. King cooperated with W/Cpl. Mitchell-Lewis and provided the information.

156. Inspector Colquhoun testified that thereafter W/Cpl. Mitchell-Lewis searched Ms. King and put her in the cell. The Inspector did not actually witness when Ms. King was placed in the cell.

157. In evidence the Inspector admitted that Ms. King had her hair up on top. Subsequently, W/Cpl. Mitchell-Lewis came to the Inspector and made a report that one of the prisoners called her and told her that she noticed Ms. King was **“taking out, breaking out some of her hair.”** The Inspector went

to look, and she saw hair on the ground. Inspector testified that she said nothing to Ms. King but observed W/Cpl. Mitchell-Lewis sweeping up the hair which was finally removed from the station.

158. The hair that was swept up and disposed of was not swept from any cell, but from a passage that is outside of the cell but within the confine.
159. According to the Insp. Colquhoun's evidence there was no significant difference in Ms. King's hair when she saw the hair on the floor.
160. Insp. Colquhoun testified that she did not hear any of the females shouting "*di new girl ah pop out her hair*"; where, on the totality of the evidence, her office was in earshot of the cell-block or cell area and the Guard Room.
161. Like W/Cpl. Mitchell-Lewis, W/Insp. Colquhoun was transferred to the Manchester Division shortly after the incident. She too, according to her, was called in by the Clarendon Divisional Commander, and informed of her transfer. She subsequently returned to the Clarendon Division to hand over to her successor.

#### **The Witness JCF/78555 Constable Vivian Brown**

162. Cons. Brown was called as a witness because the Public Defender was led by W/Cpl. Mitchell-Lewis to believe that he was one of the officers on duty at the material time. He was indeed on duty on the 22<sup>nd</sup> July 2021. But his tour of duty started at 6:00 pm and ended at 8:00 am the following day.
163. He had no interaction with Ms. King during his tour of duty, and according to him, he did not see her during his tour of duty.

#### **The Witness JCF/ 20526 Constable Richard Roye**

164. This witness was not at work on the material day and had no knowledge of any incident with Ms. King at all. The Public Defender was led to believe that he was someone who was present at the station and could possibly provide information on the incident. This was not so.

### **The Witness JCF Cons. Jordan Ashley**

165. Cons. Ashley was called as a witness because the Public Defender was led to believe by W/Cpl. Mitchell-Lewis, he was one of the officers on duty at the material time. This was not so, and the officer had no useful information to share. Indeed, and in fact this officer was not stationed at the Four Paths Police Station but was attending an orientation session there. He was not called upon to provide any statement whether to INDECOM or IPROB. He had no interaction whatever with Ms. King or her mother or any other party relative to the incident.

### **The Court and its Administration**

166. The court records were accessed, and copies obtained from the Court's office in Clarendon. While the records disclose no irregularity, the narrative of Ms. King as to what transpired in court on the 22<sup>nd</sup> July 2021, contradicted those records. Given the enormous disparity between Ms. King's narrative and the Court records, the Court Office was invited to comment. This invitation was contained in a letter dated September 27, 2021, and hand-delivered on September 28, 2021.

167. In that letter, Ms. King's version of the events was put to the Administration of the Parish Court at May Pen, and the latter invited to comment. That letter was also copied to the Court Administration Division. All, for the purpose of transparency in the interests of the administration of justice, given the level of national attention that the case attracted. Neither the May Pen Parish Court nor the Court Administration Division offered any comment on the matter.

### **The Institute of Forensic Science & Legal Medicine Unit (IFSLM)**

168. During the investigation, information came to the Office of the Public Defender, that Police Officer(s) from IPROB attended the Institute of Forensic Science & Legal Medicine Unit (IFSLM Unit) in order to submit biological sample(s) taken from Ms. King, for DNA analysis. Ms. King and her mother were accompanied by police officers to give the required samples.

169. The OPD understands that the sample was not accepted by IFSLM because of some form of procedural breach, presumably on the part of the police. By letter dated September 8, 2021, and hand delivered to IFSLM on September 9, 2021, the OPD sought to ascertain the nature of the breach of procedure or protocol, and whether or not any DNA analysis was ever carried out on any hair or

biological sample of Ms. King. Following a written reminder sent to the Executive Director, the OPD was eventually informed that the breach of the protocol was repaired, and the samples submitted for analysis.

170. By letter dated 22<sup>nd</sup> December 2021, the Public Defender asked IFSLM Unit to share the results of the forensic tests or analyses for the purpose of the investigation. Even after a reminder communicated to the CEO by a follow-up letter of 17<sup>th</sup> January 2022, there has been no response from the IFSLM Unit.
171. Although under section 11(2)(f) of the DNA Evidence Act 2015, the Public Defender is not among the entities to which the CEO is statutorily obliged to disclose her report, the language of the statute gives the CEO a discretion as to which entity she may or may not supply a copy of her report. The CEO opted not to exercise her discretion in favour of the Public Defender.

#### **The Social-media Post**

172. In the midst of the publicity surrounding this case, there appeared on a social-media platform, a post by a female student at the institution which Ms. King was attending at the time. The post which was on WhatsApp read:

*“Hi King how are you doing.. What is happening to you?”*  
*“I saw a story in the media pertaining to you”*

The student was one Fiona Lampart. The Public Defender contacted Miss Lampart who indicated that she did not wish to be involved.

#### **FINDINGS AND OBSERVATIONS**

##### **General**

173. By way of observation, persons who are serving sentence in the Department of Correctional Services (DCS) facilities, are permitted to receive food from family members, albeit with the attendant protocols. However, it seems as if a person who is serving a sentence in the custody of the police, does to get that privilege. One is not sure on which legal footing the police rests for such a position. In any event, it is an inexplicable anomaly.

