DISCIPLINE AND POLICING: THE PROCESS

Introduction

Beginning this quarter, the Commission will examine and report on its review of disciplinary procedures within the Jamaica Constabulary Force (hereinafter referred to as the JCF). Particularly, the publications will explore:

- how disciplinary proceedings are intended to work;
- how they currently operate;
- how the recommendations of the Commission are generally treated where disciplinary action is recommended; and finally
- the consideration of disciplinary action following acquittals.

Pursuant to section 17(9) of the Independent Commission of Investigations Act (I.C.I.A) each investigation conducted by INDECOM, must culminate with a report, complete with recommendations to be “acted upon”. Possible recommendations which may be made by the Commission are wide and varied, and includes the following: recommendations for charges to be laid against a concerned officer and/or recommendations for disciplinary procedures to be instituted against a concerned officer.

Continues on page 5
“Justice is truth in action.”

Benjamin Disraeli
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Compact Disc

2nd Quarterly Report: April to June 2017
New Complaints: April to June 2017
Commission’s Reports Completed: April – June 2017

(In compliance with Section 17(3) (C) of the INDECOM Act)
PART ONE: NEW COMPLAINTS

The Commission received 233 new complaints for the period. The top five categories of complaints include: assault (75), discharge of firearm (58), fatal shooting (33)* [see page 10], shooting injury (17) and unlawful wounding (11).

The Commission’s Investigative Teams and Forensic Unit responded to 109 incident scenes for the period, with January being the most active month. The nature of the incident scenes attended were predominantly discharge of firearms, fatal shootings and shooting injuries. There were six (6) incidents of death in custody for the period.

In relation to parishes with fatalities: St. Thomas, Trelawny, and Portland had no fatalities for the period. The parishes of St. Ann and Manchester recorded one (1) each; Clarendon and St. Elizabeth recorded two (2); St. Mary and Westmoreland recorded three (3) each; St. James and Hanover had four (4) each, St. Catherine recorded five (5) and Kingston & St. Andrew recorded the highest at 14.

All parishes had complaints, both fatal and non-fatal, with Kingston and St. Andrew recording 86 complaints and Portland recording the least with two (2).

PART TWO: THE LEGAL DEPARTMENT

In the Legal Department, 241 Commission’s Reports were distributed and completed. The nature of these files included: discharge of firearms (77), assaults (58), fatal shootings (54) and shooting injuries (9). An overview of recommendations for no charge, disciplinary action or charge, for the reports completed are listed in this section. Recommendations from fatal shooting incidents, where Commission’s Reports were completed during the quarter are also listed. Four (4) members of the Jamaica Constabulary Force (JCF) were arrested and charged during the period.

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 INDECOM/JCF MOU and search warrants of police stations.

The Commission participated in awareness exercises equaling 634 man hours for the period.

The Public Relations Unit issued 6 press releases for the period. The titles of these are listed in this section.

The Commission reviewed the Recommendations made in the West Kingston Commission of Enquiry Report, and provided a brief update on the status of the implementation of seven (7) salient recommendations. Further analysis is provided in this section.

INDECOM hosted a 3-day Caribbean Use of Force in Law Enforcement Conference on May 31 – June 2, 2017. The conference included a keynote address by the Prime Minister of Jamaica and the formation of the Caribbean Association for Oversight of Law Enforcement by Jamaica, Guyana and, Trinidad and Tobago.
In a bid to complete this review, INDECOM wrote to the JCF and the Police Services Commission (PSC), in June 2017, seeking information concerning the workings of the disciplinary machinery. Collective responsibility rests with these two organizations for the disciplining of the members of the JCF. However, there was no response from either of the entities purporting to address the questions asked.

THE DISCIPLINARY PROCEDURES OF THE JCF

Disciplinary procedures within the JCF are generally guided by the provisions of the Police Service Regulations, 1961. A reading of section 31 of the Police Service Regulations, discloses that disciplinary proceedings against members of or above the rank of Inspector, are instituted upon the recommendation of the Police Services Commission and the authorization of the Governor General. Whereas disciplinary action against members below the rank of Inspector must be instituted by the Commissioner, or upon his direction, in light of reports made to him (or otherwise).

The provisions of section 32 of the Police Service Regulations, 1961, further mandates the institution of disciplinary proceedings where misconduct has been reported against any member. It additionally demands that such be dealt with expeditiously.

Where disciplinary procedures have been instituted the likely outcomes on an officer are:
- a caution;
- reprimand or severe reprimand;
- confinement to barracks for a maximum time period;
- deprivation of the member’s salary;
- a fine;
- a reduction in rank; or
- dismissal from the force.

The type of penalties imposed is guided by the rank of the person against whom disciplinary action is being taken, the person administering the penalties and the offence charged, (whether minor offences tried summarily or more serious infractions). For example, the maximum penalty which can be imposed for a person tried summarily, is the deprivation of their salary for a period not exceeding four days, whilst the maximum penalty for matters not tried summarily is dismissal from the JCF.

Where a recommendation for penalty is made in respect of matters not tried summarily, the Commissioner of Police, in cases where the matter concerns a member below the rank of Inspector, or the Governor General, where it concerns officers of or above the rank of Inspector, shall be informed of the recommended action and the appropriate order made/ or such other action taken by the Commission of Police or the Governor General (as the case may be).

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1 Part V, the Police Service Regulations, 1961
2 Section 31(2)
3 Section 31(3)
4 Part II and III, Second Schedule, Police Service Regulations, 1961
5 Part II and III, Second Schedule, Police Service Regulations, 1961
6 Part II and III, Second Schedule, Police Service Regulations, 1961
7 Section 47(2)(j)(k)(l) and 47(3)
Disciplinary Proceedings: How it is intended to work

Report of Misconduct by member of the JCF

Not serious as to warrant dismissal
Section 46 Police Service Regulations

- Public Service Commission
  (if of or above rank of Inspector)

  Causes investigation to be launched as it may think proper

  Dismiss charge (not justified)

  Report to Commissioner (if not commissioner)

  Punishment other than dismissal (if justified)

- Commissioner of Police or authorized officer
  (if below rank of Inspector)

  Cause or launches investigation

  Not Minor

  Minor

  Deal with summarily

Serious (warrants dismissal)
Section 47 Police Service Regulations

- Public Service Commission
  (if of or above rank of Inspector)

  Commission of Police or authorized officer
  (if below rank of Inspector)

  Notifies member of charge in writing and invites member to state defence

  Unsatisfactory response

  No response

  Satisfactory response

  Court of Enquiry ordered by GG or CoP

  Member informed of date of Court of Enquiry and enquiry held

  New grounds discovered

  Report of findings and evidence submitted to GG or CoP and recommendation made

  Order for such other penalty made.

  Dismissal Order made and member dismissed
The COP is responsible for the administration of discipline for officers below the rank of Inspector. However, in instances where the charge alleged is a minor offence, for example, absence from parade, the administration of discipline may be delegated to the Divisional Officer. The disciplinary procedure varies based on the nature of the infraction. At the lowest level is the orderly room disciplinary procedure and at the top tier is the Court of Enquiry (COE).

The Orderly Room (OR)

The Orderly Room (OR) disciplinary process is provided for by Section 46 (2) (b) of the Police Services Regulation and facilitates the disciplining of members at the local level by divisional officers, with the knowledge and consent of the COP. Orderly rooms disciplinary procedures only addresses minor breaches of discipline (outlined in the second schedule of the 1961 Regulations) such as absence from duty.

Where an infraction has occurred, an investigation is made into the circumstances of the misconduct, where the breach is classified as minor (as per the second schedule of the 1961 Regulations), the matter is thereafter heard by the Commanding Officer of the member.

Court of Enquiry (COE)

The Court of Enquiry is set up to address disciplinary matters of a serious nature as laid down in rule 315 of the Jamaica Police Manual. Where a misconduct is one which may warrant dismissal of the member, the procedure is detailed in Regulation 47 of the Police Service Regulations. The Commissioner of Police is advised of a charge which may warrant dismissal by the appropriate party (Commanding Officer). The offending member will be required to furnish a written statement concerning the charge. If the offending officer fails to submit such a statement or fails to exculpate him/herself, the COP is required to appoint a COE to investigate the matter.

The member may appeal the decision of the court to the Privy Council through the Police Services Commission9. Appeals should be made within 14 days of the decision and should be accompanied by the grounds of appeal.

Where the alleged offences concerns a member of or above the rank of an Inspector, the procedure to be followed remains the same, except that the Police Services Commission exercises conduct over the proceedings.

