

# **JAMAICA: Killings and violence by Police: How many more victims? (Summary)**

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*List of most common abbreviations used in this report:*

*BSI Bureau of Special Investigations*

*DPP Director of Public Prosecutions*

*OPR Office of Professional Responsibility*

*PPCA Police Public Complaints Authority*

*This paper is a summary of JAMAICA - Killings and violence by police:  
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## **JAMAICA: Killings and Violence by Police: How many more victims?**

### **INTRODUCTION: A PATTERN OF VIOLATIONS**

"We serve, we protect, we reassure with courtesy, integrity and proper respect for the rights of all."  
Jamaica Constabulary Force motto

On 14 March 2001, at around 5 am, approximately 60 police officers from the Crime Management Unit surrounded a house in Braeton. According to the police version of events, when officers asked for access to the house, they were met with a hail of gunfire. The officers returned fire, killing seven young men. Local residents told a different story. According to their testimonies, the police captured five of the young men, beat them in the front yard of the house, and then executed them one at a time. Neighbours described the heart-rending pleas of the young men as they begged for their lives. One neighbour responded to the pleas by visiting the house and was shot and killed. Another resident, passing by the house on an errand, was also shot and killed, toothbrush in hand.

More than 1,400 people have been shot dead by police over the past 10 years in Jamaica, a country whose population is only 2.6 million. The rate of lethal police shootings is one of the highest in the world. The police account of events -- usually that the victims were killed in "shoot-outs" after opening fire -- is disputed in many cases by eyewitness testimony and contradicted by forensic evidence. The truth is rarely uncovered. Not only are police officers overusing deadly force, but the authorities are failing to conduct prompt, thorough and effective investigations into killings by police.

Police brutality flourishes when police officers are not held to account for their actions. Amnesty International has documented many cases of police brutality in Jamaica, some amounting to torture. The most frequent victims are criminal suspects, generally poor, young, black men. Victims also include relatives of criminal suspects, children and women, as well as children and women. Methods have included beatings, burns with hot irons and mock executions.

Seven years after three men suffocated to death in an overcrowded police lock-up, the

practice of holding people in police custody in appallingly squalid conditions continues. Amnesty International has also found that despite commitments given in 1999 to remove all children from police lock-ups, some children are still held with adults in these inappropriate and dangerous environments.

Amnesty International is gravely concerned that the authorities in Jamaica -- despite numerous assurances to the contrary -- are failing to prevent serious and systematic human rights violations at the hands of the police and other members of the security forces.

The task facing the Jamaican police is complex, dangerous and difficult. The level of violent crime is extremely high, exacerbated by poverty, domestic violence, drug and politically motivated violence. The murder rate, in particular, is extremely high and at least 112 police officers have been killed over the past 10 years. Amnesty International does not underestimate the perils faced by Jamaican police officers in the course of their duties.

However, the failure of the Jamaican police to uphold the law has led to a pattern of human rights violations by the police and a corresponding breakdown of trust. In September 2000, Amnesty International researchers investigated attitudes towards the police in deprived, urban areas such as Grants Pen. Many people described the police not as protectors from crime but as a force to be feared. In the communities visited by Amnesty International, almost everyone claimed to have had direct experience of police brutality.

### **Failure to address abuses by police**

Jamaican law -- including Jamaica's Constitution -- and specific police guidelines prohibit unlawful killings, torture and ill-treatment, and provide mechanisms to enable victims to obtain redress. A number of reforms have been introduced since the early 1990s to minimize such abuses. These include the establishment of a civilian body to review investigations of abuses, the Police Public Complaints Authority; reformulated training for police officers on the use of force to bring it into line with international standards; and the creation of a specialized police unit to investigate all police shootings, the Bureau of Special Investigations.

Yet police officers still commit human rights violations with impunity. Prosecutions are extremely rare and investigations frequently fail to conform to international standards. Evidence is contaminated or removed. Witnesses, relatives of victims or victims themselves have been intimidated, and many have received death threats. Autopsy reports are so poor that one respected international pathologist described them as, "not autopsies in the normally

understood sense of the term”. The mechanisms for investigation and prosecution are in place, but it appears that the political will to use them is lacking.

