

October - December 2016

## Right to Life Review 2016



Source: [Loopjamaica.com](http://Loopjamaica.com) December 28, 2016

The safeguarding and securing of the right to life of Jamaica's inhabitants remains one of the country's major human rights issues. This right, protected at Section 13 of the Constitution, involves a substantive obligation not to take life; another substantive obligation to safeguard and protect life; and a procedural obligation for independent, adequate and effective investigation of the taking of a life. Such investigations must be accessible to the relatives of the deceased and have public scrutiny.

Jamaicans have long been rightly concerned about the high rate of fatal incidents, whether caused by civilians or by State Agents. It is a major part of this Commission's remit to bring independent scrutiny to the taking of life by State Agents and, at times, to the efficacy of police investigations into fatalities caused by ordinary citizens. This report will describe the significant improvements seen in 2016 and the issues that still need further attention.

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**“Truth never damages a cause that is just.”**

Mahatma Gandhi.

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## COMPACT DISC

4<sup>th</sup> Quarterly Report: October – December 2016

New Complaints – January to December 2016  
(In compliance with Section 17(3) (C) of the INDECOM Act)

### Commission's Reports Completed

- October 2016
- November 2016
- December 2016

## IN THIS EDITION OF THE IQ

### RIGHT TO LIFE REVIEW 2016 – BRIEF STUDY

The safeguarding and securing of the right to life of Jamaica's inhabitants remains one of the country's major human rights issues. Jamaicans continue to be concerned about the high rate of fatal incidents, by civilians and State Agents. A major part of this Commission's remit is to bring independent scrutiny to the taking of life, and at times, the efficacy of police investigations into fatalities caused by ordinary citizens. This report will describe significant improvements seen in 2016, namely: reduction in suspicious fatal shootings, written plans for planned operations, reduction in deaths from planned operations. It also describes issues of concern, such as: court resolutions, The Committal Proceedings Act, post mortem examinations and public interest immunity.

### PART ONE: NEW COMPLAINTS

The Commission received 183 new complaints for the period. The top five complaints include incidents of assault (62), discharge of firearm (53), fatal shooting (24), shooting injury (18) and unprofessional conduct (5).

The Commission's Investigative Teams and Forensic Unit responded to 111 incident scenes for the period, with November being the most active month. The nature of the incident scenes attended were predominantly fatal shootings, discharge of firearms and shooting injuries. There were two (2) incidents of death in custody for the period.

In relation to parishes with fatalities, St. Thomas, Trelawny, Hanover and Portland had no fatalities for the period. The parishes of St. Elizabeth and Manchester recorded one (1) each, St. Mary, St. Ann, Clarendon, Westmoreland and St. Catherine recorded two (2), and St. James had seven (7). Kingston & St. Andrew recorded the highest at eight (8).

All parishes had complaints, both fatal and non-fatal, with Kingston and St. Andrew recording 65 complaints and Portland and Trelawny recording the least with one (1).

### PART TWO: THE LEGAL DEPARTMENT

In the Legal Department, 306 Commission's Reports were distributed and completed. The nature of these files ranged from assaults (131) to fatal shootings (44), discharge of firearm (38) and unprofessional conduct (28). The recommendations for the cases completed are listed in this section. Six (6) members of the Jamaica Constabulary Force (JCF) were arrested and charged during the period. The related list is also included in this section.

### PART THREE: PUBLIC INFORMATION

The Commission's Senior Management Team in the Operations Unit had one (1) meeting with members of the JCF High Command to include the Inspectorate of Constabulary for the period. The matters discussed included specific body worn cameras, INDECOM/JCF MOU, fatal shooting statistics and JCF policies, practices and protocols.

Representatives of the Commission participated in several awareness exercises equaling 905 man hours for the period.

The Public Relations Unit issued 13 press releases and feature articles for the period. The titles of these are listed in this section.

Continues from front page ...

**A reduction in firearm related incidents:  
The Trend continues**

The pattern of Security Force related fatal shootings has seen a notable reduction over the past 6 years. The three year period, 2011-2013 recorded 687 deaths. The following three year period, 2014-2016, recorded 327. This represents a 53% reduction in the latter 36 months of the 72 months period.

In 2013 there was a peak in Security Force related shootings. There was a significant reduction between 2013 and 2014, with a fall of 55%. Further reduction in 2015 resulted in a 60% downturn as against 2013 figures.

In 2016, 111 persons were shot and killed and 69 were shot and injured. The figures for 2015 were 101 and 68 respectively, equating to 169 compared to 180 in 2016.

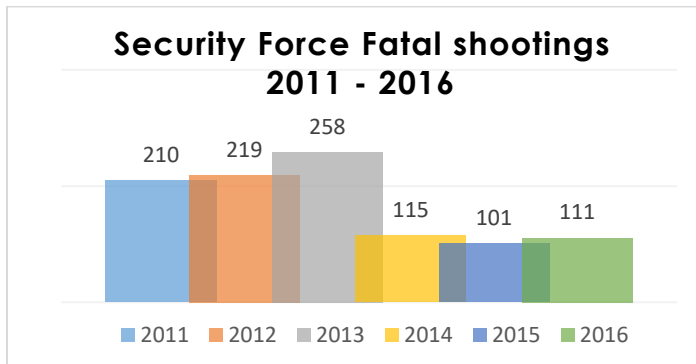


Figure 1: Total security force fatal shootings for the period 2011-2016

2016 has seen a slight increase in the Security Force related fatal shootings, (111), as compared to 2015, (101). The deaths remain slightly lower than 2014, (115), but still represent a 57% downturn against 2013.

Table 1, depicts the fatal shootings, by month, over the six year period, 2011 - 2016. The grid's colour coding in illustrates the scale of Security Force related shooting deaths as well as the continued, downward trend in these shootings since 2013.

**Grid chart depicting fatal shootings 2011-2016**

■ >20 High Critical  
■ 16-19 Heightened  
■ 10-15 Norm  
■ 6-9 Below Average  
■ 1-5 Low

	J	F	M	A	M	J	J	A	S	O	N	D
2011	20	18	25	10	13	24	20	16	21	10	14	12
2012	11	20	35	12	10	18	16	17	19	24	18	19
2013	30	27	19	9	14	35	16	14	16	40	23	15
2014	22	12	4	8	14	11	10	7	7	5	9	6
2015	12	2	10	11	6	9	8	8	10	7	10	8
2016	7	13	4	13	10	12	13	4	10	6	9	10

Table 1: Grid chart depicting fatal shootings, by month, for period 2011-2016

**Breakdown of Security Forces involved shootings: 2015 and 2016**

The fatalities by the respective Security Force are as follows:

	JCF	JDF	DCS	TOTAL
2015	98	3	0	101
2016	106	4	1	111

The JCF were involved in a further eight fatal shootings in 2016 as compared to 2015. This equates to an 8% increase. The JDF had an increase of one, whilst the Department of Correctional Services (DCS) were involved in the fatal shooting of an escapee. The first such fatal shooting incident in many years by the DCS.