174. The use of pepper-spray as a non-lethal weapon has been creating as much controversy as the use of lethal force. It has become a source for recurring confrontation between the police and citizens. While citizens cannot be completely absolved of responsibilities in some of these confrontations, the police's approach in the use of pepper-spray cannot be without discretion and boundary. To discharge pepper-spray in a passenger-laden motor vehicle, an obviously confined space, simply to get at one offending occupant, is the pinnacle of irresponsibility, and a demonstration of the level of disregard that that police officer has for law abiding people. Arguably, it is the non-lethal equivalent of firing a shotgun in a crowd of peaceful people, for the purpose of apprehending a single individual deemed by the police to be an offender.
175. Ever since the criminalization of breaches of the DRMA, it has become a practice of the police to herd offenders *en masse*, into the backs of trucks and cart them off to Police Stations, like common criminals. Not only is this practice dehumanizing, but it is extremely offensive, and highly insulting, especially to elderly persons and to females, dressed in skirts.
176. It is observed that the two officers implicated in the unlawful cutting of Ms. King's hair were promptly transferred out of the Division although still in the Area. They, however, remain on active duty. The collective experience of persons operating in the system of the administration of justice, is that the JCF has placed officers on interdiction, for less egregious allegations made against them.

#### **Nzinga King and the incident at the taxi-stand**

177. The police officer who arrested and charged Ms. King for the offences under the Town and Communities Act was JCF/ 17782 Cons. K. Chandler. This happened on the 29<sup>th</sup> June 2021, following an altercation between police officers and a male passenger in a taxi which Ms. King was also a passenger.

#### **The Offences Charged and the Proceedings in Court**

178. The complainant Ms. King was arrested and charged by JCF/17782 Cons. K. Chandler of the May Pen Police, arising out of their confrontation on the 29<sup>th</sup> June 2021, at the taxi stand in May Pen. The offences charged were:

- (a) Failure to Wear a Mask in a Public Place;
  - (b) Disorderly Conduct; and
  - (c) Abusive Language.
179. She was convicted for the latter two offences on the 22<sup>nd</sup> July 2021 in the Parish Court at May Pen. While the DRMA offence was set for trial on the 23<sup>rd</sup> November, 2021, based upon the court documents.

***Failure to Wear a Mask in a Public Place***

180. This is an offence created by an Order promulgated under section 52(1)(c) of the Disaster Risk Management Act of 2015. According to the records of the Clarendon Parish Court in May Pen, Ms. King entered a plea of *not guilty* to this charge, and the case was set for trial on the 23<sup>rd</sup> of November 2021.
181. On the 23<sup>rd</sup> of November, the case was adjourned to 2<sup>nd</sup> February 2022 and subsequently adjourned to a further date. Given that that case is still *sub judice*, the OPD will withhold its comments.

***Disorderly Conduct***

182. Disorderly Conduct is a misdemeanour under the Towns and Communities Act. According to the Information laid in court, the *disorderly conduct* was prosecuted under section 11 of the Act. The Towns and Communities Act is a pre-Independence statute, having been enacted in 1843. Section 11 provides as follows –

*“ Every person who shall, in any town, or in any public place, conduct himself in a noisy and disorderly manner, to the disturbance of the peace and good order, or to the annoyance, discomfort, or obstruction of members of the public, shall be deemed violators of the public peace, and on conviction shall be liable to a penalty not exceeding one thousand dollars, or to imprisonment for a period not exceeding thirty days, or in default of payment of any pecuniary penalty, to imprisonment with or without hard labour for a period not exceeding thirty days.”*

183. The Court records indicate that Ms. King pleaded guilty to this charge and was fined \$3,000, and in default of payment, ten days imprisonment.



### ***Abusive Language***

184. Section 3(m) Towns and Communities Act criminalizes the use of “*abusive and calumnious language to any other person publicly*”. Under that provision, every person who—

*“shall use any threatening, or abusive and calumnious language to any other person publicly, as shall tend to provoke a breach of the peace; or shall use such language, accompanied by such behaviour to any person publicly, as shall tend to breach the peace, shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars.”*

Under this Act the police is empowered under section 4 to arrest without warrant any person who commits this offence within the view of the police officer.

185. As in the case of the disorderly conduct charge, the Court records indicate that Ms. King also pleaded guilty to this charge and was fined \$3,000. In default of payment, she was to serve a term of ten days imprisonment.

186. Hence, a total of \$6,000.00 in fines was imposed on Ms. King for the two offences under the Towns and Communities Act, with which she was charged. The 10-day term of imprisonment in default of payment on each count, is presumed to run concurrently.

### ***The Penalties under the Statute***

187. Under the Towns and Communities Act the maximum pecuniary penalty for the offences of disorderly conduct and abusive language, is \$1,000.00, respectively.

188. The Law Reform (Amendment of Penalties) Act, passed in 2019, amended the penalties imposable by the Parish Court for specific offences. That Amendment did not include the penalties for offences under the Towns and Communities Act.

189. Under the law as it stands, the Parish Court is not competent to impose any fine above \$1,000.00 for any of these two offences. Therefore, the fine of \$3,000 imposed on each of these charges for which a conviction was recorded, tripled the jurisdiction of the Parish Court.

190. However, having not paid the fine imposed immediately Ms. King was transported to the Four Paths Police Station where she started to serve the ten-day imprisonment.

#### **Four Paths Police Station**

191. Four Paths is a small town, located 5 miles east of May Pen the capital of Clarendon. It is the Station in the Clarendon Police Division where females in custody are housed. The Sub-officer in charge of that Station holds the rank of Inspector. Other Sub-Officers at the Station include two sergeants and three corporals.
192. When the fines imposed by the Court were not paid, Ms. King was taken to Four Path Police Station, where she would have served the 10-day default. That is the standard practice for such periods of imprisonment.
193. Ms. King was one of three females transported from May Pen Parish Courthouse to Four Paths Police Station on July 22, 2021. The other two were remandees who had been taken to court from the Station, earlier that morning. Both were remanded back to custody and given new court dates.
194. All three females were escorted by a party of three male Officers: Cpl. Black; Cons. Daley, and Cons. Riley. The service vehicle used was a double-cab Mitsubishi pick-up truck numbered MU 100. Cpl. Black was the driver; Cons Daley was in the front passenger seat; and Cons Riley and the three females were on the back passenger seat.
195. The three females, in handcuffs, were all delivered to the Four Paths Police Station and handed over to W/Cpl. Mitchell-Lewis.
196. Based upon her testimony, W/Cpl. Mitchell-Lewis did not seem prepared to accept that the person who came to Four Paths Police Station on the 22<sup>nd</sup> July 2021 with documentation in the name *Candace King*, was the same person referred to as *Nzinga King*.
197. At the Station, all three females were ushered to a bench inside the Guard Room, where they were made to sit, still handcuffed to each other.
198. W/Cpl. A. Mitchell-Lewis' evidence strains credulity. The OPD does not find her to be a witness of truth. Her aura and demeanor suggest that she is a police officer who believes that she IS the law.