Disciplinary Action following INDECOM’s Recommendations (senior officers)

Since INDECOM’s inception in 2010, the Commission has submitted 97 cases involving 138 officers with recommendations for disciplinary proceedings to be instituted, in each case the PSC was advised accordingly.

Attempts were made by the Commission to ascertain the status of these cases wherein recommendations were made. To date, disciplinary hearings have not commenced in any of these cases. Indeed, in a number of the cases there has been no response to the recommendation.

The table below shows recommendations made for disciplinary proceedings against senior officers above the rank of Inspector, for the period 2010-2016. Item 6 in the table refers to officers identified in two special investigations regarding planned operations who were found in breach of JCF policies.

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99 Section 42 of the Police Service Regulations, 1961
<table>
<thead>
<tr>
<th>No.</th>
<th>Category</th>
<th>Rank of Officer</th>
<th>Summary of complaint</th>
<th>Offence</th>
<th>Date of Report Dispatched</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Assault</td>
<td>Asst. Commander ISCF</td>
<td>The complainant reported that on Saturday October 22, 2011 he was chased by another motorist who pulled a firearm on him. The other motorist was later identified as a police officer.</td>
<td>Breaches of the Use of Force Policy</td>
<td>JCF: 3/3/17 PSC: 3/3/17</td>
<td>No response from the PSC and JCF</td>
</tr>
<tr>
<td>2.</td>
<td>Conduct Unbecoming</td>
<td>Deputy Superintendent of Police</td>
<td>The complainant alleges that, police officers visited her house in her absence and removed a photograph of her boyfriend, who was in custody and who was to be placed on an identification parade on the following day.</td>
<td>Breached the JCF Code of Conduct</td>
<td>JCF: 28/9/16 PSC: 28/9/16</td>
<td>No response from the PSC and JCF</td>
</tr>
<tr>
<td>3.</td>
<td>Breach of Code of Conduct</td>
<td>Deputy Superintendent of Police</td>
<td>The complainant alleges that he was assaulted by a Courtesy Corps Officer which was reported to the police. The case was not put before the court, as required.</td>
<td>Failure to ensure that the complainant’s case against Special Constable X was put before the Court</td>
<td>JCF: 24/10/16 PSC: 24/10/16</td>
<td>No response from the PSC and JCF</td>
</tr>
<tr>
<td>4.</td>
<td>Discharge of Firearm</td>
<td>2 Deputy Superintendents of Police</td>
<td>One senior officer fired his weapon, left the scene after firing, and failed to make a prompt report. The other senior officer, after learning of his colleague’s involvement, irregularly dealt with the exhibits taken from the scene and failed to report incident to INDECOM. (NB: DPP concurred that disciplinary issues arose)</td>
<td>Breaches of sections of the JCF Code of Conduct and of the Use of Force Policy.</td>
<td>JCF: 7/9/15 PSC: 7/9/15</td>
<td>DPP’s response: “It is recommended that departmental/administrative review to be conducted given the discharge of DSP’s firearm and to enquire into whether there was sufficient adherence to the reporting protocol”. No response from the JCF and PSC</td>
</tr>
<tr>
<td>5.</td>
<td>Neglect of Duty</td>
<td>2 Superintendents of Police</td>
<td>The complainants were investors into a financial scheme through Mr. X. When the scheme failed the men made reports to the police who carried out an investigation but failed to follow up reports that X was not permitted to deal with investment funds. Though DPP responded positively to INDECOM’s report, investigation not resumed</td>
<td>The Commission recommends that the JCF resumes investigations in this matter and conduct all necessary enquiries to determine whether criminal charges ought to be laid. The JCF to report on compliance with recommendation by February 28, 2014. When not complied with disciplinary proceedings for neglect of duty were recommended.</td>
<td>JCF: 17/12/13 PSC: 17/12/13</td>
<td>DPP’s response: “I hereby acknowledge receipt and note the content of the Commission’s report…..I will await a report from the JCF regarding whether any criminal charges ought to be laid should the JCF adopt the Commission’s recommendation to conduct further inquiries”. The JCF acknowledged receipt without more. No response from the PSC</td>
</tr>
</tbody>
</table>
Addendum: Upon completion, this report was submitted to the Commissioner of Police and Police Services Commission on August 14, 2017. The Commissioner of Police responded on August 22, 2017 that reviews were being conducted and submissions would have been made shortly. Subsequently, a few case updates were received advising of closure or further investigation by the JCF. The Police Services Commission responded on September 7, 2017.

<table>
<thead>
<tr>
<th>No.</th>
<th>Category</th>
<th>Rank of Officer</th>
<th>Summary of complaint</th>
<th>Offence</th>
<th>Date of Report Dispatched</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Breach of Force Policies while leading Planned Operations</td>
<td>3 SSPs</td>
<td>The concerned officers were found to be in breach of the Use of Force Policy while leading various Planned Operations.</td>
<td>Breach of sections 113, 128 and 130 of the Use of Force Policy</td>
<td>Report#1 JCF: 29/4/16 PSC: 21/4/16 Report#2 JCF: 17/5/16 PSC: 13/5/16</td>
<td>No response from the PSC and JCF</td>
</tr>
</tbody>
</table>

**Recommendations for Action, Role of Parliament**

Pursuant to Section 23 (1) of the *Independent Commission of Investigations Act*, where a report of the Commission (INDECOM) contains recommendations for action to be carried out by a relevant force or public body, the Act mandates that the recommendations are complied with in the manner and the time specified. The section further obligates the responsible head (in this case the Commissioner of Police) to report to INDECOM on the compliance of the recommendation within the period prescribed.

Section 23(2)(a) of the *Independent Commission of Investigations Act* further places an obligation on the responsible head of the relevant force, where the recommendations relate to disciplinary proceedings, to take such steps as are lawful and necessary to ensure compliance with the recommendations. Where the responsible head does not comply with the recommendations, reasons for their decision not to so do must be supplied to INDECOM.

This report is therefore being tabled in compliance with section 23 (3) of the *Independent Commission of Investigations Act*. 
There were 39 deaths from 33 fatal shooting incidents. Of the 7 deaths in custody incidents for the period, 1 was reported in April, but the actual death occurred in March (first quarter)*

Figure 1: The bar graph shows all categories of new incidents for which complaints were received by the Commission for the period of April to June 2017.
INDECOM QUARTERLY
APRIL - JUNE 2017

IN incident scene response

Figure 2: The above figure shows the number of scenes that the Commission’s Forensic Unit responded to for the period of April to June 2017.

nature of incident scene response

Figure 3: The above graph shows the nature of the incidents that the Commission’s Forensic Unit responded to for the period of April to June 2017.
COMPLAINTS BY PARISH

Figure 4: The above graph shows the number of new complaints received by the Commission per parish for the period of April to June 2017.

FATAL SHOOTINGS BY PARISH

Figure 5: The chart above shows the total number of deaths from shooting incidents per parish for the period of April to June 2017.
FATALITIES BY TEAMS

Figure 6: The above graph shows the number of fatalities (to include deaths in custody) in relation to the investigative teams within the Commission for the period of April to June 2017.

FATALITIES BY ORGANISATION

Figure 7: The above pie chart illustrates the State agency to which the fatalities recorded for the period of April to June 2017 are related.
# SECURITY FORCE-RELATED FATALITIES

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Deceased</th>
<th>Location of Incident</th>
<th>Related State Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Apr</td>
<td>Kemar BECKFORD</td>
<td>Spanish Town Rd, near Pink Lane, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>4-Apr</td>
<td>Orlando TAVARES, Vincent MURRAY</td>
<td>Salt Spring Main Rd, Green Island, Hanover</td>
<td>JCF</td>
</tr>
<tr>
<td>8-Apr</td>
<td>Albert BAILEY <strong>DIC</strong></td>
<td>Tower St Adult Correction Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>12-Apr</td>
<td>Patrick BRYAN</td>
<td>Calaloo Mews, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>18-Apr</td>
<td>Jesse Joseph LEE <strong>DIC</strong></td>
<td>Tower St Adult Correction Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>20-Apr</td>
<td>Kemar SMITH</td>
<td>5 Upper Oxford Rd, near Charles St, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>20-Apr</td>
<td>Steven SPENCER</td>
<td>Norman Manley Blvd, Hanover</td>
<td>JCF</td>
</tr>
<tr>
<td>21-Apr</td>
<td>Reshaun HAWES</td>
<td>Burnt Side Valley, Red Hills, Kingston</td>
<td>JCF</td>
</tr>
<tr>
<td>25-Apr</td>
<td>Ryan PALMER <strong>DIC</strong></td>
<td>Tower St Adult Correction Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>28-Apr</td>
<td>Horace Morace BURTH <strong>DIC</strong></td>
<td>Tower St Adult Correction Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>29-Apr</td>
<td>Shane GEOHAGEN, Harold SMITH</td>
<td>Forrester Road, Kingston</td>
<td>JCF</td>
</tr>
</tbody>
</table>