• **A reduction in suspicious fatal shootings**

There has been a significant decline in suspicious fatal shootings by the security forces (see figure 2). Suspicious fatal shootings are those where some evidence collected in the investigation could cause a reasonable person to believe that the State Agent's actions may not have been justified. It is a lower standard than the standard for charging. In 2015, 39 cases were deemed as suspicious where as in 2016, 24 cases were deemed suspicious. This represents a 38% decline in suspicious shootings, and could indicate an improvement on the conduct of members of the Security Forces.

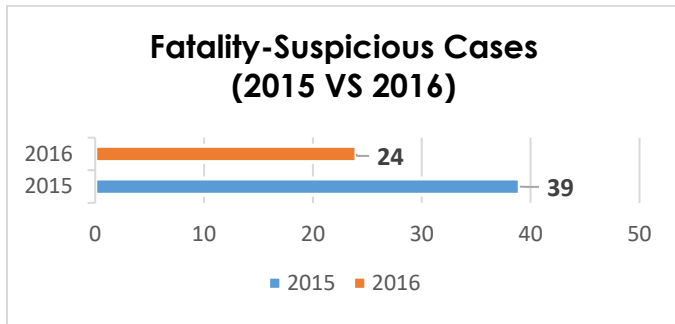


Figure 2: Suspicious fatal shootings 2015 & 2016

- **Less persons killed in planned operations in 2016**

There was a reduction in the number of planned operations in which death occurred for the year 2016. There were 33 planned operations in which death occurred in 2015, 38 persons were killed in these operations. The period 2016, saw 21 planned operations in which 28 persons were killed. This represents a 26% decline in the number of persons killed in planned operations and a 36% downturn in the number of planned operations in which death occurred.

- **An improvement in Planned Operations**

The Commission has repeatedly raised concerns regarding the conduct of planned operations where persons were killed. In particular the Commission has reported on the non-existence of written plans for these operations conducted by the Jamaica Constabulary Force (JCF). We are pleased to report that INDECOM received four (4) written plans for the year 2016 against zero (0) for the previous years. We submit that this may be a step in the right direction. It is well established that carefully planned and documented operations tend to minimize the loss of life, injuries and the infringement of other rights, both for security force members and the public. Presenting written plans helps to ensure that commanders properly instruct their troops and facilitate their accountability. Those commanders who failed to submit written plans will be reported to the Police Services Commission and the Commissioner of Police.

**Areas of particular concern**

- **Public Interest Immunity**

An area of concern is as regards public interest immunity certificates. When a government department seeks not to disclose relevant information to an investigative body, it may seek a ministerial certificate which avers that such disclosure would be contrary to an important national interest. A certificate is not final. Under our system the

courts are the final arbiter. It would then be up to the investigative authority to accept the certificate or to challenge it in the Supreme Court. Such applications come with a significant cost in resources, court time and delay.

In the past year, two (2) of the Commissions' investigations have been virtually suspended awaiting court decisions on ministerial certificates. During the recently concluded West Kingston Commission of Enquiry the issue of public interest immunity certificates loomed large. Many of the claims were rejected by the Commissioners and disclosure ordered.

It seems incongruous that the State would commission an investigative authority without a settled protocol for determining public interest issues in disclosure. In 2009, the United Kingdom conducted an official enquiry into its involvement in the Iraq War, the Chilcot Inquiry; and recognizing that the investigation would have to examine sensitive documents, established a protocol for that purpose. The Commission respectfully suggests that a similar approach be attempted in Jamaica.

- **Court Resolution**

To date INDECOM has seen the resolution of eight (8) matters in the courts, however, there remains several other matters which have been before the courts for up to six (6) years awaiting trial. Figure 3 below shows the amount of time that has passed since these matters have been before the courts.

Manslaughter/ Murder cases	
Year	# of cases
2011	1
2012	2
2013	4
2014	19
2015	5
2016	4
Total	35

Figure 2: Number of cases and the years that have passed since before the courts

There are 34 murder and manslaughter matters presently before the courts pending trial; most of which continue to endure significant delays for several reasons. The most prominent reasons are defence requests for adjournment (69%) and the matter could not be reached or no court was available (16%) (see figure 3).

Defence requests include adjournments because counsel was absent, change of counsel, or more time to prepare.

The long delay in having matters resolved by the courts has resulted in the loss of witnesses, complainants and accused (who become frustrated, migrate or die).

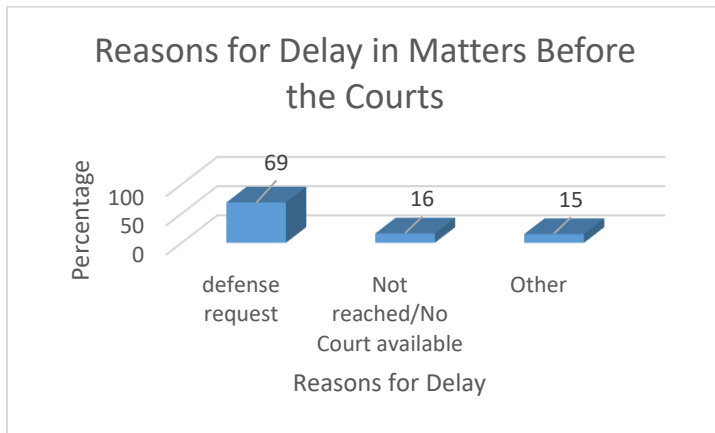


Figure 3: Reasons for case delays in court

- **Committal Proceedings Act**

The Commission welcomes the Committal Proceedings Act as it ought to speed up the disposal of criminal cases. The Act, however, has a major deficiency that undermines the Commission's work. Section 6 of the Act requires that for a statement to be tendered in committal proceedings it must have been taken by a member of the Jamaica Constabulary Force (JCF) in the presence of a Justice of the Peace or a senior member of the JCF.

This is a unique provision not seen in other jurisdictions that have committal proceedings legislation. Interestingly, a statement may be admitted at the actual trial that does not meet these requirements for the committal proceedings. It is understood that the requirements were enacted to seek to prevent statements being produced from "phantom witnesses" given the allegations of such a practice by a member of the JCF some time ago. Despite the justifiable aim, the means to achieve it are disproportionate.

The provision means that statements taken by District Constables; investigators of Commissions of Parliament such as INDECOM, the Public Defender, or the Children's Advocate; and statements taken by counsel or ordinary citizens would not be admissible under the Act.

This needs to be quickly remedied as equal access to the courts is a fundamental right and there is no rational justification for granting exclusive authority to the JCF.

- **Post mortem examinations/ autopsies**

- **Delays**

There is an inordinate delay in the completion of Post-mortem Examinations (PMEs). Our records show that PMEs take, on average 30 days, from the date of death, to be conducted and the subsequent completion of the pathologists' reports average about five (5) months.