In this report, published as part of Amnesty International’s worldwide campaign against torture, Amnesty International calls on the authorities of Jamaica to translate verbal commitments to human rights into action.

**INTERNATIONAL LEGAL STANDARDS**

Jamaica is legally bound to abide by the human rights treaties that it has ratified. These include the International Covenant on Civil and Political Rights (ICCPR), the American Convention on Human Rights (American Convention) and the UN Convention on the Rights of the Child (CRC). Jamaica has voluntarily agreed to respect these treaties and to ensure the rights they set out.

Jamaica also has a duty to respect the rights conferred by internationally acknowledged non-treaty standards and guidelines. These represent the consensus of the international community and have the persuasive force of having been negotiated by governments over many years, and of having been adopted by political bodies such as the UN General Assembly.

Together these treaties and standards constitute an international framework of fundamental safeguards to protect against abuses.

**The right to life**

International standards and treaties prohibit the arbitrary deprivation of life. When police deliberately shoot and kill a person who poses no deadly threat, they are violating the victim's right to life. No circumstances can be invoked - including internal political instability or any other public emergency - to justify extrajudicial executions, which must not be carried out under any circumstances.

**The right to freedom from torture and ill-treatment**

Torture is absolutely prohibited in international law. There can be no justification, excuse or impunity for those who order or commit acts of torture. The International Covenant on Civil and Political Rights and the American Convention on Human Rights also protect the right to freedom from cruel, inhuman or degrading treatment or punishment.

**The use of force**

International standards govern the use of force and firearms by police. Standards include the UN Code of Conduct for Law Enforcement Officials and the UN Basic Minimum Standards on the Use of Force and Firearms. These provide that deadly force should be used only as a last resort in response to imminent threat of death or serious injury, and only when all other measures have been exhausted.

**Amnesty International calls on the Jamaican authorities to abide by:**

- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Code of Conduct for Law Enforcement Officials
- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- UN Rules for the Protection of Juveniles Deprived of their Liberty
- International Covenant on Civil and Political Rights
- American Convention on Human Rights
- UN Convention on the Rights of the Child
- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- UN Guidelines on the Role of Prosecutors
- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- UN Declaration on Human Rights Defenders

**FATAL SHOOTINGS BY THE SECURITY FORCES**

Sylvester "Punk" Wint was killed by police on 27 April 2000 in Mountain View, Kingston. Police claimed that he was shot after running out of his house holding a baby and firing a gun during a police raid. According to witnesses, backed by a tape recording, he was shot and killed in his house as he begged for his life. A doctor later stated that the

gunshot wounds suggested that he had been killed while lying down.

The Jamaica Constabulary Force (JCF), approximately 7,000 strong, has been responsible for an average of 140 deaths per year in the last 10 years (see Table 1, below). This is almost five times the rate in South Africa -- a country facing similar problems to Jamaica in terms of escalating levels of violent crime.

The Jamaican police continue to claim that the majority of killings are the outcome of justifiable force by officers in the performance of their duties. Police reports describe most fatal shootings as the result of exchanges of gun-fire, initiated by armed civilians.<sup>1</sup>

However, statistical evidence shows that the number of civilians fatally shot by police is consistently many times larger than the number of police officers shot by civilians.

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<sup>1</sup> See *Jamaica: Killing and Violence by Police: How many more victims?* (AI Index: AMR 38/001/01) for further examples of individual cases investigated by Amnesty International.

**Table 1: Civilians shot and killed by police 1981 - 2000**

|      |      |      |      |      |      |      |      |      |      |
|------|------|------|------|------|------|------|------|------|------|
| 2000 | 1999 | 1998 | 1997 | 1996 | 1995 | 1994 | 1993 | 1992 | 1991 |
| 140  | 151  | 145  | 149  | 148  | 132  | 125  | 120  | 145  | 178  |
| 1990 | 1989 | 1988 | 1987 | 1986 | 1985 | 1984 | 1983 |      |      |
| 148  | 162  | 181  | 205  | 178  | 210  | 354  | 196  |      |      |

**Table 2 Police officers killed by civilians 1990 - 2000<sup>2</sup>**

|      |      |      |      |      |      |      |      |      |      |      |
|------|------|------|------|------|------|------|------|------|------|------|
| 2000 | 1999 | 1998 | 1997 | 1996 | 1995 | 1994 | 1993 | 1992 | 1991 | 1990 |
| 11   | 8    | 14   | 13   | 10   | 4    | 6    | 10   | 11   | 10   | 11   |

In a series of cases investigated by Amnesty International, official police accounts claimed that fatalities occurred as a result of victim-initiated “shoot-outs” but the pattern of the killing, including attempted cover-ups, suggests that they were unlawful and deliberate killings.