**APRIL (9) (DIC-4)**

**MAY (18) (DIC-2)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Deceased</th>
<th>Location of Incident</th>
<th>Related State Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>7-May</td>
<td>Kristen PEARSON</td>
<td>Forros Entertainment complex, Trinity, Port Maria, St Mary</td>
<td>JCF-OD</td>
</tr>
<tr>
<td>9-May</td>
<td>Devon CAMPBELL, Daniel ANDERSON</td>
<td>52 Paradise Court, Arnett Gdns, Kingston 12</td>
<td>JCF</td>
</tr>
<tr>
<td>14-May</td>
<td>Kleon DAVIS</td>
<td>Waterford Municipal Park, Granville Rd, Portmore, St Catherine</td>
<td>JCF</td>
</tr>
<tr>
<td>14-May</td>
<td>Richard DOUGLAS <strong>DIC</strong></td>
<td>Halfway Tree PSTN</td>
<td>DCS</td>
</tr>
<tr>
<td>15-May</td>
<td>Deland HART</td>
<td>Tempie Hall Square, St Andrew</td>
<td>JCF-OD</td>
</tr>
<tr>
<td>16-May</td>
<td>Kwame RICHARDSON, Kenroy MURRAY</td>
<td>New Market Main Rd, St Elizabeth</td>
<td>JCF</td>
</tr>
<tr>
<td>17-May</td>
<td>Karl Godfrey HAYES</td>
<td>Hazard Drive, May Pen, Clarendon</td>
<td>JCF</td>
</tr>
<tr>
<td>19-May</td>
<td>Gavin DUFFUS</td>
<td>Creek St, Montego Bay, St James</td>
<td>JCF</td>
</tr>
<tr>
<td>24-May</td>
<td>Orville CLARKE <strong>DIC</strong></td>
<td>Tower St Adult Correction Centre</td>
<td>DCS</td>
</tr>
<tr>
<td>24-May</td>
<td>Mitzroy CLARKE</td>
<td>Golden Heights, Green Pond, St James</td>
<td>JCF</td>
</tr>
</tbody>
</table>
25-May  Dermain WILLIAMS, Kawayne CAMPBELL  Westmoreland  JCF
26-May  Jeffrey ROBINSON  Granville, St James  JCF
27-May  John DAVIS  Baileysvale, St Mary  JCF-OD
28-May  Dwayne GORDON  Paradise, Bog Walk, St Catherine  JCF
30-May  David VERNON  Lot 41, Passage Fort Drive, Portmore, St Catherine  JCF
31-May  Rupert JOHNSON  Crawford St, Mt Salem, St James  JCF
31-May  Isaachar WILLIAMS  Coffee Grove, Porus, Manchester  JCF

JUNE (12)
3-Jun  Jeremy CLARKE  Whitehouse, Westmoreland  JCF-OD
4-Jun  Andrew HUNTER  Train Line community, Annotto Bay, St Mary  JCF
6-Jun  Kayson WALKER  Carib Heights, Ocho Rios  JCF
6-Jun  George BROWN  Cross Roads, Kingston  JCF
10-Jun  Prince Novardo BARRETT  10 Harvey Rd, Kingston  JCF
12-Jun  Dave STEWART  Paradise St, May Pen, Clarendon  JCF-OD
12-Jun  Jevaughn SHEAY  Wellington Road, Kingston  JCF
23-Jun  Sharnada LESLIE  Green Island, Hanover  JCF
23-Jun  Rayon CREITON  Rose Town, Kingston  JCF
24-Jun  Reynaldo CLARKE  Darling St, Kingston  JCF
26-Jun  Christopher LUGG, Wayne MARTIN  Hill Run, Spanish Town, St Catherine  JCF

Table 1: The above list presents the names of persons who died in security force-related incidents for the period of April to June 2017.
### NATURE OF COMPLETED COMMISSION’S REPORTS

**Nature of Commission's Reports Completed**

<table>
<thead>
<tr>
<th>Nature of Commission's Reports</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discharge of Firearm</td>
<td>77</td>
</tr>
<tr>
<td>Assaults</td>
<td>58</td>
</tr>
<tr>
<td>Fatal Shooting</td>
<td>54</td>
</tr>
<tr>
<td>Shooting Injury</td>
<td>9</td>
</tr>
<tr>
<td>Threat</td>
<td>8</td>
</tr>
<tr>
<td>Conduct Unbecoming</td>
<td>8</td>
</tr>
<tr>
<td>Neglect of Duty</td>
<td>8</td>
</tr>
<tr>
<td>False Imprisonment</td>
<td>6</td>
</tr>
<tr>
<td>Unlawful Seizure</td>
<td>5</td>
</tr>
<tr>
<td>Death in Custody</td>
<td>4</td>
</tr>
<tr>
<td>Abuse of Office</td>
<td>3</td>
</tr>
<tr>
<td>Harassment</td>
<td>2</td>
</tr>
<tr>
<td>Unlawful Search</td>
<td>2</td>
</tr>
<tr>
<td>Malicious Destruction of Property</td>
<td>2</td>
</tr>
<tr>
<td>Unlawful Entry</td>
<td>1</td>
</tr>
<tr>
<td>Unlawful Wounding</td>
<td>1</td>
</tr>
<tr>
<td>Misappropriation of Property</td>
<td>1</td>
</tr>
</tbody>
</table>

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

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

RECOMMENDATIONS MADE FOR COMPLETED COMMISSION’S REPORTS

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Charge</strong></td>
<td>0 cases</td>
<td>1 case</td>
<td>5 cases</td>
</tr>
<tr>
<td></td>
<td>0 officers</td>
<td>5 officers</td>
<td>12 officers</td>
</tr>
<tr>
<td><strong>Disciplinary Action</strong></td>
<td>4 cases</td>
<td>4 cases</td>
<td>8 cases</td>
</tr>
<tr>
<td></td>
<td>6 officers</td>
<td>8 officers</td>
<td>12 officers</td>
</tr>
<tr>
<td><strong>Unsubstantiated</strong></td>
<td>76</td>
<td>83</td>
<td>63</td>
</tr>
</tbody>
</table>

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

**April 2017 (10)**

Table 3: Recommendations by the Legal Department for Commission’s Reports completed in April 2017 on fatal shooting incidents

