



ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION SHOULD BE ADDRESSED TO THE DIRECTOR OF PUBLIC PROSECUTIONS AND **NOT TO ANY OFFICER BY NAME** AND THE FOLLOWING REFERENCE QUOTED:-

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OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

**P.O. BOX 633,
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12th December 2013

MEDIA RELEASE

**RE: THE GENERAL STATUS OF RULINGS FROM THE
OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

PREFACE

1. There have been several references recently in the public domain to what could be perceived as being systemic delay on the part of the Office of the Director of Public Prosecutions Prosecutions (*hereinafter referred to as the ODPP*) pertaining to rulings. While we appreciate the concerns, it is our considered view that whatever may be perceived as delay must be placed and understood within the context of the non-delegable responsibilities, realities and challenges of the Office. Such an understanding would serve to shed light on any discussion that is likely to lead to the conclusion that the Office is inefficient in its operations or without regard to the importance of the timely delivery of justice.
2. We ask that our response not be viewed as the seizing of an opportunity to forward our own departmental interests but rather as an attempt to raise an informed awareness of the daily operations of the ODPP and the resource challenges that we navigate in executing our functions.

BACKGROUND

3. It is the mission of the ODPP to provide the people of Jamaica with an independent and effective criminal prosecution capability which is both fair and just.

4. Consistent with the Constitution of Jamaica, the Director of Public Prosecutions (*hereinafter referred to as the DPP*) initiates, takes over and terminates prosecutions in all Courts of Jamaica.
5. In addition, the DPP conducts all appellate work flowing from those prosecutions and is directly tasked with responsibilities under the Proceeds of Crime Act, the Extradition Act, the Terrorism Prevention Act and the Mutual Assistance (Criminal Matters) Act, all which involve court attendances and interacting administratively with our local and international partners.
6. Assistance is also widely provided to the police, ministries, government departments, statutory bodies and the public, offering legal opinions on criminal matters.
7. In executing the aforementioned roles, the ODPP is staffed with forty-three (43) Crown prosecutors (forty (40) at present, most recently as a result of death and resignation), who prosecute in all courts at various levels in the fourteen (14) parishes of Jamaica.

RULINGS FROM THE CORRUPTION PREVENTION COMMISSION

8. The matters referred for ruling by the Corruption Prevention Commission (*hereinafter referred to as the Commission*) for possible charges of Illicit Enrichment are indeed of some vintage. In the past up to the present several matters have indeed been dealt with but there are still matters that are outstanding. The pace of rulings on these matters is hampered by the heavy numerical and arithmetic content which sometimes spans years of examination of income versus expenditure.
9. To assist with the progression of these rulings we have done some in-office group training where we had invited the financial investigators from the Commission to a meeting with the members of the Corruption Prevention Unit of the ODPP, who generally have charge of these matters. Coming out of that meeting it was decided that ***“Executive Summaries”*** provided by the Commission would best facilitate the process of ruling given the specific nature of the charge that is contained in these technical files, that is, – we must charge for a precise figure of income that is unaccounted for in each year on each Statutory Declaration and after presentation of additional records and or evidence at an enquiry.
10. Additionally, a partial internal audit of the matters submitted for ruling was done in August of 2013 by the ODPP and, where necessary, the records were reconciled with the

Commission. The matters were then assigned to Crown Counsel who had the responsibility to complete the ruling provided the executive summaries came to hand. **To date we have not received the executive summaries into the ODPP.** Following the allegation of delay in a Gleaner article on Sunday December 7, 2013, Mr. David Grey was contacted by the ODPP on December 10, 2013 and he confirmed that the executive summaries that had been previously requested by the ODPP had still not been sent to the ODPP. It is therefore unfortunate that when the report in the Sunday Gleaner was presented it was not stated that the executive summaries which were needed to expedite the process in ruling on these files were not submitted as was previously agreed by the Commission. We await the executive summaries to complete the files and hope they will be made available in short order.

OTHER RULINGS

11. As a matter of course many matters are referred to the Office prior to the laying of charges against individuals as we operate in an environment of an evolving legislative framework, increasing complexity of cases and an increasing crime rate. These referrals (rulings) include documentary material, statements from potential witnesses, expert reports and may involve extensive research depending on the issues that arise. On occasion some of these files may be incomplete and the assigned prosecuting attorney handling the matter may have to await the production of outstanding material from agencies external to the Office. If the referral is designated as urgent by the referring entity, we endeavour to deliver a ruling anywhere between twenty four hours and a week. **The Anti- Corruption Branch of the JCF can attest and confirm that the great majority of Anti-Corruption files received for rulings by the ODPP have been dealt with in short order as they have been designated for the most part as urgent.**
12. These referrals for rulings generally come to the Office from the Bureau of Special Investigations (BSI), INDECOM¹, the Inspectorate of Constabulary, the Criminal Investigations Branch, the Fraud Squad, Anti-Corruption Branch, CISOCA, the Office of the Contractor General, the Commission for the Prevention of Corruption, Major Investigations Task Force, Organized Crime Investigation Division (OCID), Financial Investigations Division (FID), Transnational Crime and Narcotics Division, Major Organized and Anti-Corruption Task Force (MOCA), Clerks of the Courts and other divisions of the Jamaica Constabulary Force.

¹ The last two (2) files were received July 2013. * As of the judgment of the Full Court INDECOM will no longer as a matter of course submit files to the ODPP for ruling.

13. Reference can be made to “*The Decision to Prosecute: A Jamaican Protocol*” found at our website www.dpp.gov.jm which outlines the considerations that inform a prosecutor when examining a file submitted for ruling.