This delay severely hampers the Commission in its bid to be prompt in its investigations. Often, crime scene reconstruction is required in complex cases and so, this process has to await the availability of the PME report. Major decision making is also quite dependent on these reports.

- **Contamination and cross contamination**

Some practices regarding operations in the mortuaries are of concern. Two bodies are often laid out on the same slab in the mortuary, the pathologist sometimes moves between bodies during examinations. These (among other issues) pose significant risks of transfer of material from one body to the other. This potential contamination and cross contamination can result in inaccuracies in criminalistics.

- **Lack of technology**

It is a corollary that radiology is an invaluable tool in the PME process especially in shooting related cases. 99% of the fatal incidents investigated by INDECOM are firearm related. In many instances, after the employment of much diligence, the pathologist is unable to locate bullets via manual search, suspected of lodging in bodies. X-ray technology has, in the past, proved to be useful in locating bullets and fragments thereof in the body, particularly where they are lodged in the blood stream or bones. All modern international standards require that bodies (in shooting cases) are to be routinely x-rayed.

- **Pragmatic analysis**

The limited number of Government pathologists (3 at present) must conduct well over 1200 PMEs every year. This must contribute to the long delays in having PMEs conducted and the subsequent publication of the pathologists' report.

The Commission recommends that a designated pathologist be appointed to conduct PMEs in cases where death occurs at the hand of the State and that more pathologists be trained or hired. Attention also needs to be paid to establishing, maintaining and monitoring of professional standards in pathology.

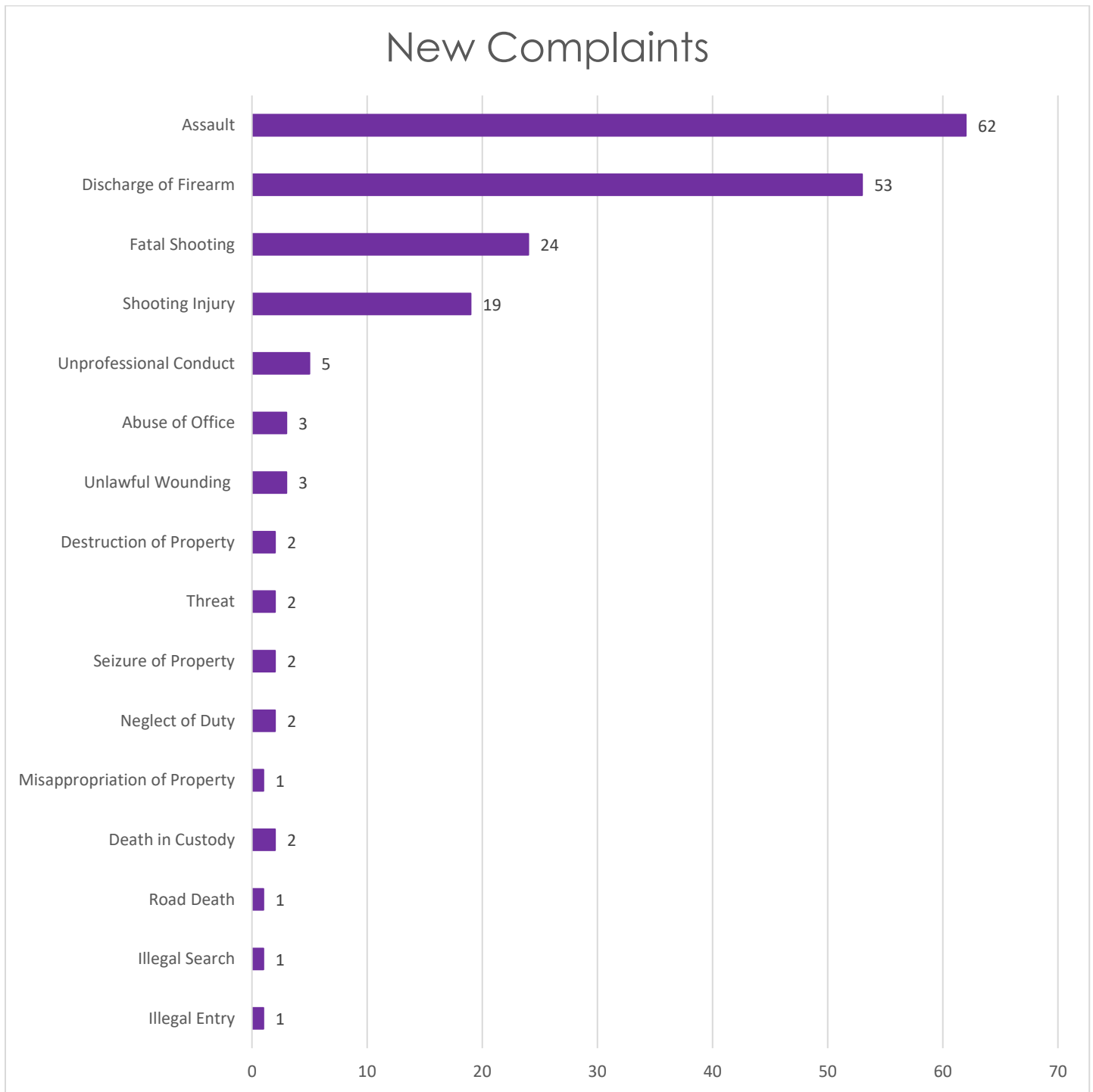
**Conclusion**

There has been an improvement in the conduct of the security forces and Department of Corrections in the last 12 months. This improvement is indicated by reductions in suspicious fatal shootings and the number of planned operations in which death occurred. Fatal shootings continue on its downward trajectory from 2014. These signs are encouraging, though we recognize that there is still great room for improvement. Notwithstanding, the encouraging signs from the security forces and corrections, the issues with PME's, the enforcement of the Committal Proceedings Act among other issues raised in this report continue to negatively impact the work of INDECOM. These issues, if and when addressed, will significantly progress INDECOM's work in its bid to safeguard the right to life through its oversight of Agents of the State.