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Remar Fearon</td>
<td>On August 4, 2012, the deceased, Remar Fearon was shot and killed. A Sergeant who was on an operation with a Constable in Maxfield Avenue, Kingston does not allege that the deceased was one of the men who allegedly fired at him and his colleague. Both respondents state that they only saw two of the alleged gunmen clearly, however, after the shooting subsided, the deceased was found with a firearm in his hand. There is no eyewitness to the shooting. The deceased’s mother claims that the deceased and the respondent had a previous interaction which she found unfavourable and on the day that her son was killed, another policeman had his foot on the deceased. Due to the absence of eyewitness evidence or forensic material to refute the respondent’s account, a jury would not likely convict the respondent for the offence of murder.</td>
<td>In these circumstances, the Commission recommends that no criminal charges or disciplinary proceedings should be brought against the concerned officers. The file is submitted to the Special Coroner for his consideration.</td>
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<tr>
<td>2.</td>
<td>Leroy Greant</td>
<td>On Friday, June 26, 2013 at about 1:30a.m., a Constable and District Constable responded to a report. On route, at East Kirkland Heights, they saw a vehicle which fitted the description in the report. The driver disobeyed their signal to stop. The officers gave chase. Two men opened gunfire on the officers who returned fire. A third man was seen in the vehicle and apprehended. Later that day, a man was found at the scene suffering from gunshot wounds. This man was pronounced dead.</td>
<td>In these circumstances, the Commission recommends that no criminal charges or disciplinary action be brought against the concerned officers. The matter is referred to the Special Coroner for his consideration.</td>
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<td>3.</td>
<td>Christopher Wilson</td>
<td>On June 15, 2013, Christopher Wilson, aged 17, was shot and killed by the police. It is alleged that when the police went into the Orange County community, Wilson and another male opened fire at them. Wilson was found suffering from gunshot wounds and a firearm in his hand. At the hospital, Wilson was pronounced dead.</td>
<td>In these circumstances, the Commission recommends that no criminal charges or disciplinary proceedings should be brought against the concerned officers. The file is submitted to the Special Coroner for his consideration.</td>
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<td>4.</td>
<td>Haniff Morgan</td>
<td>On July 21, 2013, the police went to a property at George Headley Drive, Kingston. At the rear of the premises, they were accosted by three men. A shoot-out occurred. Two of the unknown men were seen suffering from gunshot injuries and taken to the Kingston Public Hospital. The other unknown man escaped. One of the men with the firearm was subsequently pronounced dead.</td>
<td>In these circumstances, the Commission recommends no criminal charges or disciplinary action against the concerned officers, however, the matter of the fatal shooting of Haniff Morgan is referred to the Special Coroner for his consideration.</td>
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<tr>
<td><strong>5. Richard Hutchinson</strong></td>
<td>The civilian eyewitnesses known by the now deceased Richard Hutchinson, said that “Machel” was sitting and talking with friends near to his business establishment when police entered Delacree Lane, fired gunshots in the air before shooting “Machel.” According to the police, a Sergeant and three (3) others Constables were conducting mobile patrol duties in the area. Upon getting to a corner on Delacree Lane, the police observed a group of about five (5) men in the vicinity of a parked car. Upon seeing the police, they started acting suspiciously, meaning they were backing away and shuffling until they got unto a dark lane. The police stopped the vehicle and alighted and as they were about to proceed towards the men to investigate, they were fired upon. They returned fire and the men ran in different directions. After the shooting subsided, one man was found suffering from gunshot injuries with a .380 firearm with one live round beside him. During a search of the area, a shot gun, with one cartridge casing was recovered. All four (4) police officers fired. The police vehicle was also shot up as bullet holes were seen on the right fender after the incident.</td>
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<tr>
<td><strong>6. Leroy McKenzie</strong></td>
<td>Three (3) men, including the deceased, boarded a taxi and travelled into the Monticello community where they held the driver of the taxi at gunpoint. The driver resisted and made an alarm which caught the attention of an off duty police, District Constable. The District Constable, states that he saw the vehicle swerving and observed three men, one of whom was armed, emerge from the vehicle. He attempted to stop the men but they continued running so he fired two (2) shots in the air. Another officer, a Detective Special Corporal said he heard the explosions and soon after saw three men running in his direction, he ordered them to stop and one of the men opened fire at him. He said he returned the gunfire and the man ran, he subsequently saw citizens beating the said man and so he went and apprehended him. The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Leroy McKenzie.</td>
<td></td>
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<tr>
<td><strong>7. Onandi Baines</strong></td>
<td>Two Constables, along with a District Constable state that they were on foot patrol in the Denham Town community where they went to a particular premises to make checks. A Constable and District Constable went inside the premises whilst the other Constable</td>
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</table>

It is noted that one of the officers stated that he discharged his firearm five times, however, the ballistic certificate reveals that he discharged six times. As this is a discrepancy that ought to have been noted by the armourer or the officer’s supervisor, the Commission recommends that greater vigilance be employed in the accountability/checks of ammunition before and after deployment especially where an officer has reportedly discharged his firearm.

Given the foregoing, it is the opinion of this Commission that the matter be referred to the Special Coroner’s Court for the learned Special Coroner to determine whether an inquest is to be held.
remained on the outside. He observed a man with a bulge who he called out to. The man refused to stop and subsequently pointed what appeared to be firearm in the direction of the police officer. The officer, in fear of his life, fired at the man who, along with his gun, fell to the ground. The man then got up, ran unto a nearby premises, but was not perused due to safety concerns of the officers. The said man later turned up at the hospital injured and was pronounced dead. A firearm was recovered.

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

8. Adrian Byfield

Allegations are that on the 18th day of June, 2013, an off duty JDF soldier and the owner of a Toyota Hiace minibus, a Sergeant, was seated in the parked bus along Bay Farm Road, Water House, Kingston 11. The bus plies the Waterhouse to Cross Roads route and the crew (driver and conductor) had finished working but had left the car in order to refresh themselves. Given that the Sergeant was seated in the vehicle, they had left the engine running with the keys in the ignition. During this time, it is alleged that a cleaver wielding man, later identified as the now deceased Nicholas Byfield, jumped into the bus and drove it away.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Adrian Byfield.

9. IJ o.b.o Julio Grant

At about 5:20 p.m. on the 24th day of January, 2010, Julio Grant was riding his Honda motor cycle in the vicinity of Washington Boulevard when he collided with a JDF Ford Land Cruiser which was being manned by a Private of the Jamaica Defence Force (JDF). Mr. Grant succumbed to the injuries he sustained as a result of the accident.

The Commission hereby recommends that this matter is to be forwarded to the Coroner for a decision to be made as to whether an inquest ought to be held. The Commission advises that Ms. IJ pursue civil relief in light of the death of her son Julio Grant.

10. Rolanda Gayle

On August 30, 2013, at about 10:45 p.m., Rolando Gayle was fatally shot by a Constable along Gordon Pen Road in Spanish Town St. Catherine. It is reported that the Constable, who was off-duty at the time, was driving to Eltham Park to visit a friend when he stopped at a mini-mart along the Gordon Pen Road to purchase a few items. After leaving the mini-mart, he was accosted by Gayle who pointed a firearm at him and ordered him not to move. The Constable quickly pulled his JCF ‘keep and care’ firearm from his waistband and fired several rounds at Gayle, hitting him. Gayle was subsequently transported to the Spanish Town Hospital where he was pronounced dead.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, in relation to the fatal shooting of Rolando Gayle.

May 2017 (20)

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
</tr>
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<tbody>
<tr>
<td>11</td>
<td>Anthony Campbell</td>
<td>On October 29, 2013, Constables of the Hunts Bay Police Station were on mobile patrol duties in the Waltham Park area. At approximately 1:00pm, acting on information received, they went to a Rodney Road address, in a bid to apprehend men who were</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officers in respect of this complaint.</td>
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</table>
| 12. | Barrington Steele | This report concerned the death of Barrington Steele who was shot and killed on the 19th of September, 2015 at the intersection of Maxfield Avenue and Hagley Park Road. The concerned officer contends that the deceased attacked a man with a machete, and attempted to attack him with the machete, and in fear of his life he discharged his service pistol in the direction of the deceased twice. The deceased was taken to the Kingston Public Hospital where he was later pronounced dead. | The Commission respectfully recommends that:  
| a. No criminal charges be laid or disciplinary action be taken against the concerned officer in relation to the fatal shooting of Barrington Steele.  
| b. The file be forwarded to the Special Coroner. |
| 13. | Wova Chaffat | Mr. Wova Chaffat was fatally shot by the police at his house located at 8 Dandelion Terrace, Union Gardens, Kingston 13, on 15th day of August, 2012. According to the police, a team went to the said premises, acting on intelligence, in search of wanted men and illegal weapons. The police officers state that they were confronted by a gunman who fired a weapon. A Constable in particular, was the one to confront the alleged gunman, fired at the man thereby injuring him, the man subsequently died. A firearm was recovered from the incident. | The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, or any other member of the Jamaica Constabulary Force which was present on that team on the day Wova Chaffat was killed. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Wova Chaffat. |
| 14. | Courtney James | Mr. Courtney James was shot and killed by the police, in an alleged shootout with police officers. The incident happened on the 7th day of December, 2012 at 30 Lincoln Avenue, Kingston 13. The Corporal received a gunshot to his chest which was shielded by his vest. A gun was recovered from the now deceased and spent casings recovered from the scene matched the said recovered weapon. The then girlfriend of Mr. James, was present in the house and alleges that she was in the house with Mr. James when police came and told her to go outside. She recalls thereafter hearing the officers speaking to James followed by explosions sounding like gunshots. | The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, or any other member of the Jamaica Constabulary Force which was present on that team on the day Courtney James was killed. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Courtney James. |
| 15. | Sheldon McLeod | On the 10th day of January, 2014, Sheldon McLeod was fatally shot and killed by officers whilst at his home | The Commission hereby recommends that no |
at 445 Mall Road, Kingston 11. The police contend that they were at Payne’s Land in search of wanted men when, upon entering a premises with an open door, the man emerged from under a bed and pointed a firearm in their direction. The concerned officers both disclose that they fired their firearm in the direction of the man who later fell to the ground. A 9mm pistol was recovered from the injured man. There are no eyewitnesses to the incident. However, the girlfriend of the deceased man states that she and her son were at home with the deceased when the police came. She indicates that she instructed the deceased to hide under the bed and, when the police inquired about his whereabouts she lied that he was not there. She was subsequently arrested and taken to the Hunt’s Bay Police Station for possession of a marijuana where she was informed that Mr. McLeod had been killed. When she left Sheldon under the bed he did not have a firearm.

criminal charges be laid or disciplinary action be taken against the concerned officers for the death Sheldon McLeod. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Sheldon McLeod.