Amnesty International has documented cases of:

- Extrajudicial executions: unlawful and deliberate killings carried out by order of a government or with its complicity or acquiescence;
- Unjustifiable use of lethal force to make arrests with no prior attempts to resort to non-deadly means;
- Unjustifiable use of lethal force against unarmed civilians posing no threat to human life, including excessive force employed as a means of crowd control.

These patterns continue despite procedural reform. In 1991, a review of the JCF by British police officers concluded that, “no...strategy exists in Jamaica...to ensure that the use of firearms is an action of last resort only and not an immediate response...The continuing level of deaths attributable to firearms operations involving the JCF are undoubtedly produced by their use of firearms as an action of first resort.”<sup>3</sup> Although never released, the report led to the adoption of police regulations incorporating the major provisions of relevant international human rights standards. The authorities insist that these are stringently applied and enforced.

<sup>2</sup> Sources: Constabulary Communications Network (CCN); *The Edge of the Knife*, Paul Chevigny, NY Press, New York 1995; *Civilians shot and killed by police 1984*, Jamaica Council for Human Rights, Kingston 1985.

<sup>3</sup> Review of the Jamaica Constabulary Force, M. Hirst, Chief Constable, Leicestershire Constabulary, UK.

However, some government ministers have appeared to endorse the use of unjustifiable lethal force by police officers. In January 2001, the Minister of National Security was quoted as stating: "I know I am going to be criticised for this, but gunmen who challenge the police...their place belongs in the morgue..."

### **Extrajudicial executions**

"This Administration has not condoned nor will even condone, extrajudicial killings."  
Minister of Foreign Affairs, Paul Robertson, in a letter to Amnesty International, 17 January 2001.  
"When we went to the mortuary they wouldn't let me see the body ... a female police officer said, 'If yuh ah walk wi' gunmen, yuh ah gunman too'." (If you walk with gunmen, you are a gunman too).  
Statement to Amnesty International by a relative of an extrajudicial execution victim.

Paul Harvey, aged 42, from Spicy Hill, Trelawny, was fatally shot by police on 30 October 2000 after a party of at least 26 members of the Crime Management Unit<sup>4</sup> arrived at his house, reportedly led by the head of the squad. Police allegations of a shoot-out were disputed by community members, who claimed that he was taken out of the house with his hands in the air and was then extrajudicially executed.

In a series of similar cases investigated by Amnesty International, there is credible evidence that victims were extrajudicially executed by police. Despite the poor quality of autopsy reports, the pattern of injuries in some cases is consistent with deliberate incapacitation followed by killing. In several cases, victims had received death threats before being killed. Families in every case reported intimidation and, in one case, death threats after the killing. In another case, relatives were subsequently arrested and ill-treated. To Amnesty's knowledge, no disciplinary or criminal action has yet been taken in any of these cases.

### ***William Richards***

In the early morning of 19 September 2000, William Richards was shot dead in his house in West Kingston by members of the Crime Management Unit. An Amnesty International delegation visited the scene of the shooting three hours later and was told by neighbours that police officers had entered Williams Richards' bedroom, forced his head into a drawer and shot him in front of his three year-old son. Williams Richards' girlfriend was reportedly locked in a bathroom, and subsequently arrested, detained and charged with wounding with intent.

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<sup>4</sup> The Crime Management Unit is a special unit established by the Prime Minister in September 2000 in response to demands for action on crime from the business community. It was reportedly the 13<sup>th</sup> such special unit established since 1976.

It was evident to the delegation that the house had been ransacked and vital forensic evidence, such as furniture and bedding, had been removed or disturbed. By the time the delegation arrived, although the body had been removed, the scene had not been sealed from the public to preserve it for forensic investigation. Investigating officers arrived only later that evening. A police press release stated that Williams Richards had been shot outside his house by officers after opening fire on police and that police had recovered a gun from his body.