**PART ONE**

**NEW COMPLAINTS**



**Figure 5: The bar graph shows all categories of new incidents for which complaints were received by the Commission for the period of October to December 2016.**

## INCIDENT SCENE RESPONSE

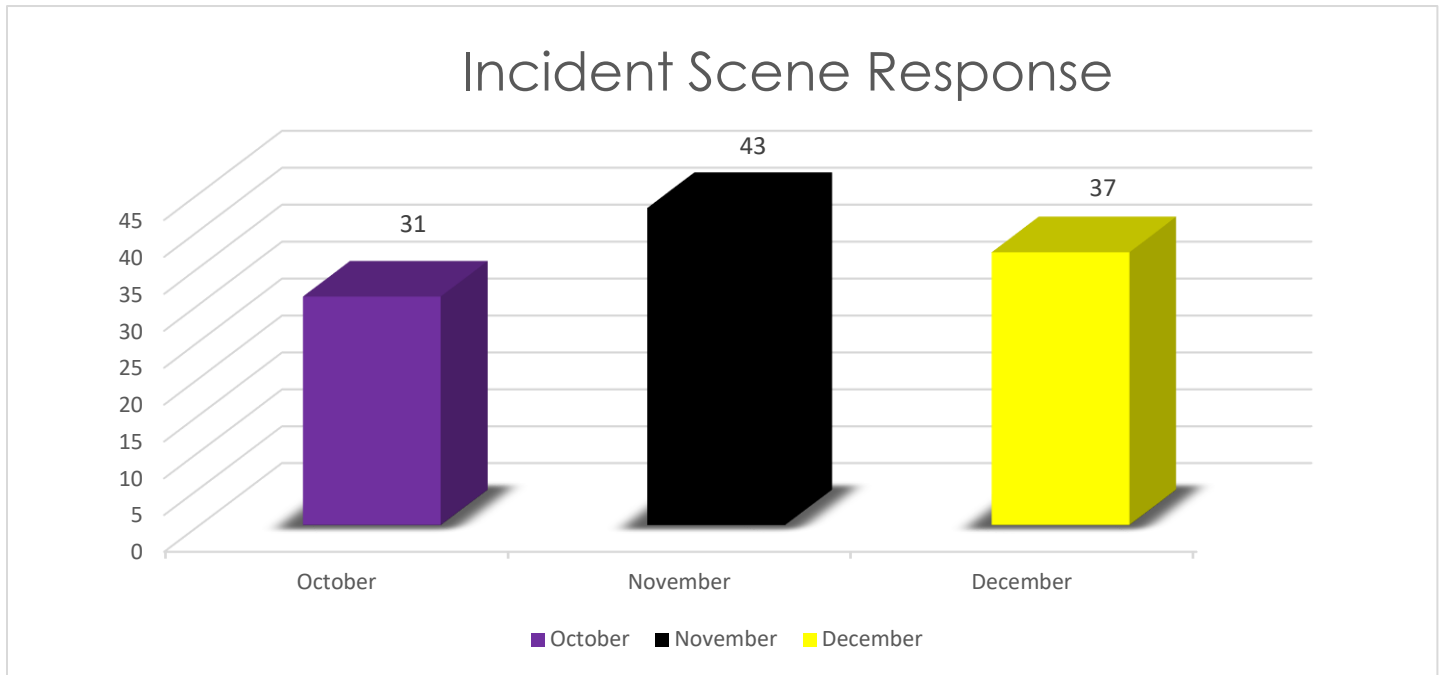


Figure 6: The above figure shows the number of scenes to which the Commission's Forensic Unit responded for the period of October to December 2016.

## NATURE OF INCIDENT SCENE RESPONSE

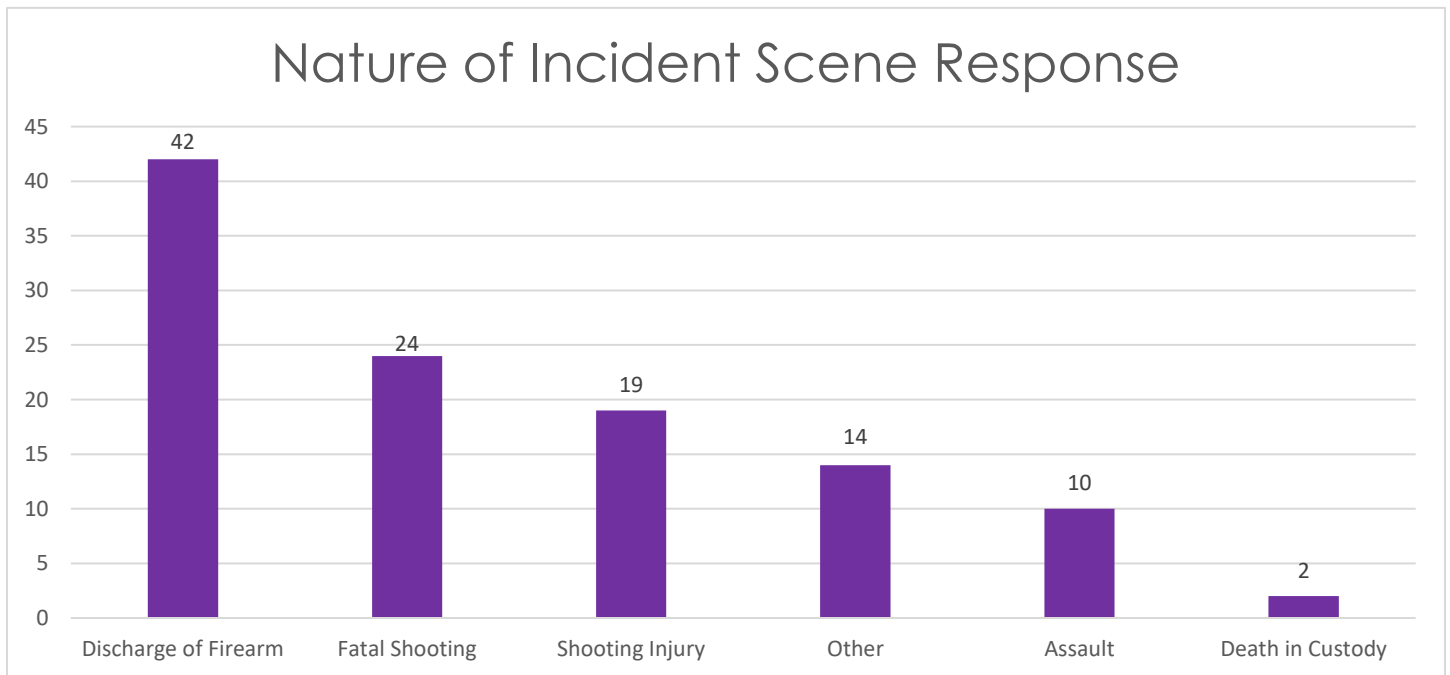
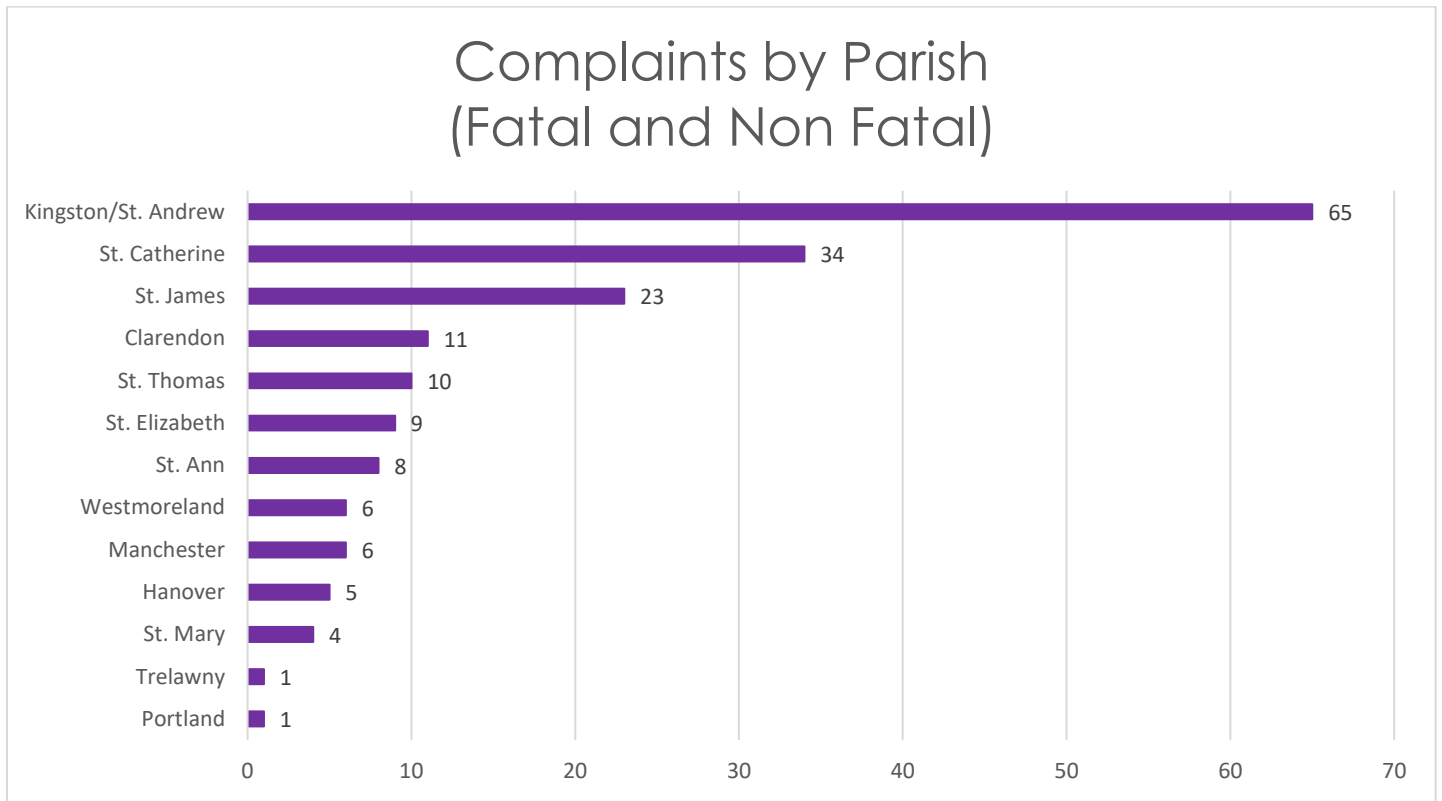