16. Jacqueline Stone
Jacqueline Stone was fatally shot in what is alleged to be a shootout between gunmen and the police on February 8, 2014, at approximately 1:30 am. When the shooting subsided, Miss Stone was found suffering from gunshot wounds; she was taken to the Kingston Public Hospital and later, pronounced dead.

The matter is hereby referred to the Special Coroner’s Court for the Special Coroner to determine whether an inquest is to be held.

17. Dwight Allen
On Tuesday August 21, 2012, Dwight Allen was fatally shot during an alleged shootout with police from the Half-Way-Tree Police Station along St. Joseph Road, Kintyre, Kingston 6. The police reported that at about 9:00am, whilst patrolling the Kintyre area, they received information from the Papine police that men were seen in the area with guns. Upon their arrival, a group of about six (6) men fitting the description given, were seen walking along the roadway. Upon their approach, the men opened gunfire, causing them to respond by firing back. When the gunfire subsided, one man was discovered suffering from gunshot wounds; the others having managed to escape. The man was rushed to the University Hospital of the West Indies where he was pronounced dead. One Chrome Smith & Wesson Revolver, along with six (6) .38 cartridges were discovered.

Given the foregoing, it is the opinion of this Commission that the matter be referred to the Special Coroner’s Court for the Special Coroner to determine whether an inquest is to be held.

18. Lavel Frazer
The police reports that on February 15, 2015, Lavel Fraser was fatally shot at about 1:20pm in the Friendship District, Clarendon. The concerned officers were on enquiries in the Chapleton police area when they received information that a man in a red T-shirt was seen walking in the Friendship area with a gun in his hand. They went and made enquiries in the area, when they observed a man fitting the description given, with the gun in his hand. They called out to him to stop and the man pointed the gun in their direction, causing a Constable to fire his weapon, hitting the man. The man was later pronounced dead.

Given the foregoing, it is the opinion of this Commission that the matter be referred to the Special Coroner’s Court for the Special Coroner to determine whether an inquest is to be held.

19. Andre Williams
On August 14, 2012, INDECOM received a report that Andre Williams was shot and killed by the police. The police version is that the deceased was armed with a firearm which he pointed at a Corporal, who, in these circumstances, the Commission recommends that no criminal charges or disciplinary action be
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<tr>
<td><strong>20. Leroy Campbell</strong></td>
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<td><strong>21. Colrie Nelson</strong></td>
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<td><strong>22. Michael Stephens</strong></td>
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In these circumstances, the Commission recommends that no criminal charges or disciplinary action be brought against the concerned officers of the Black River Street Crime Unit. The matter is referred to the Special Coroner for his consideration.

In these circumstances, the Commission recommends that no criminal charges or disciplinary action be brought against the concerned officers of the Old Harbour Police Station. The matter is referred to the Special Coroner for his consideration.

In these circumstances, the Commission recommends that no criminal charges or disciplinary action be brought against the concerned officers of the Hunts Bay Police Station. The matter is referred to the Special Coroner for his consideration.

In these circumstances, the Commission humbly recommends that the Commissioner of Police:

a) Be advised of the Commission’s finding that a prima facie case exists that a concerned officer of the Mobile Reserve breached Force orders no. 3270 and 3511 in the Jamaica Constabulary Force Major Scene of Crime Policy;

b) Causes the appropriate internal disciplinary proceedings to be instituted against the concerned officer of the Mobile Reserve to determine whether they committed the breach.
23. Jamar Walford

The deceased was wounded by Corporal, and shortly thereafter, shot and killed by another Corporal at 70 Bond Street, and premises adjoining, on May 27, 2016. The police claim that they occasioned this shooting and death in self-defence against a man armed with Taurus pistol. However, witness and circumstantial evidence refute this claim.

The witness evidence contends that Walford was unarmed when he was shot by the police.

described in the preceding section;

c) Advises the Commission as to whether disciplinary proceedings will be instituted and, if they will, the contemplated nature of those disciplinary proceedings by July 28, 2017.

d) Where disciplinary proceedings in respect of paragraph (b) above, are completed, communicates the outcome of the proceedings to the Commission within fifteen (15) days of their completion.

The Commission’s recommendations in relation to the present case are as follows:-

[a] Two concerned officers are to be charged for Wounding with Intent to do Grievous Bodily Harm;

[b] One concerned officer to be charged for Murder;

[c] One concerned officer to be charged with Misconduct in Public Office;

[d] One concerned officer to be charged for Attempting to Pervert the Course of Justice;

[e] A departmental enquiry be conducted as per terms of reference particularized in Paragraph 173 of the Commission’s report; and

[f] that measures be implemented by the Jamaica Constabulary Force to determine whether firearms are being illegally held by its members or, are being irregularly kept at police stations. There should also be serious
24. **Anthony Fearon**

On December 8, 2013, Anthony Fearon was fatally shot by police officers from the Hunts Bay Street Crime Unit, at premises situated at 46 Berwick Road in the Kingston 13 area. The concerned officers were on patrol in the area, along with other officers, searching for a man about whom they had received information that he was seen with an illegal firearm. The concerned officers went to the location where the man was reportedly seen and, upon their arrival, they saw a man fitting the description they received, standing at the gate to the premises. Upon seeing the police, the said man held on to the front of his waistband and hurriedly entered the premises. The concerned officers alighted from their service vehicles. A Corporal saw the man walking towards the rear of the premises and he shouted to the man but he turned around, pointed a firearm at him and opened gunfire. The Corporal immediately returned gunfire at the said man. Two other concerned officers also fired at the man. The man subsequently fell to the ground with the firearm beside him. The Cpl. recovered the illegal firearm. The injured gunman was subsequently transported to the KPH where he was pronounced dead.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against any of the concerned officers, in relation to the fatal shooting of Anthony Fearon.

25. **Javon Cole**

On March 9, 2012, at about 8:40 p.m., Javon Cole was fatally shot by police officers from the Greater Portmore Police Station, along the Johnson Hill Main Road in the parish of St. Catherine. It is reported that the concerned officers were on patrol on enquiries and, whilst travelling along the Johnson Hill Main Road, they saw two (2) men behaving suspiciously, hurriedly running across the roadway and looking over their shoulders. They stopped the police unit, alighted from the vehicle and accosted the men, one of whom pulled a firearm from his waistband and opened fire at the police. Two concerned officers returned gunfire and the men ran away. The shooter subsequently fell to the ground and was observed to be suffering from apparent gunshot injuries. The illegal firearm was recovered from him. The other suspect was apprehended and taken to the Greater Portmore Police Station. Another police unit had arrived on the scene and transported the injured gunman to the Spanish Town Hospital, where he was pronounced dead on arrival.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against any of the concerned officers, in relation to the fatal shooting of Javon Cole.

26. **Kirk Douglas McLean**

On May 9, 2013, at about 9:30 a.m., Kirk Douglas McLean o/c ‘Oney’ was shot and killed by a concerned officer of the Darling Street Police Station, along Matthews Lane in the Downtown area of Central Kingston. It is reported that on the fateful morning, the concerned officer, who was on foot patrol along with two Special Constables, observed a man behaving suspiciously. The man had a black plastic bag in his hand and, when the concerned officer approached the man, he walked away quickly, entering premises on Matthews Lane. The concerned officer pursued the

punitive sanctions levied where poor records as to the custody of firearms and ammunition are detected.
man onto the said premises and the man removed a firearm from the black plastic bag and pointed it at him. In fear for his life, the concerned officer drew his service pistol and discharged two rounds at the man, hitting him. The man fell to the ground and he (concerned officer) recovered the firearm from the injured gunman’s left hand. The concerned officer called for police assistance and officers subsequently arrived on the scene and carried away the injured gunman to the KPH where he was pronounced dead.