199. The OPD finds that W/Cpl. A. Mitchell-Lewis was the officer who forcibly and without any lawful authority, cut the hair of Nzinga King whilst she was in the custody of the Four Paths Police in Clarendon.
200. That conduct by W/Cpl. Mitchell-Lewis amounted to a criminal offence and a tortious act.
201. The OPD notes that W/Cpl. Mitchell-Lewis was not interdicted or otherwise suspended after such serious allegations were publicly raised against her; but rather transferred to a post in the neighbouring parish of Manchester. So too was W/Insp. Marcia Colquhoun.
202. In addition to its criminality, the cutting of Ms. King's hair was a tortious act, as well as a violation of her rights under Charter of Fundamental Rights and Freedoms as outlined in Chapter 3 of the Constitution.
203. The main building housing the cellblock and Guard Room at Four Paths is relatively small. The cellblock area, the Guard Room and W/Insp. Colquhoun's office are all in ear-shot of each other. It is strange that the females could have been shouting that the *"new girl a pop out her hair"* and W/Insp. Colquhoun did not hear, while W/Cpl. Mitchell-Lewis heard it. That is simply inconceivable. It is equally inconceivable that Con. Cohen, the station guard did not hear.
204. W/Insp. Marcia Colquhoun's evidence on the issue does not accord with reality. It is clear from the totality of the case that she is trying to protect W/Cpl. Mitchell-Lewis.
205. The size and layout of the guard room, the reception area, and the area of the cells, are such that if the females were shouting *"the new girl ah pop out her hair,"* as W/Cpl. Mitchell-Lewis stated, there is no way that W/Insp. Colquhoun could not have heard. Afterall, from the very same position in her office (at the rear of the guard room), W/Insp. Colquhoun could have heard Ms. King shouting to the male officers *"Unnoo llow mi! Mi want yuh llow mi! Mi nuh like police! An mi nuh like man!"*.
206. On W/Insp. Colquhoun's evidence, it was W/Cpl. Mitchell-Lewis who came and informed her that she Mitchell-Lewis was told by one of the other females, that Ms. King was taking out some of her hair.

207. This is a far cry from what W/Cpl. Mitchell-Lewis said in her testimony. On this point, W/Cpl. Mitchell-Lewis cannot be believed. Her evidence about female prisoners shouting that the *new girl a pop out her hair*, is a fabrication.
208. Nobody else in that small space of Four Paths Police Station heard any female shouting. In fact, the females at the time of the OPD's team initial visit to the Station, denied any such thing. They declined to give statements, and that is quite understandable under the circumstances in which they were. For their own protection, the report will not disclose any of their names.

#### **Phone found during Cell-Search on 25<sup>th</sup> July**

209. It is rather curious that W/Cpl. Mitchell-Lewis would have made an entry in the Station Diary about the finding of the phone in the cell, but not include in that entry, that the phone was placed in the *Strong Pan*. The Station Diary Entry bearing "*Reference Number 18/26/7/21*" contained no mention of the phone found in the Cell Search, being placed in any Strong Pan.
210. Equally curious was the fact that despite the testimony that the phone was placed in the *Strong Pan*, none of the officers was able to either produce this phone, or to confirm its presence in *Strong Pan*. As the Public Defender was denied access to the Police Station, the investigation was not able to confirm or deny the absence of this phone. In the circumstances therefore, W/Cpl. Mitchell-Lewis and W/Insp. Colquhoun, are liable, jointly and severally, to produce this phone regardless of its condition.
211. The phone was found in a bag in cell number 1. A remandee (who will not be named in this report) claimed ownership of the bag. Ms. King who was in cell number 3 said the phone was hers. W/Cpl. Mitchell-Lewis, on her own account, did not question any of these females as to how the phone got into the cell. She did not offer an explanation as to why she, as the custody officer did not make any such enquiry.
212. Such a query could possibly have revealed the surreptitious methods employed by persons to smuggle contraband into lock-ups and cells. Ultimately leading the police to design measures to curb

such a prevalent illegality. But rather than taking a prudent approach, W/Cpl. Mitchell-Lewis took the offensively officious stance of “*no phone no fi inna cell*”; as if anybody was contending that phones were permitted in cells.

## THE CUTTING OF HAIR

213. The shearing of the locks of this young woman without her permission, and entirely against her will, raises issues which no self-respecting State can afford to ignore. Even more so in the face of her repeated objections and patent expressions of resentment to such a move.
214. So deliberate in purpose, and egregious in nature, is the conduct of the police officer who cut Ms. King’s hair, that it unmistakably represents the anti-thesis of all the tenets of statutory and common law known to this jurisdiction. The conduct is criminal in nature; it is tortious; and it is a serious violation of constitutional rights.

### *Issues in Criminal Law*

215. An assault is the conduct of a person whether intentionally or recklessly, towards another, which causes that other person to apprehend immediate and unlawful violence against him or her. (*Fagan v Metropolitan Police Commissioner* [1968] 3 All ER 442; 445) For example, if X raises his hand to slap Y across the face, X would have committed an assault upon Y, even though he did not strike, or even touch Y.
216. A battery is any conduct by a person whether intentionally or recklessly, by which that person inflicts unlawful personal violence against another person. Using the example above, if X were to proceed to slap Y across the face (in local parlance, *box* him), then X would have committed a battery upon Y.
217. It is to be noted that “*violence*” in the definition of battery includes any unlawful touching, however slight it may be. Blackstone Commentaries (iii, 120) explained the principle thus: -

*“...the law cannot draw the line between different degrees of violence, and therefore prohibits the first and lowest stage of it; every man’s person being sacred, and no other having a right to meddle with it, in any the slightest manner.”*

Assault and battery are two separate offences, however there can be conduct which gives rise to both. Where the battery gives rise to bodily harm, which is usually the case, the law provides a penalty for such conduct. In Jamaica that law is section 43 of the Offences Against the Person Act.