Figure 7: The above graph shows the nature of the incidents to which the forensic unit responded for the period of October to December 2016.

**COMPLAINTS BY PARISH**



**Figure 8: The above graph shows the number of new complaints (fatal and non-fatal) related to all parishes for the period of October to December 2016.**

**FATAL SHOOTINGS BY PARISH**

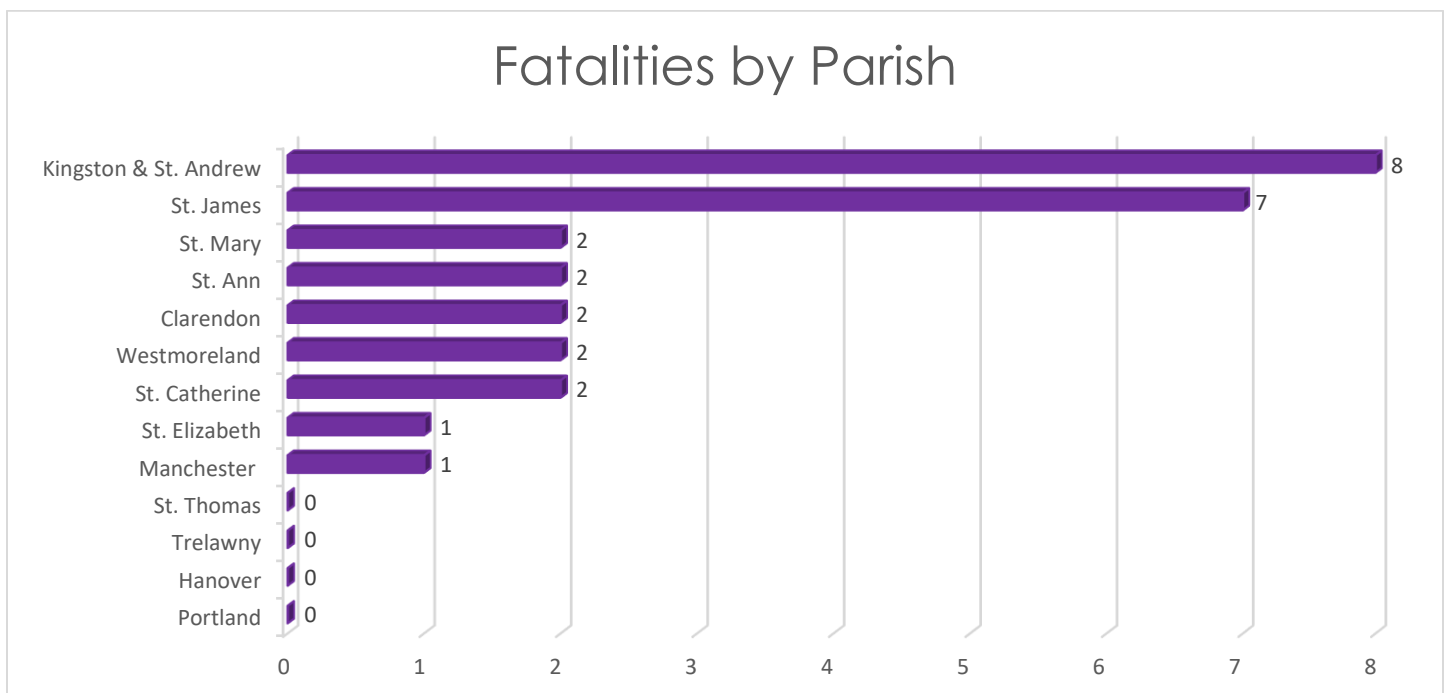
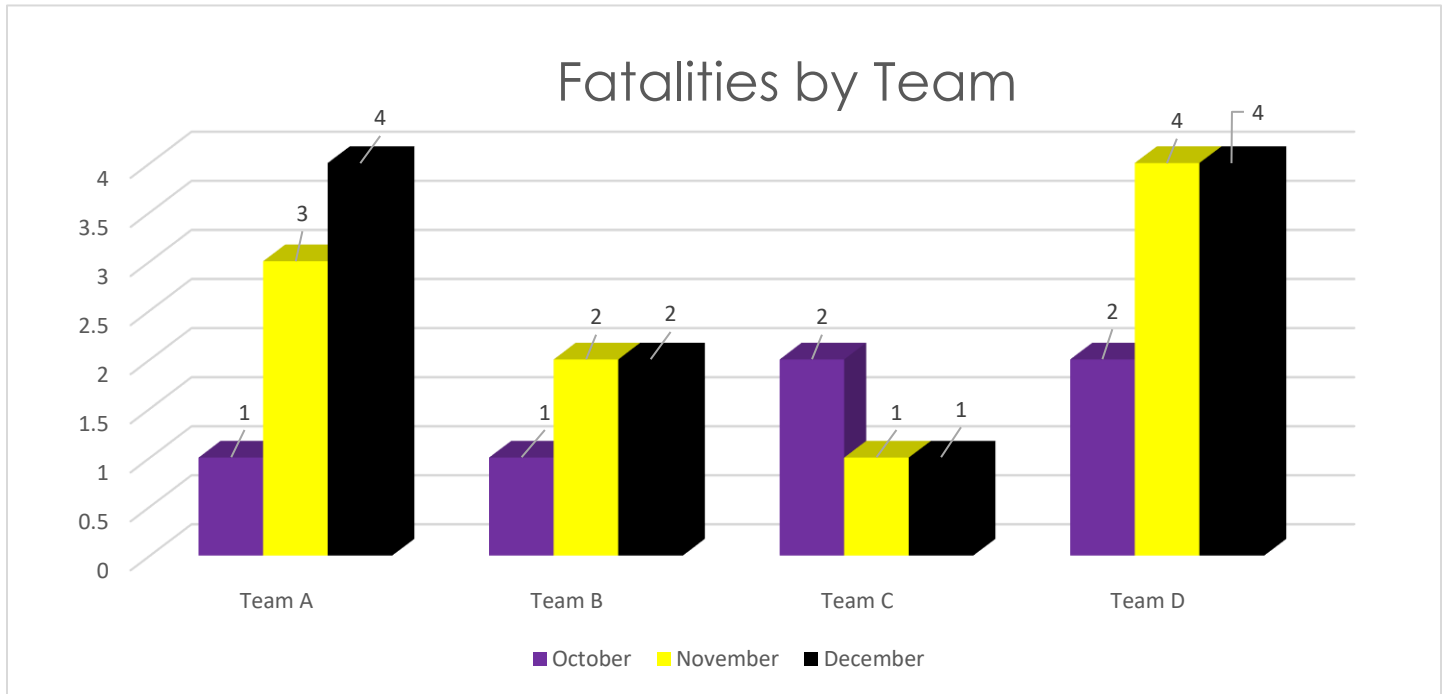