### ***Sean Robinson***

On 4 July 2000, Sean Robinson, aged 21, was shot dead by police at his home in Kingston. Eyewitnesses stated that at least 10 police officers forced entry to his house and then shot him in a cupboard in which he was hiding. Two young children and two adults were held at gunpoint in the hall. Police refused to allow Sean Robinson access to medical attention. Official police reports stated that two arrest warrants had been served on Robinson, including one for the murder of a police officer. However, none of the police officers at the house ever produced or made reference to a warrant, despite requests. Police also allegedly assaulted relatives, including a woman who was three months pregnant. Robinson's mother was allegedly prevented from accompanying her son when police drove him away, and family members were not allowed to view his body at the morgue for three days. Family members were also reportedly intimidated and obstructed from making a full statement of complaint by a police investigator.

Police gave inconsistent accounts of the shooting. After initially claiming he had been killed in a shoot-out on the road, after firing on police, a subsequent official report alleged that he died in a shoot-out inside his home. When an Amnesty International researcher visited the property in August 2000, gun shots were clearly visible on the door of the cupboard and in the clothes inside it. Three days before his death, Robinson reportedly received an anonymous death threat. The caller stated that Robinson would be killed in connection with his escape from police custody in 1999.

### ***Patrick Alfred Genius***

Patrick Genius, a 33 year-old welder, stall-holder and father of three children, was fatally shot by the police in August Town, Kingston, on 13 December 1999. Eyewitnesses claimed that he was detained by several plain clothes police officers travelling in an unmarked police car as he rode his bicycle, and that the police shot him at close range in the head while he had his hands up in the air. Autopsy report findings are consistent with this account, and an independent pathologist who reviewed the report concluded that the pattern of injuries indicated the likelihood of deliberate incapacitation followed by killing. Police investigators allegedly failed to initiate an investigation until five months after the shooting took place, when statements were requested from family members.

### ***Delroy Lewis***

Delroy Lewis, aged 29, was fatally shot in August Town, St Andrew, on 2 September 1999. Witnesses stated that at least seven police officers in plain clothes, including an inspector, entered his yard and shot him within a few minutes. One witness alleged that he was shot several times in the head and chest after being surrounded by several officers. The witness alleged that he had first put his hands up in the air and that he had been searched and asked whether he was carrying a gun, which he denied. The police account of the shooting was that a group of three gunmen, including Delroy Lewis, opened fire on police officers, that a semi-automatic pistol was taken from him and that the two other gunmen escaped.

The findings of an autopsy performed by an independent pathologist consistent with the account of the shooting given by witnesses. The report indicated that Delroy Lewis had been shot at close range in his right temple, in the chest and right and left shoulders. Investigating police officers did not arrive at the house until a week after the shooting and failed to inspect the yard where the shooting took place. Since Delroy Lewis' death, Amnesty International has been informed that members of his family have received several anonymous death threats.

### **Killing of bystanders**

In a significant number of cases, police appear to have deliberately and unlawfully killed individuals who just happened to be at the scene of an attempted arrest.

### ***Matthew Mullins***

On 27 July 2000, Autho Matthew Mullins, a 25-year-old recent convert to Rastafarianism, was shot and killed in a remote, hilly area outside Kingston by members of the Mobile Reserve and the Anti-Crime Task Force. Police stated that they had returned fire after three men, including Mullins, had shot at them. However, eyewitnesses

claimed that he was detained and deliberately shot and killed, although he was just a bystander at the arrest of a criminal suspect who was allegedly hiding in the area. In an account sent to a respected radio journalist, the suspect stated that he and Matthew Mullins had been detained and forced to lie on the ground. Matthew Mullins was then shot at point blank range in the chest, despite the fact that the suspect protested to police that Matthew Mullins was unknown to him. Relatives told Amnesty International that a state pathologist had indicated that Matthew Mullins was shot at close range in the chest and legs.