27. Glenton Daley and Howard Daley

On June 4, 2012, Glenton Daley and Howard Daley were fatally shot by two Constables in the Norbrook Heights area of St. Andrew. It is reported that whilst the concerned officers were carrying out vehicular checkpoint (VCP) operations in the Norbrook Heights area on the night in question, they signaled the now deceased men to stop, but the rider failed to do so and rode through the checkpoint. The concerned officers immediately went in pursuit of the men and, during the chase, the pillion rider opened gunfire at the police. The concerned officers took evasive action and the Officers discharged rounds from their service firearms in the direction of the men. After firing at the riders, the concerned officers saw the men fall to the ground, apparently injured, and an illegal firearm was recovered from one of the men. The injured men were subsequently taken to the Kingston Public Hospital (KPH) where they later succumbed to their injuries.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against any of the concerned officers, in relation to the fatal shootings of Glenton Daley and Howard Daley.

28. Richard Roulston

On July 24, 2014, at about 9:30 p.m., Richard Roulston was fatally shot by police officers from the Flying Squad Street Crime Unit, along Sandringham Avenue off Molynes Road in the parish of St. Andrew. It is reported that the concerned officers were on patrol on enquiries in the Corporate Area when, upon reaching a section of Molynes Road, they were signaled to stop by an adult male who reported to them that he had just been robbed at gunpoint by three (3) men who subsequently walked away onto Sandringham Avenue. The male complainant boarded the police service vehicle and accompanied the police to Sandringham Avenue where he pointed out the three (3) alleged robbers to the police and the police accosted the men. One of the alleged robbers surrendered to the police while the other two pulled firearms from their waistbands, opened fire at the police and ran away. One of the gunmen escaped through a nearby yard but the other (later identified as Richard Roulston) was shot and wounded, and an illegal firearm recovered from him. The injured gunman was taken to the Kingston Public Hospital where he was pronounced dead on arrival.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against any of the concerned officers, in relation to the fatal shooting of Richard Roulston.

29. Kirk Patrick Palmer

Allegations are that at about 11:10 a.m. on Tuesday, the 28th day of January, 2014, Kirk Patrick Palmer was fatally shot by an off-duty police officer in the vicinity of the Coronation Market after he robbed one man and attempted to stab another with the knife he possessed.

The Commission hereby recommends that no criminal charges be laid or disciplinary action taken against the concerned officer in respect of the fatal shooting of Kirk Patrick Palmer on January 28, 2014.
On March 3, 2012, sometime after 7:30 p.m., Jehvonnie Shim was fatally shot by a Constable inside a taxi which was travelling along Ebanks Avenue, off Brunswick Avenue in Spanish Town, St. Catherine. It is reported that on the night in question two Constables boarded the said taxi, travelling from Spanish Town to the Angels area, to perform covert operational duties due to an upsurge of robberies and motor vehicle thefts in the area. Whilst travelling inside the said taxi, the now deceased pulled a knife which he held to the taxi driver’s neck and said: “Pussyhole a robbery dis eno.” The Constable fired three (3) rounds from his service firearm at the robber, injuring him. The injured robber was subsequently transported to the Spanish Town Hospital where he succumbed to his injuries.

The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, in relation to the fatal shooting of Jehvonnie Shim.

### June 2017 (18)

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Complainant/Victim</th>
<th>Case Summary</th>
<th>Recommendation</th>
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<tr>
<td>31.</td>
<td>Kirk Rose</td>
<td>Kirk Rose was fatally shot by the police at his house located at Cave Valley in St. Ann on the 10th day of April, 2014. According to the police, a Sergeant and Constable went in search of the Mr. R, who was wanted by the police for absconding bail and who was earlier spotted in the community by the Sergeant. Information led them to a house where Kirk Rose allegedly pointed a gun at them and attempted to fire. The Sergeant took evasive action and fired at the man thereby injuring him. A civilian witness gave a statement that Mr. Rose ran into her house unexpectedly but that she did not see him with a firearm. A homemade handgun was recovered from the deceased with a bullet contained therein.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers for the death Kirk Rose. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Kirk Rose.</td>
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<td>32.</td>
<td>Claude Manning</td>
<td>Claude Manning was fatally shot by the police at Salt River Main Road, Clarendon, on 17th day of June, 2010. According to the police, they received information that a group of men travelling in a grey Toyota Corolla motorcar were planning to carry out robberies in the area. The Street Crime Unit, went to investigate and saw the vehicle along Salt River main road. On arrival, three men alighted from the car and opened fire at the police. The fire was returned and one of the men was hit. A semi-automatic pistol was taken from him. He was taken to hospital where he was pronounced dead. The other men escaped in a nearby cane field. There were no other eyewitnesses to the shooting neither were any spent casings or any other ballistic material recovered from the scene of the incident.</td>
<td>The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers. It is recommended that the file be forwarded to the Special Coroner for his consideration of whether an inquest ought to be held into circumstances which led to the death of Claude Manning.</td>
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<td>33.</td>
<td>Okive Rose</td>
<td>On December 12, 2013, at about 5:30 am, a team was on a covert operation in the Downtown, Kingston Area. While near to the entrance of the Coronation Market, they observed three men armed with handguns proceeding in their direction. The men dispersed</td>
<td>No criminal charges be laid or disciplinary action be taken against the concerned officers.</td>
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themselves amongst a crowd of vendors and instructed the civilians not to move. A Special Constable shouted “Police, don’t move,” which was followed by several explosions. The Special Constable returned the fire. Subsequently, Okive Rose was found suffering from gunshot wounds to the head and abdomen. He was pronounced dead at the Kingston Public Hospital at approximately 5:55 am. No firearm was recovered.

It is recommended that the matter be referred to the Special Coroner Court for the Special Coroner to determine whether an inquest is to be held.

34. Oshane Bentley, Jason Watt and Sonia Daley

On June 24, 2013, at about 8:15 am, Special Sergeant, dressed in plain clothes, and armed with his service pistol, shopped along Pechon Street in Downtown Kingston. He greeted Special Constable, also dressed in plain clothes, who he saw in the area.

While conversing with a vendor named S, he observed a man who he became suspicious of, as the man stared at him, and the right front section of the man’s pants had what appeared to be a bulge. Soon after, it is alleged that the suspicious man pulled a firearm and pointed it at him. Special Constable stated that he pulled his service pistol and discharged five rounds in the man’s direction, which resulted in the man falling to the ground.

After discharging his firearm, Special Constable said he heard several explosions and saw another man running towards him, and firing a weapon in his direction. He felt a burning sensation in his right shoulder and realized that he had been shot. Special Constable came to his assistance and discharged his weapon. The man that fired at Special Sergeant fell to the ground.

Special Constable recovered a .38 Smith & Wesson revolver from the man he shot while Special Sergeant recovered a Browning 9mm semi-automatic firearm from the other man, who he shot.

Special Sergeant handed over the recovered firearm and his service pistol to Special Constable, before being taken to the Kingston Public Hospital where he was treated and released three days later. While at the hospital, he was informed of the death of Oshane Bentley, Jason Watt, Sonia Daley, and the shooting injury of GF.

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

It is recommended that the matter be referred to the Special Coroner Court for the Special Coroner to determine whether an inquest is to be held.

35. Wayne Whittaker

At 2:25 pm on Monday, December 1, 2014, in the Sandy Gully in the vicinity of the Washington Plaza, Washington Boulevard, St. Andrew, Wayne Whittaker was shot and killed in an altercation between himself and two police officers. There is no contest that Whittaker was, at that time, armed with a pistol. Eye-witnesses claim that he was not attacking the police when he was killed. The concerned officers say he was.

No criminal charges be laid or disciplinary action be taken against the concerned officers in relation to the fatal shooting of Wayne Whittaker.

It is recommended that the matter be referred to the Special Coroner for determination as to whether an inquest will be held.

36. Kriston Pearson

In the early morning of 7 May 2017, Kriston Pearson was shot and killed by a Constable of the St. Ann Police’s Operational Support Team (OST) whilst they were both attending a party at Trinity, Port Maria, St. Mary.

Criminal charges of murder be laid against the concerned officer.

