

**ANNUAL REPORT FOR THE OFFICE OF THE DIRECTOR OF PUBLIC
PROSECUTIONS (ODPP)
FOR THE PERIOD APRIL 2015 TO MARCH 2016**

1. PURPOSE

- 1.1. The Honourable House is being asked to note that Cabinet has approved the tabling of the Annual Report and Certified Appropriations Accounts for the Office of the Director of Public Prosecutions (ODPP) for the period April 1, 2015 to March 31, 2016.

2. BACKGROUND

- 2.1 The Mission of the Office of the Director of Public Prosecutions is “to fulfill its constitutional mandate by providing the people of Jamaica with an independent, professional and effective prosecution service that operates with integrity, inspires public trust and confidence and safeguards the administration of justice throughout the island of Jamaica”.
- 2.2 Consistent with the Constitution of Jamaica, the Director of Public Prosecutions initiates, takes over and terminates prosecutions in all Courts of Jamaica. In addition, the Director of Public Prosecutions conducts all appellate work flowing from those prosecutions and is directly tasked with responsibilities under the *Proceeds of Crime Act*, the *Extradition Act* and the *Mutual Assistance (Criminal Matters) Act*. Assistance is also widely provided to Ministries, Government Departments, Statutory Bodies and the public, offering legal opinions on criminal matters.
- 2.3 The major objectives pursued by the Office of the Director of Public Prosecutions during the period were to: -
- Continue to provide the citizens of Jamaica with a professional prosecution service that is fair and just to both accused and victim;
 - Continue to present criminal cases before the Courts in a timely and efficient manner based on available resources;
 - Reduce the turnaround regarding files submitted to the ODPP for rulings;
 - Modernise the ODPP by implementing the AMANDA JEMS/PAS System (the Prosecuting Attorney System), thereby automating the prosecuting process and reducing the reliance on the use of paper; development of Standards of Professional Conduct; development of Procedures for Disclosure and Plea Bargaining, which form chapters in the Operating Procedures for the

Exercise of Prosecutorial Functions and Decision-Making Manual; and the Development of Human Resource Protocols;

- Discontinue at any stage before judgment is delivered, in the interest of justice, subsequent to assessment, any such criminal proceedings instituted or undertaken by prosecutors or any other person or authority;
- Prosecute matters of complexity and/or exceptional public interest in the Parish Courts and commitment to advising and mentoring Clerk of Courts in the Parish Courts who prosecute criminal cases;
- Complete the organizational review of the ODPP; and
- Implement the Performance Management Appraisal System (PMAS).

2.4 During the period under review, the ODPP remained focused and committed in discharging its duties and obligations by presenting criminal cases before the Courts in a timely manner. Notwithstanding the challenges of the spiraling crime rate and its attendant impact on an already burdened justice system, the ODPP continues to strive to provide the most efficient service.

3. HIGHLIGHTS OF THE REPORT

- 3.1 Criminal Case Management as a system of management of criminal cases to deal with “backlog” has been partially implemented in the criminal Courts throughout the island. It was operative in the Home Circuit Court, St. Ann and Manchester Circuit Courts as well as Court 6 of the Gun Court. This system has assisted in making more cases trial ready.
- 3.2 For the period under review, one hundred and twenty-one (121) cases were listed for hearing in the Court of Appeal of which sixty-nine (69) cases were disposed. It is noteworthy to point out that fifty-two (52) of these cases were appeals which were dismissed (the convictions were held).
- 3.3 The ODPP entered five hundred and seventy-two (572) Nolle Prosequis. The Office also received fourteen (14) extradition requests of which nine (9) matters were before the Court, and five (5) warrants were with the police to be executed on the accused. Seventeen (17) requests for Mutual Legal Assistance from foreign states to Jamaica were received of which sixteen (16) were completed and one (1) was still being processed at the end of the period under review. Jamaica made eleven (11) Mutual Legal Assistance requests to foreign states. Four (4) of these requests were still being processed and seven (7)

requests completed. Six (6) of these requests were made to the United States of America.

3.4 A total of 2,933 cases were listed for trial across all courts - Rural Circuit Courts, the Home Circuit Court, Rural Gun Courts, and the Western Regional Gun Court. The rate of disposal of the cases in the courts remains low except for the Western Regional Gun Court. Overall, 42% of the cases were disposed. **Table 1** provides details on the number of cases listed for trial, disposed and traversed during the period.

**Table 1: Number of Cases listed for Trial, Disposed and Traversed
2015/16**

| | Home Circuit Court | Rural Parish Circuit Courts | Rural Gun Court | Western Regional Gun Court | TOTAL |
|---------------------------|--------------------|-----------------------------|-----------------|----------------------------|--------------|
| Matters Listed For Trial | 701 | 1470 | 448 | 314 | 2,933 |
| Matters Disposed of | 179 | 679 | 177 | 192 | 1,227 |
| Matters Traversed | 522 | 791 | 271 | 122 | 1,706 |
| Percent of Cases Disposed | 25.5% | 46.2 % | 26.1% | 61.1% | 42% |

3.5 A variety of factors, some outside the control of the ODPP, contributed to the low case disposal. However, the shortage of jurors to try the cases listed, especially in cases of multiple accused and murder trials, and the absence of Crown witnesses to attend Court to give evidence due to fear are perceived as the main factors contributing to the low rate of case disposal.