ASSIGNMENT AND ROTATION OF CROWN COUNSEL

14. On average, Crown Counsel are assigned blocks of three (3) to four (4) weeks prosecuting in the Gun Courts, the Rural Circuit Courts and Home Circuit Court. To facilitate the preparation of files for court, it is desirable that at least two (2) weeks be afforded between each stint, which must also accommodate work associated with prosecutor’s responsibility to other units within the department and general duties not directly related to file preparation. *(In matters of complexity or high public interest Crown Counsel may on occasion be assigned to also prosecute in the Resident Magistrate’s Court.)*
15. This preparatory period must also take account of any follow-up work resulting from the recently completed court duties to ensure that matters are properly advanced within the system. It must also be noted that preparation for an upcoming court rotation is not limited to handling the physical files but extends to meetings with witnesses, as also liaising with other individuals and departments to ensure that matters are in the best state of readiness when next before the Court.
16. On occasion, and more so with the increasing number of case files against the background of the less than optimal number of prosecutors, this preparatory period has had to be reduced or even eliminated as the exigencies of the Office dictate. This means that a lot of our file preparation is done after work hours and on weekends. Further, the average court rotation period may also be extended to facilitate a lengthy trial, for example, or any such development that may require Crown Counsel to be in court for longer than the expected period. *With the prosecutor’s primary and public responsibility being that of undertaking prosecutions, it therefore means, that while there is an appreciation of the importance of other duties, the focus will always be skewed towards matters being dealt with before the courts.*
- **See Appendix 1 which provides a general statistical illustration of the volume of work before the courts across the Island.**
 - **See Appendix 2 which provides a statistical illustration of the quarterly reports of the rulings received and done by the ODPP for the period April – September 2013.**

COMMENDATION

17. In spite of our resource challenges we at the ODPP remain resolutely committed to providing timely administration of justice at the highest professional standards. I must commend my staff for their continued commitment to a very demanding job in a challenging environment. Continuous assessment of our internal structures is a feature of our managerial best practices and we continue to do our best with the resources at our disposal until these resources are enhanced. It is hoped that the factors and relevant statistics delineated will provide a more accurate depiction of the context within which we operate and will also demonstrate that in the face of obvious challenges, the Office's fidelity to its mandate remains unwavering and worthy of praise. I continue to be greatly appreciative of the professional efforts of my colleagues at the ODPP.

Paula V. Llewellyn, QC

Director of Public Prosecutions

APPENDIX 1

GENERAL STATISTICS

COURTS	NUMBER OF FILES
<i>Home Circuit Court</i>	<i>579 (to date)</i>
<i>High Court Division of the Gun Court</i>	<i>1,890 (as at October 2013)</i>
<i>Western Regional Gun Court (St James, Westmoreland, Hanover and Trelawny)</i>	<i>226 (to Date)</i>
<i>Collective Rural Circuits (12 parishes)</i>	<i>1070 (to date)</i>
<i>Court of Appeal</i>	<i>6 (weekly average)</i>

APPENDIX 2

QUARTERLY REPORTS
FILES RECEIVED AND RULINGS Done
April to June 2013

NB. It must be noted that the number of rulings done in a particular period does not necessarily bear any relation to the number of files received

Investigating Body	April 2013		May 2013		June 2013		Totals for the Quarter	
	Files received	Rulings done	Files received	Rulings done	Files received	Rulings done	Files received	Rulings done
Bureau of Special Investigations	4	8	7	10	2	6	13	24
INDECOM	3	0	2	3	2	1	7	4
Inspectorate of constabulary	7	0	3	0	1	5	11	5
Criminal Investigation Branch	0	2	1	3	2	0	3	5
Anti Corruption Branch	3	1	9	3	9	8	21	16
CISOCA	0	1	6	7	3	1	9	3
Other Police Bodies across the Island	8	10	3	7	6	6	17	23
Totals	25	22	31	31	25	27	81	80
Breakdown of Rulings for the Period								
Action Taken	April	May	June	Total number of Rulings done				
Files sent to Coroners	6	6	3	15				
Departmental Action recommended	4	7	6	17				
Criminal Charges Recommended	5	7	10	22				
No Criminal or Departmental Charges Recommended	7	11	8	26				
Totals for the Quarter	22	31	27	80				

in that period.

Prepared by the Office of the Director of Public Prosecutions October 25, 2013

QUARTERLY REPORTS
FILES RECEIVED AND RULINGS Done
July to September 2013

NB. It must be noted that the number of rulings done in a particular period does not necessarily bear any relation to the number of files received

Investigating Body	July		August		September		Totals for the Quarter	
	Files received	Rulings done	Files received	Rulings done	Files received	Rulings done	Files received	Rulings done
Bureau of Special Investigations	6	7	1	8	9	2	16	17
INDECOM	2	1	0	3	0	0	2	4
Inspectorate of constabulary	3	5	5	3	4	3	12	11
Criminal Investigation Branch	2	0	0	1	2	1	4	2
Anti Corruption Branch	6	3	2	8	5	3	13	14
CISOCA	1	0	0	1	0	0	1	1
Other Police Bodies across the Island	5	5	3	4	8	4	16	13
Totals	25	21	11	28	28	13	64	62
Breakdown of Rulings for the Period								
Action Taken	April		May		June		Total number of Rulings done	
Files sent to Coroners	6		5		1		12	
Departmental Action recommended	3		6		4		13	
Criminal Charges Recommended	7		10		7		24	
No Criminal or Departmental Charges Recommended	5		7		1		13	
Totals for the Quarter	21		28		13		62	

in that period.

Prepared by the Office of the Director of Public Prosecutions November 8, 2013