

HUMAN RIGHTS IN JAMAICA

Death Penalty, Prison Conditions and Police Violence

INTRODUCTION

In the summer of 1986, Americas Watch sent a mission to the island of Jamaica, in the West Indies, which resulted in the report *Human Rights in Jamaica*. In 1990 Americas Watch reported in detail on conditions of detention in *Prison Conditions in Jamaica*. The present report reviews the situation anew as of January, 1993. This report concerns the application of the death penalty, the conditions in prisons and lock-ups, and police violence, including acts of coercion to obtain evidence that amount to torture and the excessive use of deadly force. This report was written by Paul Chevigny, a member of the Board of Americas Watch and a professor of law at the New York University, based on his research in Jamaica in January, 1993.

The social and economic situation in Jamaica has not changed dramatically since the time of earlier reports, except that poverty has increased with the persistent recession in the United States and other countries that are sources of tourism and trade. During 1992, the Jamaican dollar was devalued in relation to foreign currencies, so that many wages and salaries shrank in real value. The Peoples National Party (PNP) controls the office of Prime Minister, although this past year, the party's long-time leader, Michael Manley, retired and was replaced by P.J. Patterson.

The fear of crime continues to deepen. In a talk at the end of 1992, a Deputy Commissioner of police reminded the audience that homicides had increased many-fold in the thirty years since Jamaica

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became independent of Britain while some other violent crimes had increased even more.¹ Particularly vexing for the population is the theft of crops and livestock (universally referred to by the legalism "praedial larceny"). These crimes are endemic among the poor and they give rise to fights, vigilante justice and sometimes police violence.

THE DEATH PENALTY

Jamaica has traditionally had a mandatory sentence of death for murder; as a result, dozens of people have been on death row awaiting execution for many years. During the past four years in particular, while death sentences have been imposed, there have been no executions. As of the end of 1992, there were some 270 persons awaiting execution in the island, according to the Ministry of National Security.

In the fall of 1992, apparently in an effort to alleviate the congestion on death row, and to get actual executions started, the government amended the law of murder to include categories of non-capital as well as capital murder.² Many intentional killings that would have been capital crimes under the traditional rule are now non-capital. The law has been made retroactive to the cases pending on death row, resulting in the reclassification of the majority of cases as non-capital. Americas Watch welcomes this development, though we would prefer a complete abolition of capital punishment.

The new law prescribes capital punishment for murders of persons involved in the administration of justice, such as judges, police, corrections officers and witnesses. Murders committed in the course of some felonies, including robbery, burglary, arson and "any sexual offense," as well as murders for hire and multiple or repeated murders, are also made capital. Other intentional killings, such as those done out of anger or jealousy, are non-capital murders when provocation does not reduce them to manslaughter.

As a result of these new classifications, according to the Minister of National Security, as of January, 1993, about one hundred persons are still assigned to death row, their cases still classified under the new law as capital. The remaining 170 are receiving life sentences, with their time for parole consideration set by the judge at the resentencing.

As this is written, the Jamaica Council for Human Rights, assisted by lawyers and NGO's in Great Britain is at work appealing these cases. The JCHR hopes to be able to take appeals to the Privy Council in Britain, the court of last resort for Jamaica. As yet there have been no executions, although the government has said that it intends to begin them soon.

PRISONS AND LOCK-UPS

The lock-ups are located in police stations, and are administered by the police for prisoners who are being detained before charges or trial. The prisons are administered by corrections

¹ "540 murders committed in Jamaica between Jan-Oct '92" *Weekly Gleaner* November 22, 1992 p.3A.

² Offenses Against the Person Act (Amendment) 1992, Oct. 14, 1992. Murder has been defined, as at common law, as killing a person with intent to kill or inflict grievous bodily harm. Sufficient provocation may mitigate the crime to manslaughter.

officers for convicted prisoners. Both types of institutions are considered together here because they present similar problems and conditions.