### ***Janice Allen***

Thirteen-year-old Janice Allen was shot and killed in Trenchtown, Kingston, in April 2000. Janice Allen was seen crouching behind a lamp post with her sister, as police started firing at a man on the other side of the street, who was soon surrounded by police and made to lie on the ground. It is alleged that at this point a police officer aimed directly at Janice Allen and fired. According to police, Janice Allen was killed in cross-fire. According to witnesses, Janice Allen was refused medical attention by police and died while being driven to a hospital by members of the local community. Her mother was publicly criticized by the Deputy Commissioner of Police and Head of the BSI for refusing to allow the autopsy to take place until she could have an independent doctor present. When Janice Allen's 15-year-old sister tried to make a statement at the BSI, she was initially denied permission to be accompanied by an adult.

### ***Rasheed Williams***

On 12 October 1999, Rasheed Williams, a 23-year-old mentally ill man, was fatally shot by police in Grants Pen, Kingston. Initial police accounts given to the media alleged that Rasheed Williams was one of a group of gunmen who fired upon police officers. However, witnesses alleged that police had been attempting to arrest and detain an unidentified man who ran away and starting shooting. A policeman reportedly grabbed hold of Rasheed Williams' foot after the shooting stopped, asked him whether he was going to run away, and then shot him in the chest. The police officer allegedly carried on shooting once Rasheed Williams had fallen to the ground

At the coroner's hearing in February 2001, a policeman who initially testified that Rasheed Williams had been charged with illegal possession of a firearm and shooting

with intent retracted this statement during questioning. Official forensic and ballistics investigation into the death was inadequate, but the findings of an independent pathologist who observed the state autopsy appear to confirm that Rasheed Williams was shot and killed deliberately. One of the eyewitnesses to the killing subsequently refused to testify at the coroner's hearing. The witness had reportedly been visited on a number of occasions by police officers.

### **Firearms as a first resort: the use of excessive lethal force**

The practice of using firearms as a first, rather than a last, resort continues, with predictably deadly results.

According to international human rights standards, force should only be used by law enforcement officers in proportion to the threat faced - and firearms should only be used in self defence or the defence of others against an immediate threat of death or serious injury. Firearms should be used only when less extreme measures are insufficient



and in a manner likely to decrease the risk of unnecessary harm. In violation of these principles, Jamaican police have fired indiscriminately in populated areas, have used firearms during traffic stops and at the end of pursuits, and have shot at unarmed suspects fleeing non-violent crime scenes.

### **Shot for being on a bus**

At least six out of 17 passengers were seriously injured when police officers fired indiscriminately at a bus on 30 June 2000, in clear violation of both international standards and JCF policy. One of those hurt was a 15-year-old girl. Police chased the bus, which had failed to obey police signals to stop. According to passenger accounts, after

one passenger was shot in the foot, another started waving his white shirt outside a window, shouting, "don't shoot". Two police officers in a car beside the bus shot directly at him, injuring him and others. Police finally forced the bus to stop by shooting its tyres, but injured passengers stated that they were denied medical attention until all the bus passengers had been searched. Police subsequently alleged that they had information that the bus was carrying gunmen, but no guns were found.

### **TORTURE AND ILL-TREATMENT OF SUSPECTS IN POLICE CUSTODY**

““A nuff tings di police do. Dem beat up mothers and fathers and you hear nut’n about it, nut’n. Dem beat dem, dem do dem all manner of evil. Dem just come inna yah an’ beat somebody, anybody, dem don’t care. Dem don’t care. Dem jus’ like animals.”  
Kingston resident, August 2000

Torture – the intentional infliction of severe pain or suffering for purposes such as obtaining a confession, intimidation or punishment, or for any reason based on discrimination – is prohibited in all circumstances by international law and by Jamaican law.

Despite this, Amnesty International has received numerous reports alleging torture by Jamaican police, usually following arrest and detention. Documented methods of torture have included beatings and burns, as well as the application of electric shocks to the body, attempted strangulation, mock executions and rape. Police have also failed to protect detainees, including children, from violence at the hands of other detainees. In some cases, they have even incited such violence.

The victims of torture and ill-treatment by the security forces are predominantly young, poor, black men from urban areas and criminal suspects. They also include women, children, rastafarians and gay men.

Torture and ill-treatment are facilitated by prolonged detention and by incommunicado detention. Despite some legislative reforms, the police continue to detain individuals in custody without charge for excessively long periods before taking them before a court. Detainees continue to be held without charge for days, weeks, and in some cases months. Many detainees are held for long periods in order to appear in identification parades, despite legislation passed in 1994 to limit the use of detention for this purpose.