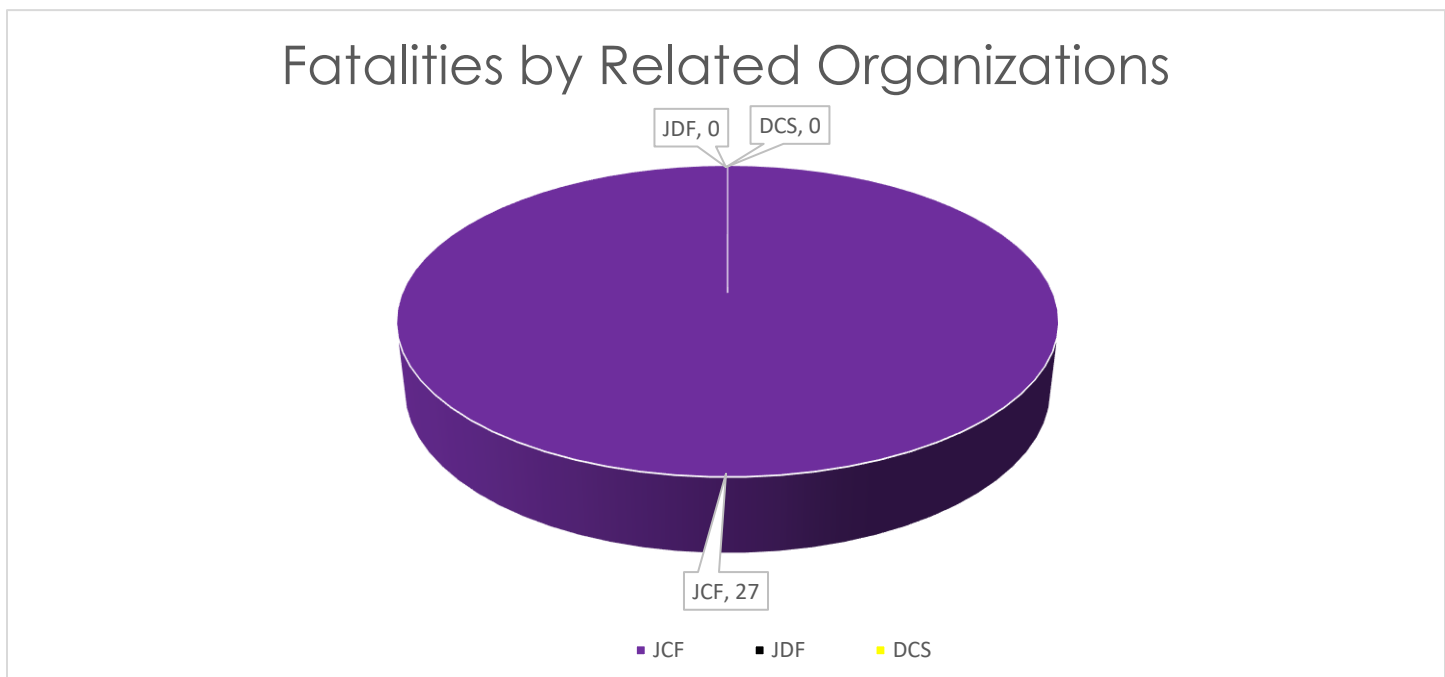
Figure 9: The chart above shows the number of fatalities in relation to parishes for the period of October to December 2016.



**FATALITIES BY TEAMS**

Figure 10: The above graph shows the number of fatalities in relation to the teams within the Commission for the period of October to December 2016.