218. In the 2006 UK criminal case reported as *DPP v Smith* [2006] EWHC 94, the male defendant during an argument with his girlfriend, pushed her down on the bed in his bedroom, sat on her and cut off her ponytail. Apart from that cutting of the hair, no physical harm was caused to her. She suffered no scratches, bruises, or cuts. Whilst she was emotionally upset and distressed there was no evidence or suggestion of psychiatric injury.
219. The defendant in that case was charged with assault occasioning actual bodily harm under section 47 of the UK's Offences Against the Person Act. (That section, apart from the prescribed sentence, is identical to section 43 of Jamaica's Offences Against the Person Act.) At the trial, the Magistrate accepted that a common assault had been committed, however the defendant had not been charged with common assault; so, the magistrate ruled that there was no case to answer on the charge of assault occasioning actual bodily harm, as the cutting of the hair did not constitute actual bodily harm. Accordingly, the Magistrate's verdict was *not guilty*.
220. The prosecution appealed. The Court in over-turning the decision of the Magistrate, held that the cutting of the girlfriend's hair amounted to actual bodily harm. In its reasoning the Court said *inter alia*, that actual bodily harm was not limited to harm to the skin, flesh, and bones of the victim; but that it applied to all parts of the body including hairs on the scalp. Physical pain consequent on an assault is not a necessary ingredient of the offence, the Court reasoned. According to the Court, on the evidence called by the prosecution, there was a case to answer by the defendant. In the words of the court: "*to a woman, her hair is a vitally important part of her body. Where a significant portion of a woman's hair is cut off without her consent, this is a serious matter amounting to actual (not trivial or insignificant) bodily harm.*"
221. The conduct of W/Cpl. Mitchell-Lewis with respect to Ms. King is almost identical to the conduct of the defendant in *DPP v Smith* with respect to his girlfriend. On parity of reasoning, the conclusion that W/Cpl. Mitchell-Lewis' conduct must attract criminal liability, is inescapable.

### **Issues in Tort**

222. The cutting of the hair of Ms. King, in defiance of her will, is not only criminal, but a tort within the eyes of the law. The law of torts affords to mentally competent adults, an absolute right of bodily integrity. As in the criminal law, any deliberate touching of another, however trivial, constitutes a battery unless expressly or implicitly authorized by that other person. This is a basic interest protected by the ancient tort of *trespass to the person*. It is a civil wrong from which flows a body of legal principles protecting the citizen. (Clerk & Lindsell on Tort 12<sup>th</sup> Ed. 2010; p. [17].)
223. In *Parkinson v St. James & Seacroft Hospital NHS Trust* [2002] Q.B. 266; p.56, the UK Court of Appeal said—

*“The right to bodily integrity is the first and most important of the interests protected by the law of tort. ... Included within that right are two others. One is the right to physical autonomy: to make one’s own choices about what will happen to one’s own body. Another is the right not to be subjected to bodily injury or harm. These interests are regarded as so important that redress is given against both intentional and negligent interference with them”.*

These principles of law, apply with equal force in this jurisdiction called Jamaica. Whether or not W/Cpl. Mitchell-Lewis had the intention, or was merely negligent, is of no relevance in this area of tort. Her cutting of Ms. King’s hair in the circumstances, must as a matter of law, attract redress.

225. OPD is of the firm view that W/Cpl. Mitchell-Lewis’ conduct was wholly intentional. OPD is satisfied that W/Cpl. Mitchell-Lewis cutting of Ms. King’s hair was inspired by venom and revenge brought on by Ms. King’s bad conduct. Ms. King’s horrible behaviour cannot and does not justify the W/Cpl. conduct. Nor can Ms. King’s conduct be excused.

### **Issues in Constitutional Law**

226. The conduct of the police officer infringed multiple provisions of the Charter of Fundamental Rights and Freedoms guaranteed under Chapter III of the Constitution in particular section 13 (3)(a), (g) and (h). These provisions relate respectively to the right of the person to security of personhood; equality before the law; and the right to equitable and humane treatment by any public authority in the exercise of any function. The cutting of Ms. King’s hair by W/Cpl. Mitchell-Lewis is a violent and personal invasion of her person and amounts to a major violation of her constitutional rights. Ms. King is entitled to seek redress for such violations.

227. At the time the complainant was delivered into the custody of the Four Paths Police, there were seven other women in custody at that Station. She was delivered with two other female remandees, thus making a total of ten women in custody at that Station by the end of the day on the 22<sup>nd</sup> July 2021.
228. The total number of females in custody at that Station remained at ten, until later in the said month, when an additional female was brought in, bringing the number to eleven. The undisputed evidence was that there were other female detainees who were wearing locks, similar to that worn by Ms. King.
229. While the conduct of W/Cpl. Mitchell-Lewis is to be abhorred and is an infringement of Ms. King's constitutional rights the OPD states that on the evidence it has not found any material to support an argument, suggestion, or position that Ms. King's hair was cut because she is Rastafari. It is OPD's findings that wrong as it was Ms. King's hair was cut to teach her a lesson. The cutting of Ms. King's hair was inspired by revenge and venom in response to Ms. King's undeniably deplorable conduct.
230. OPD finds that Ms. King's conduct was beyond unacceptable; but she posed no threat to the police at any stage, nor did she take any violence to them, yet violence of a most painful and personal nature was inflicted upon her all to teach her a lesson and to forcibly bring home to her "*who run things*" at the Four Paths Police Station.

#### **DENIAL OF ACCESS TO THE PUBLIC DEFENDER**

231. Denying the Public Defender access to Four Paths Police Station in the midst of her investigation, is tantamount to an unlawful obstruction of the Public Defender in the execution of her functions. This is spelt out in section 25(b) of the Public Defender (Interim) Act and is made a criminal offence punishable by fine or imprisonment of both.
232. The denial of access to the Four Paths Police Station warranted an adverse finding by the Public Defender. As a condition precedent to that finding, the Public Defender is obliged in a case such as this, to give notice of the adverse finding, so that the subject of the intended adverse report has an opportunity to respond. The notice to the Office of Commissioner of Police is at *Appendix 1*, and the response is *Appendix 5*. The response of the Office of the Commissioner of Police contains a recital of section 19 of the Public Defender (Interim) Act, a provision with which the Public Defender and



her staff are all familiar. In fact, that is the very same provision under which the Public Defender sought to exercise her authority when the police denied her access to the Police Station.