It is respectfully recommended that the
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<tr>
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<th>Solicitor General be advised of the Commission’s finding that a prima facie case exists that the concerned officer breached Kriston Pearson’s right to life.</th>
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</table>
| 37. | **Sayoga Cook and Gary Cook**  
On July 8, 2013, at about 11:00 p.m., Sayoga and Gary Cook, brothers, were fatally shot by members of the Area 4 Special Operations Team along Karl Samuda Avenue, off Red Hills Road in St. Andrew. It is reported that the team was on mobile patrol duty in the Constant Spring police area on the night in question when, upon reaching the said location, they observed four (4) men behaving suspiciously. Three (3) of the men were standing beside a white motor car while the fourth was sitting in the driver’s seat. They accosted the men and identified themselves as police. Two of the men, including the man in the driver’s seat, pulled firearms and opened gunfire at the police. The concerned officers returned fire and the three (3) men who were standing beside the motor car ran off and entered a nearby yard. By this time, a Det. Sgt. observed that the man sitting in the driver’s seat had stopped firing so he approached the said man and saw that he was suffering from apparent gunshot injuries. The Det. Sgt. also recovered from the said injured gunman a Beretta 9mm pistol found on the floor of the car. Officers had chased the other gunmen onto the premises of the nearby yard and again they were met with gunfire. The officers returned fire at the gunmen, one of whom fell to the ground suffering from apparent gunshot injuries. The other two (2) gunmen managed to escape. The two (2) injured gunmen were transported to the KPH where they were pronounced dead on arrival. |
| 38. | **Gayan Haye and Travis Charlton**  
On March 23, 2013, shortly after midnight, Gayan Haye and Travis Charlton were fatally shot by Constables, at the ‘Valumart’ supermarket, inside Bargain Village Plaza, in May Pen. It is reported that the police received information that armed men were planning to rob the ‘Valumart’ supermarket and, with the permission of the manager/owner, the concerned officers were posted inside the supermarket after closing hours, as a preventative measure. Around midnight, the concerned officers heard strange noises coming from the roof; as if zinc was being removed. The officers made checks and saw about four (4) men attempting to enter the supermarket through an opening in the roof. The officers accosted the men, one of whom immediately fired at the police. The officers returned gunfire at the men on the roof. During a subsequent search of the roof when the shooting subsided, two (2) of the men were seen suffering from gunshot injuries. The injured men were transported to the May Pen Hospital where they were pronounced dead. |
| 39. | **George Moxam**  
On May 4, 2013, George Moxam o/c ‘Dudu’ was fatally shot by police officers from the Hunts Bay Police Station. The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against any of the concerned officers, in relation to the fatal shootings of Sayoga and Gary Cook. The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officers. The file will be forwarded to the Special Coroner.
During a special operation to apprehend him and seize illegal firearms and ammunition. It is reported that on the fateful morning, the police received information that Moxam was seen at premises located at Lot #39 Pretoria Road with an illegal firearm. Based on this information, a team of about ten (10) police officers from the St. Andrew South Division was led to the location where Moxam was reportedly seen. On arrival at the location, the concerned officers went to search one of the houses at the rear of the premises. When they knocked on the door and identified themselves as police officers, Moxam fired gunshots at the police from inside the house. The concerned officers returned fire at Moxam who then ran from the house with a firearm in his hand. The police chased Moxam along Mission Road where he again fired at the police. The police caught up with Moxam, returned fire, and saw him fall to the ground with a firearm in his hand. The firearm was recovered and Moxam was taken to the KPH where he was pronounced dead on arrival.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Incident Details</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>Rasheed Smith</td>
<td>On July 31, 2014, at about 2:30 a.m., Rasheed Smith o/c ‘Nose’ was fatally shot by a W/Cons. from the Seaview Gardens Police Station. It is reported that on the morning in question, W/Cons. and Cons. were on mobile patrol in the Riverton City community when two females approached them and reported that a man known to them as ‘Nose’ had threatened to burn down their house. The police made enquiries in the area and Smith was pointed out to the police. The police accosted Smith who subsequently used a paint tin to hit W/Cons. in the face. Smith also attacked Cons. and disarmed him of his service M16 rifle, during which time the said M16 rifle went off. Smith then turned and pointed the said M16 rifle at W/Cons. and she immediately drew her service pistol and fired in Smith’s direction, hitting him. Smith fell to the ground, and the service rifle was recovered from him. Smith was then transported to the KPH where he was pronounced dead on arrival.</td>
<td>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, in relation to the fatal shooting of Rasheed Smith o/c ‘Nose’.</td>
</tr>
<tr>
<td>41</td>
<td>Michael Wheatley</td>
<td>On December 27, 2014, at about 2:30 p.m., Michael Wheatley o/c ‘Diego’ was fatally shot by a Cons. from the Hunts Bay Police Station. It is reported that the now deceased was involved in a physical altercation with other men and, when the concerned officer intervened to quell the altercation, he observed that Wheatley had a firearm stuck inside his waistband. He instructed Wheatley to hand over the firearm but Wheatley refused and, instead, pulled the firearm and pointed it at the officer. The officer quickly discharged three (3) rounds from his service pistol at the said man, hitting him. The man fell to the ground suffering from apparent gunshot injuries, and the firearm fell from his hand. Cons. retrieved the firearm, left the scene and immediately reported the matter at the Hunts Bay Police Station. The injured man was subsequently taken to the KPH, by a passerby, where he succumbed to his injuries.</td>
<td>The Commission respectfully recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer, in relation to the fatal shooting of Michael Wheatley o/c ‘Diego’.</td>
</tr>
<tr>
<td>42</td>
<td>Jermaine Clarke</td>
<td>On June 14, 2013, at about 1:00 p.m., Jermaine Clarke was fatally shot by a Cons. of the Warsop Police Station</td>
<td>The Commission respectfully recommends</td>
</tr>
</tbody>
</table>
in Trelawny. It is reported that on the day in question, Cons. was inside the Guard Room when Clarke came there and attacked him with a knife. Cons. ran from the station and Clarke chased him with the knife, stabbing him several times. Cons. fired warning shots in the air and at the ground, in Clarke’s direction, and still, Clarke continued his attack. Cons. also gave verbal warnings to Clarke and sought the assistance of other persons who were present at the scene, but this was to no avail. Whilst backing away from Clarke who kept advancing towards him, Cons. fell to the ground and Clarke went over him with the knife. Cons. fired another shot at Clarke and he fell to the ground. Clarke was later removed to the Percy Junor Hospital where he was pronounced dead on arrival. An independent eyewitness to the shooting supports the concerned officer’s version of the incident.

43. Andre Collins

Allegations are that on the 25th day of March, 2013, Andre Collins was fatally shot by Detective Sergeant at a premises on Texton Road in the parish of Kingston after he allegedly fired at the police on gaining sight of officers. A firearm which was in the possession of the deceased was recovered.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer in relation to the fatal shooting of Jermaine Clarke.

44. Dave Bailey

Allegations are that on the 25th day of March, 2013, Dave Bailey was fatally shot by a Constable in Heroes Circle in the parish of Kingston after he allegedly pointed a firearm at police officers after they alighted from a service vehicle nearby. A firearm which was in the possession of the deceased was recovered.

The Commission hereby recommends that no criminal charges be laid or disciplinary action be taken against the concerned officer in respect of the fatal shooting of Andre Collins on March 25, 2013.

45. Ricardo Stamp

On January 6, 2015, the concerned officers, were a part of an operation in search of CT. During the operation, the concerned officers entered a room where they saw the now deceased, Ricardo Stamp sitting on a bed. Stamp pulled a firearm and pointed it at the police. The concerned officers fired. Stamp suffered injuries and was subsequently pronounced dead. The firearm, a .357 Magnum Revolver was recovered. There is no eyewitness to challenge the account of the police.

In these circumstances, the Commission makes no recommendations for criminal proceedings or disciplinary action against the concerned officers of the Constant Spring Police Station. The matter is referred to the Special Coroner for his consideration.

46. Dean Nelson

On November 27, 2013, AG, saw him with a firearm. Later that day, police officers came to their house. She was taken outside by a police officer and heard gunshots. The police then exclaimed, “Him have gun” and more gunshots were heard. At the time of the incident, the deceased was wanted by the police. The police allege that the deceased was armed with a firearm. When they took evasive action, the deceased was found suffering from gunshot injuries.

In these circumstances, the Commission recommends that no criminal charges or disciplinary action be brought against the concerned officers of the Hunts Bay Police Station.

The file is submitted to the Special Coroner for his consideration.