**FATALITIES BY ORGANISATION**



**Figure 11: The above pie chart illustrates the State agency to which the fatal shootings recorded for the period of October to December 2016 are related.**

## SECURITY FORCE-RELATED FATALITIES

JCF – Jamaica Constabulary Force

JCF-OD – Jamaica Constabulary Force Off Duty Officer

DIC – Death in Custody

Date	Name of Deceased	Location of Incident	Related State Agent
<b>OCTOBER (6)</b>			
1-Oct	Ricardo SAMUELS	12 Ferguson Drive, Riverton City, Kingston	JCF
2-Oct	Oliver KNIGHT	Petal Street, Longville Park, Clarendon	JCF
6-Oct	Sheldon ELLIS	Breezy Castle, Clarendon	JCF
11-Oct	Randy REID	Norwood, St James	JCF
15-Oct	Rickein RHOOMS	Retreat, St Mary	JCF
31-Oct	Shaldano BROWN	Riu Beach hotel site, Montego Bay, St James	JCF
<b>NOVEMBER (9) (DIC-1)</b>			
7-Nov	Omar CREARY	Mount Pleasant, Stony Hill, Kingston	JCF
7-Nov	Ricardo BROWN	Light House Rd, Galena	JCF
7-Nov	Dwayne WILLIAMS	Green Tank, Rose Heights, Montego Bay, St James	JCF
8-Nov	Devroy VERNON	Parry Town, St Ann	JCF
12-Nov	Patrick EDWARDS	Whiteland, Bickersteth, St James	JCF-OD
16-Nov	Carl TYME <b>DIC</b>	St Ann's Bay PSTN	JCF
19-Nov	Carvin THOMPSON	Spring Mount, St James	JCF
21-Nov	Kevin WILSON	Coles Plaza, Santa Cruz, St Elizabeth	JCF
25-Nov	Lorenzo LAWRENCE	Sutton St, Kingston	JCF
28-Nov	Keith POLSON	Lenwood Path, Kingston 11	JCF
<b>DECEMBER (10) (DIC-1)</b>			
1-Dec	Everald DALEY	Kingsland Dist, Manchester	JCF
5-Dec	Jarvis RAMSEY	11 Ramsey Rd, Kingston 11	JCF
7-Dec	Elroy JAMES	Sav la Mar, Westmoreland	JCF
21-Dec	Kevon SMITH	3 Beaconfield Ave, Kingston 20	JCF

22-Dec	Orlando BURTON <b>DIC</b>	Bethel PSTN	JCF
24-Dec	Oral NEIL	Portmore Lane, Portmore, St Catherine	JCF-OD
28-Dec	Jason CAMPBELL	Outside Hunts Bay PSTN	JCF
28-Dec	Romario CAMPBELL	Dasey Close, Eltham, St Catherine	JCF
30-Dec	Andre REID, Richard GREY	Cutungpeng Lane, Retrieve, St James	JCF
31-Dec	Kasmar PAUL	Victoria Avenue Elleston Rd, Kingston	JCF

**Table 2: The above list presents the names of the civilians who died in security force-related incidents for the period of October to December 2016.**

## PART TWO

### The Legal Department

#### NATURE OF COMPLETED COMMISSION'S REPORTS

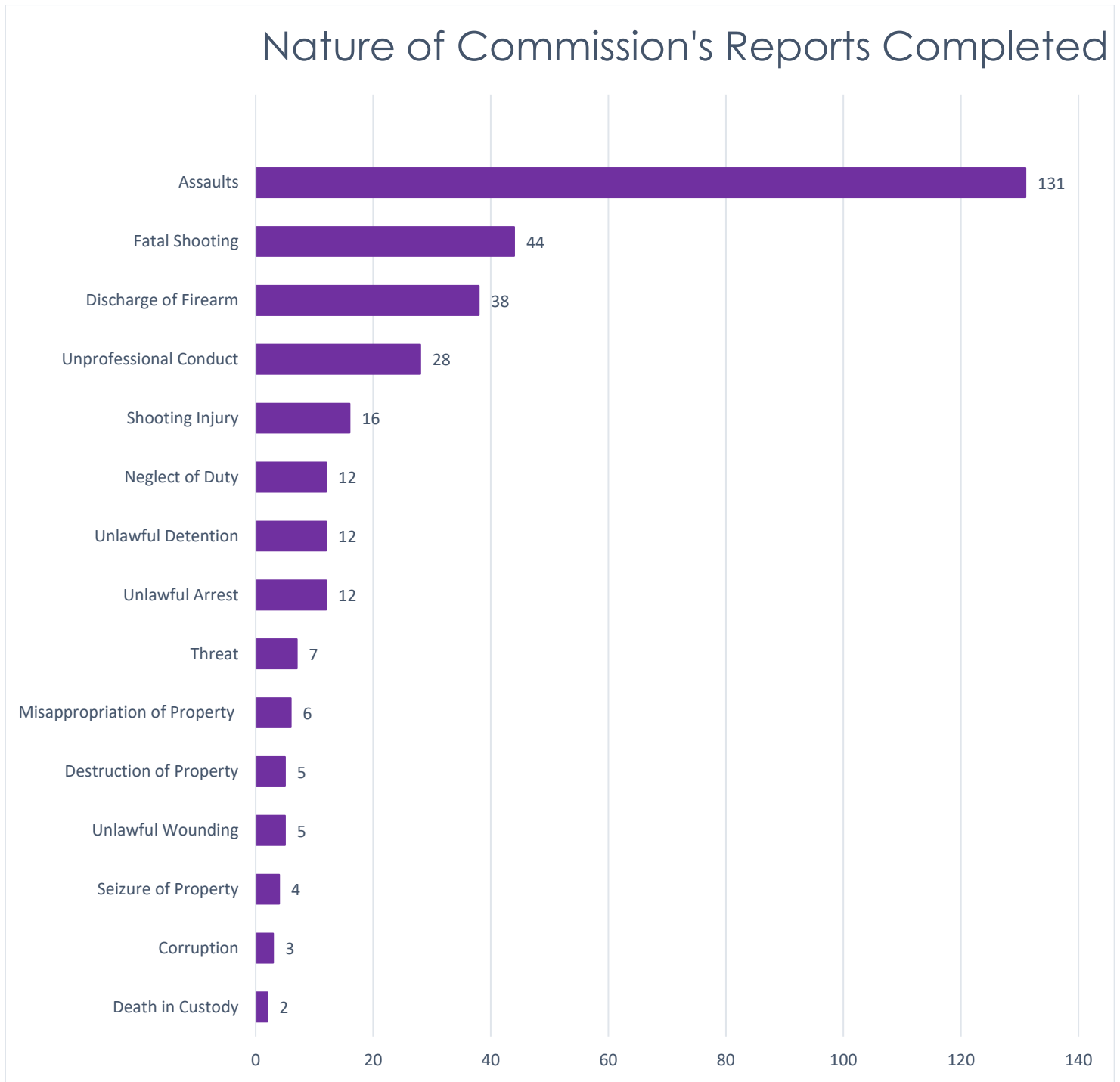


Figure 12: The above graph shows the category of complaints for the Commission's Reports completed during the period of October to November 2016.