Prisons

Past reports by Americas Watch have found the prisons squalid: "overcrowded, filthy and unsanitary cells, insect infestation, inadequate or no light in cells, insufficient ventilation..." A Jamaican cabinet task force of 1989 was "shocked at the appalling conditions."³

Unfortunately, there is no substantial improvement to report. The equivalent of about fifty cents a day is budgeted for food for each inmate. St. Catherine's District Prison, which houses 1300 inmates in a space built for 800, has had prison riots between 1990 and 1992 arising out of conditions there. The sanitary conditions, due to inadequate plumbing and garbage disposal, are dreadful. The conditions at the General Penitentiary are substantially similar. Recent studies have reiterated the findings of earlier studies that the situation has not improved.⁴

Lock-ups

The lock-ups in the police stations are in a condition similar to that of the prisons. To a considerable extent, moreover, the police have exacerbated the situation. According to a 1991 report by consultants from the United Kingdom, the number of persons detained is swelled because the police fail to bail prisoners when they have the power to do so, they detain persons without charges, and they fail to bring prisoners before a judge when they are required under the law to do so. The Jamaica Council for Human Rights constantly presents petitions for writs of habeas corpus for persons who are unlawfully detained. The consultants found that persons were detained in filthy and crowded conditions for long periods; they found a 13-year-old boy who was detained for thirteen days in an unlit and unventilated cell for the crime of stealing pineapples.⁵

The deaths in the Constant Spring lock-up in Kingston in 1992, perhaps the most notorious human rights case in Jamaica in the last year, exemplify many of the problems. On the evening of October 22, the police rounded up more than a hundred men and sent many of them to the Constant Spring police station lock-up; they were apparently being held only for identification and not upon any specific charge. Nineteen of them were herded into a cell eight by seven feet that had a solid door with holes drilled through as the only source of ventilation. At one point, when the men were let out of the cell for a short time, some of them refused to return; one man said that he had only one lung and could not breathe in the cell. The police forced the men back into the cell with beatings, and then did not let them out again, apparently as a form of

³ The first quotation is from *Human Rights in Jamaica* (Americas Watch 1986) p.46; the second is drawn from *Prison Conditions in Jamaica* (Americas Watch 1990) p.10.

⁴ The conclusions of this paragraph are based on an interview with a man who had been incarcerated in St. Catherine's prison for many years up to 1992, and upon studies reported as follows. "Prison Riot" *Weekly Gleaner* June 10, 1991; "Harding hits out at prison conditions" *Weekly Gleaner* May 4, 1992; "Prisons in 'shocking' state" *Weekly Gleaner* May 25, 1992; F. McKnight, "Row over filthy GP" *Weekly Gleaner* June 29, 1992.

⁵ M.J. Hirst, et al., *Review of the Jamaica Constabulary Force* (Jamaica, mimeo 1991) pp.164-67 (hereafter "Hirst report").

retaliation. The men were detained in the cell for a total of 40 hours, and three of them died of asphyxiation. Those detained beat on the door and clamored to be let out, but the police did nothing. One policewoman testified that the clamor of prisoners is so common that she did not pay it enough attention to realize that there was a situation threatening to life.

After a six-week inquest, the coroner's jury found cause to believe that some police personnel were guilty of manslaughter, but left it up to the Director of Public Prosecutions to determine which specific individuals ought to be charged.⁶

The Constant Spring case illustrates how common unlawful detentions are, how indifferent and calloused the police are to the suffering of the detainees, and how routine is the overcrowding in the lock-ups. It not only throws a terrible light upon the conditions in the lock-ups, but also serves to introduce the continuing problem of police violence against suspects in Jamaica.

POLICE VIOLENCE

In 1986, at the time the first Americas Watch report on human rights in Jamaica was published, the problem of police violence was extremely serious, with killings by police in excess of 200 people a year, amounting to one-third of the homicides reported in the island. In 1993, all our informants agree that the situation has improved, as will be discussed more fully below. Most notably, public consciousness has changed. The press is more diversified and there are more radio programs on which police problems are discussed. There is a public debate, to which the report of 1986 has contributed, in which police violence is openly criticized. There are now public demonstrations of protest in the neighborhoods where acts of police brutality are claimed to have occurred, whereas in 1986 such demonstrations were very rare. There is a drive for reform at the highest levels of the government and the Jamaica police itself. The Commissioner of police has publicly criticized the "brutality and corruption" of the police, while the Minister of National Security has said that there are "too many questionable police killings."⁷ The *Hirst* report, exhaustive and highly critical of the police, was prepared by British consultants at the request of the Ministry of National Security.

Although this effort at reform is laudable, indeed essential, it is not clear how successful it has been up to now. Among the approximately 6000 members of the regular police, called the Jamaica Constabulary Force (JCF), and the approximately 1700 special constables, who do similar work, the level of illegal violence continues to be very high.