Amnesty International has also received reports of individuals being held for extended periods, often of a week or more, in incommunicado detention. In such cases, individuals may be transferred between police stations, making it difficult for families and others to locate them. Detainees are often denied access to lawyers, especially during interrogation, as well as to family members and to medical assistance. Neither are they always informed of their right to legal assistance, or given access to lawyers, despite recent legal aid

reforms.

### **Torture of criminal suspects and witnesses**

Amnesty International has received numerous reports of torture and ill-treatment of alleged criminal suspects, usually in an attempt to elicit confessions. Those detained on suspicion of serious criminal offences are at particular risk.

Independent medical reports on a man sentenced to a long prison term verified his allegations that a hot iron had been stamped onto the left side of his body, causing severe burns and removing the skin from his chest and abdomen. The man, who has asked not to be named, also alleged that he was beaten severely and denied access to medical attention during questioning in Negril Police Station in August 1997. The man's confession formed part of the evidence that was used to obtain a conviction.

One man currently under sentence of death alleges that he was tortured by police officers in a police lock-up in central Kingston in 1996, following his arrest and detention on a murder charge. On the first two days of his trial he was allegedly beaten repeatedly with a strip of old tire and hit on the head with a baton. The torture continued until he agreed to incriminate himself in court and to sign a statement implicating three other men. In return he was told he would be sent abroad.

### **Torture and harassment of relatives**

Relatives of criminal suspects have been harassed by police. Some have been detained, some have been ill-treated and some have been tortured.

In October 2000 a relative of a criminal suspect -- who was himself shot and killed by police shortly afterwards in an alleged extrajudicial execution -- was reportedly detained for a week, interrogated and tortured by members of the Crime Management Unit. He was interrogated and beaten in an attempt to make him reveal the whereabouts of his relative. He was allegedly pepper-sprayed in both of his eyes. His ears were slapped so hard that his eardrums burst and bled. He was subjected to two mock executions. A medical report corroborated his account, indicating that he had been beaten all over his body.

### **Torture of women**

Most torture victims in Jamaica are men, but Amnesty International has also received allegations of the ill-treatment and torture of women. Several women told the organization that they had not made official complaints out of fear, suggesting that such cases may be under-reported.

There have been isolated reports of women and girls being raped by members of the

security forces. In June 2000, a female sex-worker was detained and raped by two police officers in a deserted area in New Kingston. The officers allegedly threatened her and said that she would be released if she had sex with both men. The woman is understood to have refrained from making a complaint for fear of retaliation.

### **Torture of children**

Children have been detained for long periods, often on minor charges and sometimes without charge, and have frequently been detained alongside adults, where they have been placed at risk of sexual and physical abuse from other inmates. Such practices violate Jamaica's obligations under international law. The UN Convention on the Rights of the Child, which Jamaica has ratified, guarantees special protection for children and prohibits the detention of children with adults.

In July 1999, after a report by the international human rights organization Human Rights Watch exposed the treatment of children in police lock-ups, the government of Jamaica undertook to remove all children under the age of 18 from adult police lock-ups and transfer them to appropriate children's facilities. Amnesty International was informed in August 2000 by senior officials that juveniles were no longer allowed to be held in police lock-ups for longer than one week and that measures were being taken to ensure the removal of children from police lock-ups.

However, some children are still being detained alongside adults for long periods in police lock-ups in terrible conditions. Amnesty International interviewed one 17-year-old in Hunts Bay police lock-up in September 2000, who stated that he had been held for two months without charge and without access to legal or medical assistance. According to the authorities, no suitable alternative holding centres for children had yet become operative by April 2001.

The organisation was also informed that no criminal charges had yet been initiated in any of the cases documented in the Human Rights Watch report, despite a commitment given by the authorities in 1999 to investigate a number of specific cases. The authorities were unable to provide estimated completion dates for investigations into the incidents, which were described as on-going.

### **Torture of gay men**

Gay people in Jamaica, or those suspected of being gay, are routinely victims of ill-treatment and harassment by the police, and occasionally of torture. Reports also indicate that the police have failed to protect gay people from violence in police detention or to assist victims or witnesses of homophobic crimes. In April 2000, a man was allegedly refused police protection which he requested after he received death threats. The man fled his home after his partner was chased by a mob into a church and killed. In some cases, reporting incidents of

homophobic violence to the authorities has resulted in further victimization and ill-treatment at the hands of the police.