**COMMISSION'S REPORTS COMPLETED**

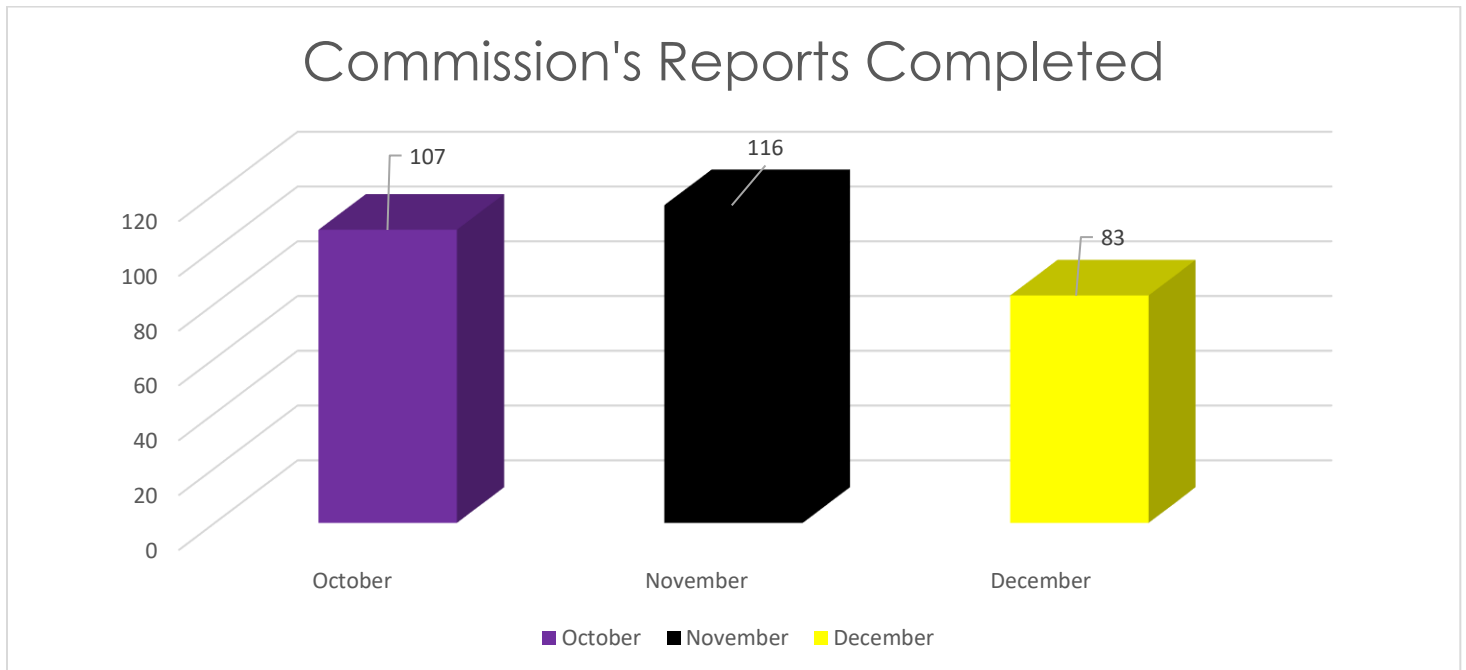


Figure 13: The above chart shows the number of Commission's reports completed and distributed for the period of October to December 2016.

**RECOMMENDATIONS MADE FOR COMPLETED COMMISSION'S REPORTS**

Recommendations	October	November	December
<b>Charge</b>	9 cases	3 cases	0
	11 officers	5 officers	
<b>Disciplinary Action</b>	9 cases	14 cases	5 cases
	12 officers	24 officers	6 officers
<b>Unsubstantiated</b>	70	89	44

Table 3: The above graph shows the recommendations made for Commission's Reports completed for the period of October to December 2016.



**ARRESTS MADE/CHARGES LAID (OCTOBER - DECEMBER 2016)**

<b>Name and Rank</b>	<b>Charge</b>	<b>Date of Arrest</b>	<b>State Agency</b>
Cons. Alwyn Hill	- Unlawful Wounding and Assault	6-Oct-16	JCF
D/Cons. Miguel Phillips	- Murder	29-Nov-16	JCF
Cons. Dumar Ducally	- Unlawful Discharge of Firearm in a Public Place - Wilfully making a false statement to mislead the commission	13-Dec-16	JCF
Cons. Leeshawn Billings	- Unlawful Discharge of Firearm in a Public Place - Wilfully making a false statement to mislead the commission	13-Dec-16	JCF
Cons. Noel Ingram	- Unlawful Discharge of Firearm in a Public Place - Wilfully making a false statement to mislead the commission	13-Dec-16	JCF
Cons. Davion King	- Unlawful Discharge of Firearm in a Public Place - Wilfully making a false statement to mislead the commission	13-Dec-16	JCF

**Table 4: The above table shows all the police officers arrested and charged for various offences for the period of October - December 2016.**

# PART THREE

## PUBLIC INFORMATION

Meetings with Security Forces and INDECOM:

In the 4th quarter of 2016, INDECOM senior managers in the Operations Unit had one (1) meeting with members of the JCF High Command and the Inspectorate of Constabulary. The following matters were discussed:

- Body worn cameras
- Statements
- MOU
- Caribbean Use of Force Conference
- Fatal shooting statistics
- Planned operations

## OUTREACH – AWARENESS EXERCISES

<b>Unit/Division/Station</b>	<b>Group Size</b>	<b>Contact hours</b>
Courts of Jamaica – Public Education Day	<b>15</b>	<b>3</b>
NHT St. Catherine Leadership Council	<b>70</b>	<b>2</b>
Moneague Criminal Justice Forum	<b>90</b>	<b>4</b>
Legal Aid Council – Justice Fair	<b>20</b>	<b>5</b>
Contraband Enforcement Team	<b>20</b>	<b>3</b>
Lost Partners Fellowship	<b>50</b>	<b>4</b>

## PRESS RELEASES & FEATURED ARTICLES

For the 4th quarter of 2016, The Public Relations Unit issued 13 press releases and featured articles. They are as follows:

1. INDECOM arrests JCF member – Cons Alwyn George Hill
2. Crime threatens social order; it's solution must be justice
3. Funding justice essential to fighting crime
4. Statement to PAAC
5. INDECOM arrests Constable Migeul Phillips
6. INDECOM probing fatal shooting of Keith Polson
7. INDECOM non-operational staff member arrested
8. Police search of students is unlawful
9. All Clarendon Constable murder cases committed to Circuit Court for trial
10. INDECOM probing fatal shooting of Everald Daley
11. INDECOM extends condolences to the JCF – Kemoi Miller
12. INDECOM arrests 4 JCF Constables
13. Clarendon Constables cases set for trial in Circuit Court

# INDECOM OFFICES

## Head Office

1 Dumfries Road  
Kingston 10  
Telephone: 968.1932 / 968.8875  
920.2324. Fax: 908.0403

## Interview Centre

9 Dumfries Road  
Kingston 10  
Telephone: 968.1932 / 968.8875

## Central Regional Office

1 A Brumalia Road  
Cobblestone Professional Centre - Unit 10  
Mandeville, Manchester  
Telephone: 961.1542 / 961.4171/  
961.1542. Fax: 962.3419

## Western Regional Office

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## **Incident and Tip Lines:**

**(D)1.888.935.5550**

**(L)1.888.991.5555**

**Cell: 1.876.878.0167**