Coercion of Suspects

Prisoners who have confessed to crimes frequently charge that they have been beaten to

⁶ Interview with Dennis Daly, one of the lawyers for the families of the deceased. Also "Detainees Tell How" *Weekly Gleaner* October 30, 1992 p. 5; "No stab wounds on cell death 3" *Weekly Gleaner* November 17, 1992 p. 1; "Detainees were banging on grill" *Weekly Gleaner* November 13, 1992 p. 8D; B. Gayle, "Lock-up deaths inquest finds: Criminal negligence" *Weekly Gleaner* December 25, 1992 p. 6.

⁷ "Jamaican police 'brutal, corrupt' - Commissioner condemns indiscipline" *Weekly Gleaner* August 19, 1991; "Too many questionable police killings - says Knight" *Weekly Gleaner* May 29, 1992 p. 4.

extract their confession. While such claims are difficult to evaluate, it is apparent from accounts in the news and other sources, that such beatings occur, often for relatively minor crimes such as theft of crops or livestock. Some of the accounts bear the signs of reliability because the victim has been cleared of the crime or has even died in custody. In 1992, Denzil Dockery recovered damages for having been beaten with a board to confess to the theft of some leather, and for having been detained nine days until he was finally released. There are several credible news accounts of beatings in custody, of which the most notorious in 1992 concerned John Headley, who died in November in a police station in St. James Parish. Several other detainees testified that they had seen the police beat Headley unmercifully on three occasions, trying to get him to tell where he had supposedly hidden a cow.⁸

Shootings By Police

Although the level of killings by police has dropped by as much as a quarter since the period covered in the 1986 report, the abuse of firearms by the police continues to be a serious problem. Official statistics for shootings by police and for other homicides during the last four years show:

GENERAL HOMICIDES AND POLICE SHOOTINGS 1989-92

	1989	1990	1991	1992
Civilians killed by civilians	439	542	561	629
Civilians killed by police	162	148	178	145
Civilians wounded by police	71	96	81	85
Police killed	13	11	10	9
Police wounded	24	23	8	16

⁸ Dockery case from files of Jamaica Council on Human Rights. John Headley case, "Death in Ramble lock-up. Witnesses forced to sign paper." *Weekly Gleaner* November 16, 1992 p2A. Other reported cases: "Pt. Maria mechanic dies in police custody, mother alleges police beatings" *Middlesex News* Nov/Dec 1992 p. 4; untitled story concerning Leroy Thompson of Geddes Town, *Middlesex News* April 1990 p.1.

Police/civilian shooting incidents	270	278	295	255
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Source: Ministry of National Security, Jamaica

These data, like those presented in the 1986 report, do not suggest the scenario of a "shoot-out" with armed assailants that is usually offered as an explanation by the police. The data suggest rather that in many cases the police are shooting at unarmed suspects, and that they usually kill those whom they shoot. The level of police violence is extremely high; killings by police during these four years have constituted 22 percent of all homicides in Jamaica (the number of killings by police that are justified is unknown).

In fact the "shoot-out" story has lost popular credibility; the public does not appear to accept it any longer. The *Hirst* report puts it very crisply:

Every police service, in the furtherance of its mission to serve and protect the community, has, on occasions to resort to the use of firearms. Alternative strategies developed by Police Forces in other countries to ensure that the use of firearms is an action of last resort only and not an immediate response is a measure of their professionalism.

No such strategy exists in Jamaica and the continuing level of deaths attributable to firearms operations involving the JCF are undoubtedly produced by their use as an action of first resort...⁹

This criticism by the British consultants shows that the routine use of firearms by the Jamaican police does not comport with international standards. There is an excellent set of written Force Orders adopted in 1990, and supplemented in 1991, that specifically cites the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and states a policy that members of the JCF "shall meet force with no more force than is necessary in protecting the lives of the members or others." Nevertheless, the use of firearms by the police is often inconsistent with those orders. The best-known case in the last two years is undoubtedly the killing of Sidney Francis, sometimes called the Mandela concert case.