47. Luke Level

On June 4, 2013, at approximately 6:30 a.m., the Commission received a report of the fatal shooting of an unidentified male by the police at 2 Glen Road, Kingston 13. The concerned officers, allege that they
proceeded to the aforementioned location when Constable and Sergeant saw two men acting suspiciously. The men ran, however, one of the men opened fire at the police. The police returned fire. Sergeant thereafter went into a house where he encountered a man armed with a firearm. This man opened fire. After the police returned fire, the man was found suffering from gunshot wounds. He was later pronounced dead and his firearm recovered. There is no eyewitness account to challenge the account of the concerned officers.

| 48. | Matthew Lee, et al | Messers. Lee, Allen, and Dyer were shot and killed by the police on January 12, 2013 along Arcadia Drive, St. Andrew under circumstances which the police claim amounted to self defence. However, the statements of independent witnesses reveal a different version which, if believed by a jury, would negative self-defence. The state of the evidence is such that prima facie case of murder with a realistic prospect of conviction has been established against the concerned officers. Additionally, one of the concerned officers gave a false statement to mislead the Commission about his use of lethal force during the incident. |

brought against the concerned officers of the Hunts Bay Police Station. The matter is referred to the Special Coroner for his consideration.

The Commission hereby recommends that murder charges be laid against the concerned officers in respect of the fatal shootings of Matthew Lee, Mark Allen, and Ucliffe Dyer. The Commission further recommends that a concerned officer be charged for breaching Section 33(a) of the Independent Commission of Investigations Act, 2010, in that, he willfully gave a false statement to mislead the Commission and its Investigator concerning his use of lethal force during the incident that resulted in the fatal shootings of Messrs. Lee, Allen, and Dyer.

The Commission refers the prima facie case of neglect of duty to preserve the scene by two concerned officers to the Commissioner of Police and the Police Service Commission for such internal disciplinary proceedings as are fit and proper to be instituted and to:

(a) advise the Commission as to whether disciplinary proceedings will be instituted and, if they will, the contemplated nature of those disciplinary proceedings by the 1st July 2017; and

(b) where disciplinary proceedings in respect of this subparagraph are
completed, that the outcome of the proceedings be sent to the Commission within fifteen (15) days of their completion.

(c) That the Solicitor General be advised of the Commission’s finding that a prima facie case exists that the rights to live of Matthew Lee, Mark Allen and Ucliffe Dyer were breached.

**ARRESTS MADE/CHARGES LAID (APRIL - JUNE 2017)**

<table>
<thead>
<tr>
<th>Name and Rank</th>
<th>Charge</th>
<th>Date of Arrest</th>
<th>State Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cons. Michael Haye</td>
<td>Discharge of Firearm</td>
<td>27-Apr-17</td>
<td>JCF</td>
</tr>
<tr>
<td>Cons. Marlando Rowe</td>
<td>Discharge of Firearm</td>
<td>27-Apr-17</td>
<td>JCF</td>
</tr>
<tr>
<td>Cpl. Kirk Frazer</td>
<td>Murder</td>
<td>8-Jun-17</td>
<td>JCF</td>
</tr>
<tr>
<td>Duwayne Kelly James</td>
<td>Murder</td>
<td>8-Jun-17</td>
<td>JCF</td>
</tr>
</tbody>
</table>

Table 6: The above table shows all members of the Security Forces who were arrested and charged for various offences for the period of April - June 2017.
PART THREE

PUBLIC INFORMATION

• **Meeting: Security Forces & INDECOM**

Meetings with Security Forces and INDECOM:

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

- MOU
- Search warrants of police stations

• **PRESS RELEASES**

For the 2nd quarter of 2017, The Public Relations Unit issued 6 press releases. They are as follows:

1. INDECOM extends condolences to the JCF
2. INDECOM probing fatal shooting of two men
3. Two JCF officers arrested for murder
4. Complaints and Grievance Policy Fact Sheet
5. Police officer convicted of murder
6. INDECOM investigating death of Shantel Wright

• **OUTREACH – Awareness Exercises**

<table>
<thead>
<tr>
<th>Unit/Division/Station</th>
<th>Group Size</th>
<th>Contact hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>JCF</td>
<td>23</td>
<td>2</td>
</tr>
<tr>
<td>RADA Open Day &amp; Expo, Santa Crux</td>
<td>50</td>
<td>8</td>
</tr>
<tr>
<td>Lacovia Community Centre</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>JCF</td>
<td>28</td>
<td>2</td>
</tr>
<tr>
<td>JCF</td>
<td>23</td>
<td>2</td>
</tr>
<tr>
<td>JCF</td>
<td>23</td>
<td>2</td>
</tr>
</tbody>
</table>
• Update on Recommendations of West Kingston Commission of Enquiry Report

The West Kingston Commission of Enquiry (WKCOE) was an official government enquiry into the events that occurred in West Kingston in May 2010. It made many recommendations that are relevant to INDECOM’s remit. The WKCOE report was published in June 2016. The full report is available online on the Ministry of Justice’s website.10

This is a brief update on the status of the implementation of these salient recommendations.

Promotion of officers

WKCOE recommendation: That the negligent and derelict conduct of officers regarding the use of force be taken into account when they are being considered for promotion.11

Update: INDECOM is the main body responsible for the independent investigation of use of force complaints against the JCF and JDF but we have not been asked to send any reports on officers being considered for promotion.

Adverse Findings

WKCOE recommendation: All Security Force members against whom adverse findings were made to no longer “lead or participate in internal security operations.”12

Update: Not complied with.

Use of force policies

WKCOE recommendation: Improvement was recommended for policies regarding the use of weapons. To include accountability, issuing and proportionality.13 WKCOE strongly recommended that the policy be drafted by competent persons and be publicly available.

Update: INDECOM with the support of GOJ, the UN, UK DFID, and the USA INL hosted a conference of international, regional and local experts and practitioners to draft a model Use of Force policy for the Caribbean. The first draft will shortly be issued to delegates for their consideration. It is hoped that, when complete, Jamaica’s security forces will implement this policy.

Accountability for weapons

WKCOE recommendation: That the security forces should only use weapons that facilitate ballistic tracing. Further, that the JCF improve record keeping of firearm issuing and that supervisory officers be accountable for the state of the firearms registers.15

Update: These are yet to be done. On the latter point the JCF responded that they would institute an electronic record system at police stations. INDECOM continues to encounter instances of absent or irregular entries for firearm and ammunition issue.

Masks

WKCOE recommendation: The regime for wearing masks be improved to ensure that there may be means to identify the officers.16

Update: Not yet done. By section 26 of the Constabulary Force Act implementing this recommendation would be for the responsible Minister.

Body Worn Cameras (BWCs)

WKCOE recommendation: That BWCs be issued to police officers and soldiers “without undue delay.”

Update: It has been reported that the USA INL donated some BWCs to the JCF but there has been great delay in full implementation. Technical and policy issues have been cited to explain the delay.

Oversight of Security Forces

WKCOE recommendation: That INDECOM, PCOA, and PSC be strengthened in their oversight functions.

Update: Not yet done. INDECOM continues to suffer from inadequate staffing and the reforms of the INDECOM Act recommended by the Joint Select Committee are yet to be implemented.

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11 15.16 i
12 15.18, 15.20
13 15.16 ii, 15.22
14 15.27 a-b
15 15.27 d(i)
16 15.28
Addendum | Adverse Findings:

Since the preparation of this report, the JCF had submitted an Administrative Review of the WKCoE Report. The Commission has written to the Commissioner of Police and the PSC seeking disciplinary actions for the five named officers.
Caribbean Use of Force in Law Enforcement Conference

The Independent Commission of Investigations (INDECOM) partnered with the United Nations in Jamaica to host the inaugural Caribbean Use of Force in Law Enforcement Conference in Kingston, Jamaica on May 31 – June 2, 2017. The event served as the Caribbean launch of UNODC-OHCHR Resource book, The Use of Force and Firearms in Law Enforcement. The event had the support of the Department for International Development (DFID) and the United States of America Embassy in the organization and implementation of the conference. The principles of the resource book were used to discuss the framework for the creation and implementation of a Model Use of Force Policy for Caribbean security forces and State Agents later this year. The conference was attended by delegates from ten Caribbean countries serving at law enforcement and their oversight institutions; local members of the police force, military, correctional services and their oversight bodies; ministries; local and international NGOs and, private security firms. The Prime Minister of Jamaica, The Most Honourable Andrew Holness, ON, MP, delivered the Keynote Address at the Opening Ceremony. He used his address to state that “it is an opportunity for the government to restate its commitment to the advancement of human rights and the development of citizen and rights conscious law and public order enforcement services.”
Delegates at the conference

Caucus I: Setting the boundaries for Use of Force in Law Enforcement: Concepts and Human Rights Framework

Caucus II: Responsibility of Law Enforcement Authorities and Supervisors

Caucus III: Instruments of Force and De-Escalation

Caucus IV: Policing Situations and Detention

Caucus V: Monitoring, Oversight and Investigation
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