3.6 Other factors which contribute to the low rate of case disposal include:

- Insufficient number of court rooms to proceed with trial for ready matters. Multiple accused and/ or multiple witness trials - with limited court room trial facilities many cases suffer displacement when complex matters commence;
- Delay in the production or presentation by the Forensic Laboratory of DNA results and Ballistic Certificates for some of the cases listed for trial. The reported reason for the delay is the understaffing of the Forensic Laboratory and the lack of sufficient working equipment to quickly process the actual demand;
- The absence of Consultant Pathologists who in some instances no longer work in Jamaica and the exorbitant cost to have these persons return to give evidence;

- The absence of witnesses who have died or cannot be found thereby forcing the ODPP to rely on Section 31D of the Evidence (Amendment) Act to place the statements before the Court. This is a time-consuming process. In some circumstances the only option available to the ODPP is to request that these matters be traversed to the next term in order to complete lengthy procedural steps necessary to mount a successful application;
- Lengthy delays in assigning and retaining matters to the Legal Aid Council for legal representation or the accused retaining his own legal representative;
- The Crown awaiting documents to complete file; and
- The Crown not fulfilling its duty in a timely manner to disclose service of documents on Defence.

3.7 To address some of these challenges, the ODPP has recommended that serious consideration be given to the following:

- Continuation of the Extension of some Rural Circuit Courts, Gun Courts and Special Sittings;
- Increase staff capacity via employment of an additional 23 Crown Counsel to address the present human resource challenges in prosecuting matters throughout the courts;
- Retention of experienced Prosecutors through more attractive remuneration packages;
- Attract and retain persons to serve as Jurors;
- Review the instances in which forensic materials are sent to the lab as part of the investigative process. Given the limited capacity of the forensic lab to satisfy increasing demand, the determination of whether forensic analysis would serve a useful purpose should be made on a case by case basis; and
- Provide the Jamaica Constabulary Force with additional resources and manpower to to produce results in relation to call data records and analyses in a timelier manner. Cell cite analysis can sometimes provide very powerful objective evidence particularly in cases where there is no eye witness and the case is based solely on circumstantial evidence. However, the delay in obtaining this kind of evidentiary material usually stalls the trial of the relevant matters.

3.9 The ODPP received a total of one hundred and eighty-eight (188) files from the various bodies for rulings. Two hundred and eighteen (218) rulings were made. The majority of files (37) were from the Centre for Investigation of Sexual Offences and Child Abuse (CISOCA), followed

by the Inspectorate of Constabulary with thirty-six (36). **Table 2** provides the status of the files submitted for ruling.

Table 2: Files Submitted to the Office of the Director of Public Prosecutions for Ruling, 2015/16

| | Complaints Received | Rulings Made |
|--|---------------------|--------------|
| Bureau of Special Investigations | 30 | 74 |
| Independent Commissions of Investigations (INDECOM) | 8 | 1 |
| Inspectorate of Constabulary | 36 | 42 |
| Criminal Investigating Branch | 7 | 10 |
| Anti-corruption Branch (MOCA) | 21 | 24 |
| Centre for Investigation of Sexual Offences and Child Abuse (CISOCA) and Other Police Bodies across the island | 37 | 16 |
| Other Police Bodies across the Island | 49 | 51 |
| Totals | 188 | 218 |

From time to time after examination of the files that are received for rulings, the ODPP had to request additional information. Rulings therefore have to be deferred and this situation creates a temporary backlog of files. At a later date when these files are ruled on (as is the case in the report for this period) the statistics show that rulings for the period are in excess of the files received.

3.10 Fourteen (14) training sessions were conducted in house over the period for prosecutors and Clerk of Courts under the Office's Prosecuting Education Programme (PEP). Practising Attorneys prior to 2012, are expected to obtain 12 credits each year and Attorneys practising as at October 2012, are required to obtain 16 credits each year during each of the first three years in practice (and 12 credits each year thereafter) in accordance with The Legal Profession (Continuing Legal Professional Development) Regulations, 2013. Additionally, representatives of the ODPP attended and participated in eleven (11) overseas training courses to improve their prosecutorial capabilities.

3.11 In terms of staff departures, eight (8) officers left the ODPP: five (5) from the legal staff and three (3) from the administrative staff.

4. BUDGET AND EXPENDITURE

4.1 The approved budget for the Office of the Director of Public Prosecutions for the financial year April 1, 2015 to March 31, 2016 was **\$331,812,000.00**, a 4% increase over the 2014/15 financial year. The actual expenditure for the period was **\$304,080,275.72** resulting in a net variance of \$27,731,724.28 for the year. As was the case in the previous year, the largest portion of the budget was spent on

Employees' Compensation and related Travel and Subsistence expenses.

5. SCHEDULE OF EMOLUMENTS

5.1 The salaries and emoluments for the Director of Public Prosecutions and other key management personnel are outlined in the Appendix of the Report.

The Honourable House is asked to note the foregoing.

A handwritten signature in cursive script that reads "Delroy Chuck".

Delroy Chuck, QC, MP
Minister of Justice
January 29, 2021