At the National Stadium on July 31, 1991, there was a concert in honor of and attended by Nelson Mandela; many police were present to control the very large crowd, including members of the Mobile Reserve, a sort of strike force intended to be deployed against threats of violence. It appears that a man was roughly handled by the police when he attempted to

⁹ *Hirst* report secs. 3.4.10; 3.4.11 at p. 28.

climb up a fence in order to have a better look at the Mandelas. Some members of the crowd became angry and began to throw things at the police. Several policemen, including members of the Mobile Reserve, fired into the crowd. The firing caused the death of Sidney Francis, a supervisor at a glass company, and wounded Charmain Ritchie.

Two policemen were later indicted for murder. As a result of the investigation, one of the policemen, who was active in the Mobile Reserve, was also indicted for a 1988 killing in which a man was shot while repairing his roof.¹⁰

¹⁰C. Stone, "Crude Crowd Control" *Weekly Gleaner* August 5, 1991 p. 28; F. McKnight, "Ranger squad stays" *Weekly Gleaner* August 12, 1991 p.1; "Cops charged for murder" *Weekly Gleaner* September 23, 1991; "Cop on another murder charge" *Star* July 7, 1992.

The Mandela concert case typifies a number of problems with police use of deadly force in Jamaica:

- ◆ A number of special units within the police, formed from time to time to deal with immediate problems, have never been rationalized or integrated with one another. The JCF has poor control over their work.¹¹
- ◆ The police are trained and organized primarily along paramilitary lines, to respond to violence. They have little capability for routine order-keeping functions.
- ◆ Incidents of the use of deadly force are not thoroughly investigated and violent officers are not relieved of duty.
- ◆ There is a persistent failure to protect life which demonstrates that deadly force actually is the instrument of first resort for the police.

Many cases illustrate this carelessness about life, and the eagerness to shoot. For example, it was claimed that burglaries were being committed by criminals breaking in through roofs; as a result, there were several cases in which innocent people were shot while on their roofs. Owen Francis, a young army employee, was shot while repairing a television antenna and was rendered a paraplegic. The attorney general accepted liability and the court awarded over a million Jamaican dollars (about US \$50,000).¹² A similar case in 1988 resulted in a murder indictment in 1991 following the investigation of the Mandela concert killing described on the previous page.

Even more common is the case in which a person is killed during a police action, for unclear reasons, perhaps due to an unsubstantiated suspicion; Americas Watch recounted several such cases in the 1986 report, and they are still occurring. For example, on the evening of June 13, 1992, for example, the police drove a jeep into a poor neighborhood in Kingston, apparently in search of a robbery suspect, and fired into the air. The police chased people who ran from them and shot and killed Calvin Douglas, 25, while he was entering his yard. Many spent shells were recovered from the ground and the police claimed there had been a shoot-out. Witnesses in the neighborhood denied it and barricaded the roads for some days in protest.¹³

¹¹ *Hirst* report, secs. 3.6.5 and 4.4.

¹² "Paraplegic wins lawsuit" *Weekly Gleaner* August 12, 1991; "More money for man shot by cop" *Weekly Gleaner* November 24, 1992 p. 1.

¹³ M. Thompson "Police killing sparks protest" *Weekly Gleaner* June 16, 1992 p. 1; "Residents block road to protest killing by police" *Star* June 15 p. 1; files of the Jamaica Council for Human Rights.

There are constant news reports of such cases, and the Jamaica Council for Human Rights has investigative files of others that fit the pattern of wanton carelessness and cruelty. On the evening of December 8, 1991, several young boys were leaving a movie theater in Kingston, when a police car drew near. Police jumped out of the car and started running and firing, apparently pursuing a wanted person. A bullet struck one 11-year-old boy in the eye; he later died of his wound. Another boy of the same age was shot in the foot after an officer shouted, "Hey, boy, come outta me way before me kill you."¹⁴

There are also cases of summary executions for the purpose of eliminating suspects. At the end of 1991, six policemen from the Special Operations Division of the JCF were charged with the deliberate murder of two men which took place in 1987 and 1988;¹⁵ the two men were accused of crimes using firearms.¹⁶

Abuse of firearms by the police frequently occurs off duty when policemen are working on one of the jobs that they take to supplement their meager salaries.¹⁷ Policemen sometimes work as guards, just because they are armed, at dances and other public places. Several policemen have been dismissed recently for firing their guns at dances;¹⁸ some of the cases involve no more than "gun salutes," which are themselves a sign of careless use of firearms; in other cases, however, police become involved in quarrels and kill civilians. In the town of Gayle, in 1989, after gun salutes at a dance, an off-duty policeman shot and killed a disc-jockey in a quarrel; the policeman is claimed to have urinated on the victim after killing him.¹⁹

There is a "bully-boy" aspect to some of the shootings, like the killing in Gayle, that has raised particular antagonism in the public. It appears from our informants and frequent news reports that there is a widespread perception that the police use their powers in unfair ways, either for personal or partisan reasons.