233. While it may be of some consolation that the Commissioner of Police recognizes section 19 of the Public Defender (Interim) Act, it is unfortunate that he could not bring himself to readily and expressly disassociate the JCF, or even the JCF's High Command from such conduct on the part of its officers in the Clarendon Division; or to issue a full-throated condemnation of the conduct; even if only conditional on the outcome of the JCF's own internal enquiry into the matter. In fact, the Commissioner has not even hinted or pretended that there is any such internal enquiry.
234. In the last paragraph of the Police Commissioner's letter, he recommended factors which in his view, would facilitate a smooth visit and inspection of a Police Station. This is as true as it is trite. All the factors alluded to by the Commissioner were in effect at the time the Public Defender and her team visited Four Paths Police Station on the 6<sup>th</sup> September 2021.
235. For the avoidance of doubt, it is to be recorded that on that visit to Four Paths Police Station in Clarendon, the Public Defender and her visiting team were all identifiable, and indeed identified:
  - (a) photo IDs were being worn and fully displayed
  - (b) two members of the team were attired in garments bearing the OPD's logo
  - (c) one member of the team was known to, and knew the Sub-Officer on duty, having previously visited the said Police Station in the initial phase of the investigation, and interacted with the same Sub-Officer.
  - (d) that member of the team introduced the Public Defender to the Sub-Officer and informed him, again, of the purpose of the visit. In fact, it is the very purpose of the visit which prompted the Sub-Officer to seek approval from his superior.
236. The conduct of the police officers and the response from the Police Commissioner in a case like the instant, breeds cynicism and calls into question the sincerity of the JCF in its handling of allegations of impropriety against its members.
237. It is clear to the Public Defender that the decision of the Judicial Committee of the Privy Council in restoring the conviction of DSP Albert Diah in the case brought by INDECOM, has been lost upon the JCF as an organization. (Privy Council Appeal No. 0099 of 2019; judgment dated 4<sup>th</sup> May 2020.)

238. Since the Public Defender will be instituting the prosecution of the officers who obstructed her in the lawful execution of her duty, this report will stay her comments on the merit of the case.

## **REDRESS**

239. The imposition of fines of \$3,000. 00 was outside of the jurisdiction of the Parish Court Judge. The statutes which created the offences, expressly provide for the penalties which can lawfully be imposed. The Law Reform (Amendment of Penalties) Act does not include the penalties prescribed under the Public Order Act or under the Towns and Communities Act. And the Office of the Public Defender has not been able to unearth any law which has amended the fines for these offences, or otherwise enlarge the sentencing power of the court.

## **RECOMMENDATIONS**

### **Compensation**

240. The OPD recommends that:

- (a) compensation in damages to Ms. King for the cutting of her hair which OPD finds to be a constitutional violation.; and
- (b) damages in the tort for the assault committed upon her by the police.
- (c) Ms. King's cellular phone be replaced, and the SIM card from the phone willfully damaged by W/Cpl. Mitchell-Lewis, be returned to her.

### **Remission of Fines**

241. The return of that portion of the \$6,000 fines paid in satisfaction of the Order of the Court, to bring the payment in line with the sentencing jurisdiction of the Parish Court. At the time of sentencing, the ceiling on the fine for the offences was \$1,000.00. The State has wrongfully taken \$2,000.00 from Ms. King on each offence.

242. Ms. King is therefore entitled to recover \$4,000.00 from the State.

243. It is recommended that this money be refunded to Ms. King without the need for her to embark on any litigious proceedings.

### **Actions against Police Officers**

244. Neither W/Cpl. Mitchell-Lewis nor W/Insp. M. Colquhoun upon whom the Public Defender served Notice of Intended Adverse Report, responded. The Notices are at Appendix 3 and Appendix 2 respectively.
245. It is recommended that W/Cpl. Mitchell-Lewis be prosecuted for the offence of assault occasioning bodily harm, or at the very least common assault. The Office of the DPP should therefore develop an interest in her conduct at the Four Paths Police Station toward Ms. King, on the 22<sup>nd</sup> July 2021. There cannot be any serious question as to identification. The issue is purely one of credibility.
246. It is also recommended that disciplinary proceedings be brought by the JCF against the said W/Cpl. Mitchell-Lewis. Her overall conduct was prejudicial to good order and discipline within the JCF.
247. It is further recommended that disciplinary proceedings be brought against W/Insp. M. Colquhoun. It is humanly impossible for her not to have seen and known that W/Cpl. Mitchell-Lewis was trimming, and had trimmed Ms. King's hair that day at Four Paths Police Station. As the Sub-Officer in charge, she failed to take any steps to prevent the corporal's criminal conduct, or having discovered the conduct, failed to take any action against the corporal.

### **For the JCF**

248. It is recommended that the Commissioner of Police, publish or cause to be published in the Force Orders, section 19 of the Public Defender (Interim) Act, and that such a publication be repeated from time to time as a reminder to members of the JCF.

### **Legislative Amendments**

249. It is recommended that the Towns and Communities Act be repealed and replaced with legislation appropriate to the prevailing realities in Jamaica, and void of all the vestiges of the ugly colonial past.
250. Amend the Parish Court Jurisdiction Act to make fines, the default in payment of which attracts a term of imprisonment, prorated in circumstances where the term of imprisonment has started

before the convicted person is able to pay the fine imposed. Making it somewhat akin to section 4 of the Criminal Justice (Reform) Act under which the term of imprisonment served in default of a fine imposed by the Circuit Court and directed to be paid in installment, is prorated to sum unpaid.

251. Alternatively, the Criminal Justice (Reform) Act be amended to include pecuniary penalties imposed by the Parish Court.
252. If the same fines against Ms. King, were imposed by the Circuit Court, then by virtue of section 4(3) of the Criminal Justice (Reform) Act, having served five days (a half) of the default period of ten days imprisonment before the fines were paid, she would be liable to pay only a half of the fines.

## **CONCLUSION**

### **ToR 1 - The circumstances under which Nzinga King came to be in the custody.**

253. After the 22<sup>nd</sup> July 2021, Ms. Nzinga King came to be in the custody, because the fines imposed by the court in sentencing her, were not paid. That triggered the ten-day term of imprisonment which was ordered in default of payment of the fine.
254. Taking her into custody was not a state of affair which the police could lawfully alter. Under the circumstances, the police had to take her into custody, pursuant to the court order.