CRISIS OF CONFIDENCE AND EFFORTS AT REFORM

¹⁴ Files of Jamaica Council for Human Rights.

¹⁵ The Special Operations Division is one of the numerous special units of the JCF. Its purpose is to combat weapons crimes.

¹⁶ L. Levy, "6 cops face murder charges" *Weekly Gleaner* December 16, 1991

¹⁷ It is contrary to the policy of the JCF for members of the force to have outside occupations, even though the latter is done frequently. *Hirst* report sec. 6.3.42 at p.127. Although this situation presents no issue of human rights, it indicates how policies of the JCF are flouted by its members.

¹⁸ "Two cops dismissed" *Weekly Gleaner* January 27, 1992.

¹⁹ "Gayle policeman 'Johnno' to be tried for murder" *Middlesex News* October/November 1989 p. 4.

All of the factors described above, the continued abuse of deadly force, combined with the increased public awareness and criticism, and the sense that police violence is used in unfair ways, have led to a crisis of public opinion about the police. In September 1991, sociologist Carl Stone reported a public opinion poll showing "that public confidence in the police is now at an all time low."²⁰ Yet this lack of confidence does not reflect any consensus condemning the use of violence; the fear of crime continues to be very high and many people believe that criminals ought to be killed. The result of such attitudes can be seen most dramatically in the number of vigilante killings that occur on the island. According to E. George Green, the former Parliamentary Ombudsman, 96 such killings have been reported in the four years 1989-92.²¹

The lack of confidence in the police, combined with the fear of crime, creates a dangerous situation for the JCF and for democratic civilian government in Jamaica. It has led to a call for yet more militarization of the security forces. At the end of 1992, Edward Seaga, the leader of the opposition Jamaica Labor Party, proposed that the police be combined with the armed forces, which are perceived to be less corrupt and partisan than the police.²² For Americas Watch, this is a disturbing suggestion. In our view, the unification of the armed forces and the civilian police presents a danger of violation of human rights;²³ fortunately, the Seaga proposal has received little support. Nevertheless, in 1992 the police and the armed forces acted together as they have often done in the past, in a joint security program called "Operation Ardent." It is in itself quite violent and has been involved in several killings.

The crisis has also produced investigations and reforms over the last several years that point away from the military model. In 1991, the *Hirst* report concluded that the force is not trained or oriented to routine policing of a civilian population, that firearms are unaccounted for and abused, that the JCF has no clear goals or strategies, that it is managed in a confusing and inefficient manner, and that there is hardly any accountability, either internal or external. Although the government has never officially released the text of the *Hirst* report, it has, both before and after the investigation, implemented reforms that are directed at the problems pointed out in the report. Some senior officers in the JCF, as well as civilian officials, are eager to see the reforms succeed.

²⁰ C. Stone "The Police and the Public" *Weekly Gleaner* September 9, 1991 p. 22.

²¹ It is perhaps inevitable that at some point, the vigilante fury should join with the anger at police abuses. On March 18, 1990, in the town of Claremont, an off-duty policeman quarreled with mourners at a funeral, drew his gun and fired at them, killing one. The mourners chased him and beat him to death. "The Golden Grove tragedy as it unfolded," *Middlesex News* April 1990 p.4

²² "A single unified security force needed" *Weekly Gleaner* November 13, 1992 p. 4.

²³ As a matter of generally applicable policy, Americas Watch believes that "civilian control over the police [is] a priority for both curbing and seriously investigating human rights abuses...", see: *Human Rights Watch World Report 1993*, (Human Rights Watch, 1992) p.112.

With the assistance of the International Criminal Investigative Training and Assistance Program (ICITAP) of the U.S. Justice Department, police training has been improved by including human rights and regulations have been formalized. In particular, very strong restrictions on the use of force and firearms were promulgated in 1990 and 1991.

Police training has been extended with new recruits returning for further training after a period in the field. University programs for the education of all ranks are being developed. Particularly promising candidates can receive quick promotion and a program of lateral recruitment for the higher ranks has been drawn up. The JCF is trying to institute a system of community policing in which beat patrols will replace the use of vehicles and officers will learn to interact with and assist the community.

The pressures toward greater discipline in the ranks have been increased. According to informed sources, complaint investigations have been centralized and improved. The number of policemen dismissed by the JCF jumped from 57 in 1990 to 94 in 1991 and 97 in 1992. Outside the JCF itself, in the office of the Director of Public Prosecutions, 46 policemen have been charged with homicide in the four years 1989-92.²⁴

Finally, after years of agitation, a Police Public Complaints Authority was established by an act of Parliament in 1992. It is independent of the police, with power to subpoena evidence, to oversee investigations by the police, or to start its own investigations, and to refer cases to the Director of Public Prosecutions. It is not clear at this point whether it will have an adequate investigative staff. The three members of the Authority, a former judge, a former official of the Ministry of Justice, and a clergyman, were appointed by the Governor-General as recently as January, 1993.

PROSPECTS FOR CHANGE

While it is too early to evaluate the effects of some of these reforms, particularly the Police Public Complaints Authority, others have been in effect for some time; for example, the restrictive orders on the use of force and firearms, are three years old. Many informed sources have questioned why the use of violence has continued to be so high in recent years, and why the police apparently continue to be unable or unwilling to control it.

One reason frequently cited is the "politicization" of the police. The police participate in the partisan politics of Jamaica in complex ways. Individual policemen have depended for advancement upon the parties, either the JLP or the PNP, and politicians, in turn, have depended on particular policemen as well as the JCF as a whole to protect them during periods of political violence. Sometimes gunmen connected with one party have been protected from the criminal justice system, including the police, or on the other hand, have been dealt with summarily by the police as a favor to the opposing party. Thus it has been difficult for partisan

²⁴ Figures from Minister of National Security.

politicians to push successfully for strong police discipline against violence either in general or in particular cases. Discipline as well as promotions have been affected by partisan interference.

Furthermore, the JCF, has severe management problems within the organization resulting in an internal situation that has militated against effective discipline. These are a matter of concern to some senior JCF officers. According to the *Hirst* report, there is a disproportionately large number of superior officers, promoted for various reasons and with ill-defined responsibilities, who tend to protect their own territories rather than managing the organization. All of them have worked their way up through the JCF during the many years of great violence during which they have seen the abuse of deadly force or have committed such acts themselves. To put it bluntly, they consider that many of the abuses of firearms are either not wrong, or are the only way to fight crime in Jamaica. A majority of officers, for example, is said to favor deadly violence against those who carry guns.

Under these circumstances, the disciplinary practices of the JCF still have not resulted in effective accountability for the abuse of deadly force. The *Hirst* report of 1991 recounts an elaborate paper system of discipline with which senior officers are frequently unfamiliar, and which is simply not followed; the report found that, of complaints filed from 1986 through part of 1991, 69 per cent were still pending. Cases of police violence were frequently not referred to the Director of Public Prosecutions, and if they were, it was only after a long delay.²⁵

The system in fact has continued to reward those who are violent. Officers who have committed acts suggesting serious criminal liability are kept on duty, with the result that they sometimes commit other crimes. For example, the officer from the mobile reserve who fired during the Mandela concert, for example, was afterward found to have committed a murder three years earlier; if he had been apprehended in a timely way, the killing at the Mandela concert might have been avoided. Similarly, when the Attorney General was ordered in 1992 to pay large damages to a man who had been arrested unlawfully and shot in the back six years earlier, it was found that one of the police involved had shot and killed a baby during a search in a poor neighborhood as recently as 1991.²⁶

More notorious are the cases of Alfred Laing and Keith Gardner (Gardner is nicknamed "Trinity"), who were described in our 1986 report as examples of policemen responsible for many deaths under questionable circumstances.²⁷ Far from having been disciplined by the JCF,

²⁵ *Hirst* report pp. 119-128; 136.

²⁶ "Policeman who shot Locke wanted for baby's killing," *Weekly Gleaner* January 10, 1992 p.1; "Crippled, gets \$1.7 million" *Weekly Gleaner* January 13, 1992 p.2. At the time of these stories, the officer wanted for the baby's killing had fled Jamaica; the other officer responsible in the damage action was on duty.