### **ToR 2 - Whether the complainant's detention at Four Paths Police Station was lawful.**

255. The detention was *prima facie* lawful in the circumstances. However, if Ms. King's assertions are to be believed, then the proceedings in court were irregular and the decision of the court would be null and void, or at least voidable.
256. While it is recognized and accepted that the Court Sheet constitutes the official record of the Parish Court proceedings, in the face of Ms. King's assertions, the controversy which has developed around the case, and the national attention which it has attracted, a response or a comment from the Parish Court Office, or the Court Administration Division, would have gone some way in ameliorating, or even dampening the situation. A response could have enhanced the image of the role of the court. The silence of the Court on the issue, creates room for the mobilization of cynicism, a universe for skeptics, and fodder for conspiracy theorists.

257. The need for a response is even more compelling when one considers that there was a patent judicial over-reach in the sentencing.
258. It is to be noted that Ms. King has not appealed the decision of the Parish Court. It equally bears note that she was not represented by legal counsel when she appeared in court on the 22<sup>nd</sup> July 2021.

**ToR 3 - The circumstances under which the complainant's hair was shorn, when and by whom.**

259. Ms. King's hair was shorn by the police, namely by W/Cpl. Mitchell-Lewis. This occurred shortly after 2:00 pm on Thursday July 22, 2021, at Four Paths Police Station. By doing nothing to prevent the corporal's conduct, and by failing to take action against the corporal, having discovered her unlawful conduct, W/Insp. Marcia Colquhoun, the Sub-Officer in charge, was complicit. Or at the very least was in gross dereliction of duty.

**ToR 4 - Whether there was any infringement of constitutional rights, and if so, what were those rights.**

260. The conduct of the police in forcibly cutting the locks of Ms. Nzinga King, violated a raft of Ms. King's constitutional right.

**ToR 5 - Whether the conduct of the police officer rises to the level of criminality.**

261. The conduct of W/Cpl. Mitchell-Lewis is undoubtedly criminal in nature. The offence for which she is answerable is assault occasioning actual bodily harm. This is a common law offence for which punishment is provided by section 43 of the Offences Against the Person Act.

**ToR 6 - Redress, if any, open to the Ms. Nzinga King.**

262. Ms. King's avenue for redress lies in the Supreme Court. She can proceed by way of constitutional motion, or by way of direct claim in damages for the tort committed upon her by W/Cpl. Mitchell-Lewis. In addition, she can initiate a private prosecution against W/Cpl. Mitchell-Lewis. It is not envisaged that the private prosecution will be necessary, as it is not expected that the DPP will ignore the corporal's criminal conduct.
263. It is noted that Ms. King has retained counsel, but in any event, the OPD is committed to assist the process for constitutional redress.

264. In any Constitutional proceedings, declaratory relief should be sought. The JCF in its own good conscience should accept as a fact that the shearing of Ms. King's locks was done by a serving officer, inside of a police station, and thereupon tender a public apology to her family and to Jamaica; along with pledged to take steps to avoid any recurrence of such conduct by its members.
265. Further, the prosecuting authorities, having regard to the conduct of the police at the taxi stand on the 29<sup>th</sup> June 2021, should discontinue the case charged under the Disaster Risk Management Act, against Ms. King.
266. But even if the prosecution were to continue, such a trial ought to be presided over by a judge other than the one who presided over the cases under the Towns and Communities Act.
267. The posture of non-response by the court in this case, does not comport with the notion and principles of transparency, sought to be cultivated by the current Chief Justice in his effort to reform the culture in the system of the administration of justice.


#### **THE UNREPRESENTED DEFENDANT**

268. Every unrepresented defendant who attends a criminal court and upon whom a fine is imposed is entirely within his/her right to ask the judge for time in which to pay the fine.
269. Unrepresented defendants in the criminal court ought to be offered reasonable judicial assistance which would necessarily include the court making enquiries as to whether that defendant could pay the fine at the time of sentencing or whether the defendant needed time in which to pay. The primary duty rests on the Judge to advise an unrepresented defendant of the possibility of receiving time in which to pay the fine. Thereafter, the clerk of courts and any other counsel in court also share in that duty to an unrepresented defendant.
270. More significantly, it seems plain that no one sought to advise Ms. King as to how her alleged conduct could have as a matter of law and fact satisfy the ingredients of disorderly conduct and abusive language for which she was charged and fined.

## EPILOGUE

271. A notable feature of the evidence from the police officers summoned by the Public Defender, is the studious attempt by each to distance himself/herself from any definitive description of Ms. King's hair. The descriptions given were like shifting sand: they moved from sister-locks, weaved hair, stranded hair and natural hair. These coming from Jamaicans who know, and have been seeing Rastafari people for all their lives. All the descriptions offered are at variance with that recorded in the CR-12 Police Profile Form; a document compiled and prepared by the very same JCF of which these officers are members. The CR-2 Form categorically described Ms. King's hair, as "*dreadlocks*" and the length, as "*long*".
272. Her evident upset as to the outcome of the proceedings in the May Pen Parish Court requires further examination.
273. Did the police at the Four Paths Police prove Ms. King's repeated allegation that police "wicked", correct? For what worse punishment could be inflicted on a young woman, than the cutting of her hair for having a foul mouth? The conduct of the female police officers on the material date hardly inspire confidence. Their conduct contributes to the foundations for adverse views to be held against the JCF.

The 5<sup>th</sup> day of April 2022



**ARLENE HARRISON HENRY**  
**PUBLIC DEFENDER**

# Appendix 1

Notice of Intended Adverse Report to Officer of  
Commissioner of Police.





# OFFICE OF THE PUBLIC DEFENDER

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

Ref. No. CI.135/2021

January 3, 2022

**BY HAND DELIVERY**

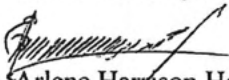
Maj. Gen. A. Anderson  
Commissioner of Police  
103 Old Hope Road  
Kingston 6.

Dear General Anderson,

**Re: Notice of Intended Adverse Report**

1. Pursuant to section 16(5) of the Public Defender (Interim) Act, this serves as notice of my intention to make a report or recommendation which may be adverse to your Office. This, arising out of the investigation into the circumstances under which the locks of Ms. Nzinga King were forcibly shorn on or about the 22<sup>nd</sup> July 2021 whilst in the custody of the police at Four Paths Police Station,
2. The denial of my access to the said Station on Monday the 6<sup>th</sup> September 2021 by officers under your superintendence, constitute sufficient ground for concluding that the decision of the officer(s) represents the official position of the Jamaica Constabulary Force. The position represented to me at the time was that *"the Public Defender has to write to the Commissioner of Police for permission to visit and view the Four Paths Police Station."*
3. Unless I hear from you to the contrary, I will be constrained to accept that that position articulated by the officer(s) in the Clarendon Division, is supported by the Police High Command, and is in fact the official position of the JCF; and my report out of the investigation will reflect accordingly.
4. I would be most grateful to hear from you on or before Friday the 7<sup>th</sup> January 2022.

Yours faithfully,

*for*   
Arlene Harrison Henry (Mrs.)  
Public Defender

*Received by..*

Print Name: *Constance M. [unclear]*

Signature: 

Date: *3/1/22* Time: *12:19 PM*

**TELEPHONE:** (876) 922-7089/7090/7109/8256  
**FACSIMILE:** (876) 922-9830  
**E-MAIL:** [enquiries@opd.gov.jm](mailto:enquiries@opd.gov.jm)

**22-24 DUKE STREET, P.O. BOX 695  
KINGSTON, JAMAICA, W.I.  
WEBSITE:** [www.opd.gov.jm](http://www.opd.gov.jm)

## Appendix 2

Notice of Intended Adverse Report to W/Insp. Marcia Colquhoun.



**OFFICE OF THE PUBLIC DEFENDER**

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

Ref. No. CI.135/2021

December 20, 2021

W/Insp. Marcia Calquhon  
Area 3 Headquarters  
Mandeville  
Manchester.


**BY HAND**

Dear Insp. Calquhon,

**Re: Notice of Intended Adverse Report**

1. This serves as notice to you, pursuant to section 16(5) of the Public Defender (Interim) Act.
2. Arising out of the investigation into the circumstance under which the locks of Ms. Nzinga King were forcibly shorn on or about the 22<sup>nd</sup> July 2021 whilst at Four Path Police Station, the Public Defender has found sufficient grounds for making a recommendation which may adversely affect you; *to wit* that the JCF institute internal disciplinary proceedings against you.
3. If you chose to make a response, you may do so in writing either personally, or through your legal counsel, or any other representative of your choice. Alternatively, you can attend upon the Public Defender with or without your representative, to deliver your response orally.
4. Whichever option you chose to exercise, please let the Public Defender know on or before Friday the 7<sup>th</sup> January 2022.

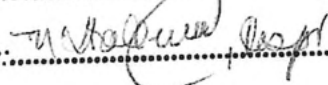
Yours faithfully,

  
for Arlene Harrison Henry (Mrs.)  
Public Defender

cc: Ms. Francine Blackwood  
Attorney-at-Law  
JCF Area 3 HQ  
Mandeville.

*Received by..*

Print Name: *Natalie Hall Williams*

Signature: 

Date: *21.12.2021* Time: *3:55 pm*

**TELEPHONE:** (876) 922-7089/7090/7109/8256  
**FACSIMILE:** (876) 922-9830  
**E-MAIL:** [enquiries@opd.gov.jm](mailto:enquiries@opd.gov.jm)

**22-24 DUKE STREET, P.O. BOX 695**  
**KINGSTON, JAMAICA, W.I.**  
**WEBSITE:** [www.opd.gov.jm](http://www.opd.gov.jm)

# Appendix 3

Notice of Intended Adverse Report to W/Cpl. Angel Mitchell-Lewis.



# OFFICE OF THE PUBLIC DEFENDER

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

Ref. No. CI.135/2021

December 24, 2021

W/Cpl. Angel Mitchell-Lewis  
Area 3 Headquarters  
Mandeville  
Manchester.


BY HAND

Dear Cpl. Mitchell-Lewis,

**Re: Notice of Intended Adverse Report**

1. This serves as notice to you, pursuant to section 16(5) of the Public Defender (Interim) Act.
2. Arising out of the investigation into the circumstances under which the locks of Ms. Nzinga King were forcibly shorn on or about the 22<sup>nd</sup> July 2021 whilst at Four Path Police Station, the Public Defender has found sufficient grounds for the making the following recommendations which may adversely affect you:
  - (a) that you be criminally charged; and
  - (b) that internal disciplinary action to be taken against you by the Jamaica Constabulary Force (JCF).
3. If you chose to make a response, you may do so in writing either personally, or through your legal counsel, or any other representative of your choice. Alternatively, you can attend upon the Public Defender with or without your representative, to deliver your response orally.
4. Whichever option you chose to exercise, please let the Public Defender know on or before Friday the 7<sup>th</sup> January 2022.

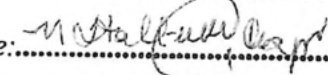
Yours faithfully,

*for*   
Arlene Harrison Henry (Mrs.)  
Public Defender

cc: Ms. Cheanette Stobbs  
Attorney-at-Law  
E-mail: cheanette\_stobbs@yahoo.com

*Received by..*

Print Name: Natalie Hall-Williams

Signature: 

Date: 31-12-2021 Time: 3:55 PM

TELEPHONE: (876) 922-7089/7090/7109/8256  
FACSIMILE: (876) 922-9830  
E-MAIL: [enquiries@opd.gov.jm](mailto:enquiries@opd.gov.jm)

22-24 DUKE STREET, P.O. BOX 695  
KINGSTON, JAMAICA, W.I.  
WEBSITE: [www.opd.gov.jm](http://www.opd.gov.jm)

## Appendix 4

E-mail date-time-stamped Friday, January 07, 2022,  
4:10PM over the signature block of Karina Powell-Hood,  
Assistant Commissioner of Police, JCF Staff Officer  
for Commissioner of Police.

# Appendix 5

Response from Office of the Commissioner of Police  
(Letter dated 2022-01-20.)

Recd. 26/1/2022



ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION SHOULD BE ADDRESSED TO THE COMMISSIONER OF POLICE AND NOT TO ANY OFFICER BY NAME AND THE FOLLOWING REFERENCE QUOTED.

**THE JAMAICA CONSTABULARY FORCE**  
OFFICE OF THE COMMISSIONER OF POLICE  
103 OLD HOPE ROAD  
KINGSTON 6, JAMAICA  
[cpsecretariat@jcf.gov.jm](mailto:cpsecretariat@jcf.gov.jm)  
Tel.: 876-927-4421-4

No. -----

2022-01-20

Mrs. Arlene Harrison Henry  
Public Defender  
Office of the Public Defender  
22-24 Duke Street  
Kingston

Dear Mrs. Harrison Henry

**Re: Notice of Intended Adverse Report**

Reference is made to your missive dated January 3, 2022, concerning the captioned matter and to our subsequent email to you dated January 7, 2022.