²⁷ *Human Rights in Jamaica* (Americas Watch, 1986) pp. 21-26.

they appear to have prospered. In 1990, Gardner shot and killed his wife, and was later tried and acquitted for homicide. The weapon was never produced at the trial, because the Assistant Superintendent who had charge of the weapon had lost it. The Assistant Superintendent was found to have been negligent, but never punished, and the gun turned up in a police filing cabinet in 1992.²⁸ Gardner, who himself continues in the rank of Assistant Superintendent of police, has private business interests as well. According to all accounts, Alfred Laing has opened a sideline promoting public dances and is making a great success of it. We find it difficult to understand how these men could have escaped discipline and have made such successes without the connivance of their colleagues as well as support in the Jamaican political system.

The conclusion is unavoidable that a large number of senior officers in the JCF do not view the abuse of deadly force and the summary execution of suspects as really wrong, but rather as an inevitable part of police work. In light of this, it is doubtful that the reforms adopted, laudable though they are, can rectify the situation. What the police need is a strong system of accountability, both internal and external, to ensure that the regulations as written are followed, and that those who violate them are punished.

The Police Public Complaints Authority, independent as it is, is a step in the direction of accountability and its effectiveness is yet to be tested. But it is very unlikely that the few people within it can monitor, much less investigate, the dozens of cases that occur every year. In order to have a serious effect on the problem of police violence there will have to be a vigorous inspectorate within the police department that is not only chosen on a nonpartisan basis, but also willing to cooperate with the outside Authority.

²⁸ "Police recover gun that killed Trinity's wife," *Weekly Gleaner* July 19, 1992 p. 3A. It is not clear what difference the disappearance of the gun could have made to the homicide prosecution, since Gardner admitted he shot his wife, claiming it was an accident. It is possible that at the time the gun disappeared, however, it might have seemed more important.

CONCLUSIONS AND RECOMMENDATIONS

The current re-definition of the crime of capital murder, while it will reduce the number of people on death row, cannot solve the problem of official killing in Jamaica. The reclassified cases will be subject to the appeals process, leading to further agonizing delay. Americas Watch, as part of Human Rights Watch, has taken a position against the death penalty and believes that the only humane course is for the government to abandon killing as a punishment.

The conditions in the prisons and lock-ups have continued to be extremely poor and in violation of international standards for as long as Americas Watch has been investigating them. They have now led to a situation where the police are so calloused to the overcrowding that persons have died of suffocation. It is time for the government to implement the recommendations of our earlier reports, as set forth on pages 52-55 of *Prison Conditions in Jamaica*.

It is clear that the civilian authorities are trying to control police violence, and that many police are cooperating. Among the impressive group of reforms are the more intensive discipline and the implementation of an instrument of outside accountability via the initiation in 1993 of the police complaints Authority. Americas Watch would recommend further specific regulations that would contribute to control of deadly force. These are:

- ◆ Automatic weapons should be used only under the close supervision of superior officers;
- ◆ Every officer who shoots a person should be transferred to desk duty, without a weapon, during the period of investigation of the case;
- ◆ Carrying weapons off duty should be severely restricted.

Although we applaud the reforms instituted up to now, and even recommend others, it does not seem that the solution to the problem of control of deadly force can be found through better regulations. There are many excellent regulations already on the books that are not being followed. There is now a radical split between the civilian authorities, as well as many police, who have accepted the need for reform, and a majority of the officers of the JCF, who are apparently not ready to accept effective controls on deadly force. The lack of adherence to these rules are evident in the fact that cases of police violence are still investigated by police who are not following their own regulations, policemen who are under investigation remain on duty, and the use of firearms continues uncontrolled. The Ministry of National Security and other civilian organs of the government must find ways to make their reforms effective within the police. A strong internal inspectorate, chosen in a nonpartisan manner, appears to be essential for the success of the fledgling Police Public Complaints Authority. In addition, the government should support the Authority with an adequate staff of independent investigators.

Fortunately, the JCF appears to have regulations that can be used to control deadly force, as well as investigative standards that can be used to detect abuses. The problem is to enforce those

standards. Although the members of the force may resist, real accountability for and control of police violence would seem to be in their interest. The legitimacy of the police is at such a low ebb at the moment that the continuation of the situation threatens the very existence of a civilian police force.

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