The position of the Jamaica Constabulary Force (JCF) is contained in section 19 of the Public Defender (Interim) Act which gives the Public Defender the power to enter premises in order to inspect documents/records in certain circumstances. It states:

*"The Public Defender may, for the purpose of preventing or detecting crime or protecting the right or freedoms of any person, enter any premises occupied by any authority in order to inspect any document or record therein in respect of any matter under investigation and may, without prejudice to the provisions of sections 17 and 18, make such enquiries and retain such document or record, as he considers necessary to such investigation."*

As such, the Public Defender has the power to enter a police station and inspect documents/records therein once these documents/records are in respect of a matter that is being investigated within the statutory remit of the Public Defender (Interim) Act.

However, in order for the abovementioned inspection to be smoothly facilitated, it is recommended that proper identification be shown to the police officers that are on duty and that the particular matter that is being investigated be stated. Additionally, please be reminded that contact can always be made with Mrs. Karina Hood, Assistant Commissioner of Police, who is the JCF's designated point of contact on these matters. She can be contacted via telephone number 876-832-81-94 or via email at [karina.hood@jcf.gov.jm](mailto:karina.hood@jcf.gov.jm) should your office be faced with any similar issue in the future.

Yours sincerely

Antony Anderson  
Major General  
Commissioner of Police



# Appendix 6

Statement of W/Cpl. Angel Mitchell-Lewis.

Name: Angell Mitchell-Lewis

Rank: Corporal

Reg. # 9603

Station: Four Paths, Division Clarendon

Contact: 987-0429 (w)

States,

I am a Corporal of Police stationed at the Four Paths Police Station in the parish of Clarendon where I performed supervision duties and general policing duties.

On Sunday the 1<sup>st</sup> day of August 2021 a video which was being circulated on Facebook came to my attention where Ms. Candice King 18 years old DOB 21.12.2002 of Bustamante Drive, Lionel Town who was housed at the Four Paths Police Station between Thursday July 22<sup>nd</sup> and Monday July 26<sup>th</sup>, 2021 having been convicted for disorderly conduct etal in the May Pen Parish Court. made certain allegation that she was trimmed by me whilst in custody. On the said video a lady who stated that she was Candice's mother accusing me of trimming her daughter's dreadlocks hair whilst in custody at the Four Paths Police Station.

On Thursday July 22<sup>nd</sup>, 2021 I commenced supervision duties at the Four Paths Police station for the 5am to 6pm shift along with Cons Cohen as station guard, Cons R Drummond as assistance guard, W/Dist/Cons B. Irving on cell guard, Det. L. Daley on CIB duties, Cons C. Riley and Cons J. Harrison for patrol duties and Cpl. R. Blacks on traffic duties. Upon taking over duties there were nine (9) female prisoners in custody W/Inspector Colquhoun was also present at station.

About 2pm Cpl. R. Blacks along with Constable C. Riley and Det. Cons. L. Daley arrived at the station escorting female prisoner Candice King to this location from Court in service vehicle M100. On Ms. King's arrival to the station I could hear her speaking in a loud tone of voice and observed her pointing her fingers in the direction of Cons Riley. Her Bio data was requested so that the necessary entries could be recorded in the relevant registers. King started to utter the following words, "me nuh like man. an me nuh like Police".

Inspector Colquhoun station commander upon hearing King's statement towards the Police told me to take charge of the situation. I took Ms. King to the restroom searched her. Whilst searching Ms. King I observed that she was wearing a sanitary napkin. I instructed her to loosen her hair to search for hidden contraband. None was found. I then placed her into the cell.

After I placed her in the cell. I heard the prisoners shouted that Ms. King was pulling and tearing out her hair and throwing the hair on the ground and said "Police li cum nyam it". I informed Inspector Colquhoun of what was happening. Inspector Colquhoun and I visited the cells and saw hair on the floor. I then took the broom which was in the passage and sweep the loose hair which was seen on the floor out into the passage way. The hair was later disposed of. the ground man. Caswell Wilson.

On Sunday the 25<sup>th</sup> day of July 2021, I commenced Supervision duties at the Four Paths Station. for the 6pm to 8am shift. I conducted a search of the cells along with W/Cons Bartley, Cons V. Brown, Cons R. Roye, Cons J Ashley and W/dist. Cons Irving as mandatory by the lock-up administration. During the search I recovered a black damaged J.C cellular phone from a blue bag in the cells. I enquired whose cellular phone it was and Ms. King stated that the phone belongs to her. Whilst I was closing the cell the said phone fell to the ground and I took up the shattered phone. I recorded an entry at D/E#62 on page 53 of the station diary regarding the search and findings.

*Angell Mitchell-Lewis*  
6/8/2021

*Colquhoun*  
6.8.2021

On Monday the 26<sup>th</sup> day of July 2021 whilst I was in the guardroom after the cell that Caudice was in was open for ablution purpose, a loud commotion could be heard coming from the cells area. The prisoners were all in a fracas. I heard one of the prisoner saying "we must fuck up the police gal." I observed liquid substance being thrown from the cells into the passage area. W/Dist./Cons Irving and I went to the cells to make enquires and liquid substance appearing to be urine was thrown outside of the grill into my direction and thrown on me. I gave clear verbal warning to the prisoners several times to desist however the fracas continued as a result I resorted to the use of the pepper spray to get the situation under control. I enquired of the prisoners if any one needed to seek medical assistance no one indicated that assistance was needed and no complaint was made. I recorded an entry at D/F 39 on page 58 in the station diary.

At no time during Ms. King's stay at the lock-ups did I cut, trimmed or shaved Ms. King's hair. On Sunday August 1, 2021 when the video came to my attention I observed that on the video King's hair appears to be a little less than how she was when she was taken into custody.



Angell Mitchell-Lewis  
W/Cpl. #9603

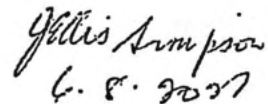
6. 5. 21

This statement consisting of (1) page(s) signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence I shall be liable to prosecution if I have willfully stated in it anything, which I know to false or do not believe to be true.



Angell Mitchell-Lewis  
W/Cpl. #9603

6. 8. 2021



6. 8. 2021