Most reports received by Amnesty International are anecdotal or anonymous, due to individuals' fear of reprisals. The gay and lesbian community in Jamaica faces extreme prejudice. Sexual acts in private between consenting male adults remain criminalized and punishable by imprisonment and hard labour. Such laws have been vigorously defended by the government. Amnesty International believes that the retention of laws which treat people who are homosexual as criminals lends support to a climate of prejudice in which discrimination, physical attacks and other abuses are likely to occur.

Anti-sodomy laws have also resulted in AIDS awareness workers being detained and ill-treated on suspicion of promoting homosexual relations. On 5 May 2000, a nurse was detained while distributing condoms to sex workers in Jamaica, despite carrying identification authorizing him to carry out his work. He was held by police for nine hours, denied access to his family or to a lawyer, interrogated and verbally abused before being released without charge.

#### **Arbitrary detention**

Citizens continue to be arrested and detained arbitrarily, in violation of international human rights law and standards, despite a commitment from the Commissioner of Police in 1997 to address the problem.

In January 2001, four men were detained in Constant Spring Police Station for three days, allegedly for an identification parade. Throughout their detention they were refused access to relatives and proper food, and were not informed of their right to legal assistance. All the men were subsequently released without charge.

#### **Arbitrary detention, ill-treatment and alleged disappearance of homeless people in Montego Bay**

An estimated 32 homeless people, many frail and with mental health problems, were arbitrarily detained, tied with rope and forcibly *taken in a government truck with police escort from the centre of Montego Bay to a deserted area 60 miles away* on July 15 1999. *Some people were subsequent pepper-sprayed, including a 67 year old woman, suffering from chronic schizophrenia.*

*Two individuals allegedly "disappeared". Known to have been*

amongst those removed, they have not been seen since the removal. In a subsequent Commission of Inquiry, evidence was given about the discovery of unidentified bodies in locations which were reasonably close to the area where the victims were left. One man testified to finding the body of a man in a storage bin on 23 October 1999 near the site. No mention was made of these findings in the Commission's written report. Tests were not undertaken to identify the bodies found.

Amnesty International is seriously concerned that the Commission of Inquiry's failed to investigate properly and report on the incident, including allegations of disappearances - a serious crime under international law.

**What is disappearance?**

The *Inter-American Declaration on the Forced Disappearance of Persons* defines forced disappearance as the act of depriving a person or persons of his or their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees.

The *Inter-American Declaration on the Forced Disappearance of Persons* calls on states parties not to tolerate the forced "disappearance" of persons, to punish within their jurisdictions those persons who commit or attempt to commit the crime of forced "disappearance" of persons and their accomplices and accessories, in a manner commensurate with the gravity of the practice.

After initially refusing, the Prime Minister eventually convened an inquiry however following public pressure. The Commission heard evidence from 73 witnesses during two months. Police officers and others public officials failed to co-operate fully with the inquiry and police investigations.

The inquiry's recommendations included compensation packages for identified victims and retraining of the security forces. However no recommendations have so far been implemented and the government has

*refused requests to debate the report.*

*The Commission failed to establish all those who participated in and ordered the removal and the identity of the victims. The Commissioners were criticised for failing to fully implement statutory powers to overcome the “code of silence” from police officers and others testifying. Charges against one police officer in connection with the forced removal were formally dropped by the DPP on 24 May 2000, in exchange for his testimony at the Commission of Inquiry. The charges had not been formally reinstated at the time of writing. The trials of another policewoman and two other council employees – previously adjourned – were still pending at the time of writing. No other charges have yet been brought, although the DPP stated in January 2001 that this may be possible. No disciplinary charges have been brought and an internal police administrative inquiry is still on-going.*

### **Conditions in police lock-ups**

Conditions in police lock-ups in Jamaica often amount to cruel, inhuman and degrading treatment.

In October 1992, three men suffocated to death after being held with 16 others for three days in a cell measuring 8 by 7 feet in Constant Spring Lock-up. The deaths led to attempts at reform. In 1998, the Commissioner of Police directed that lock-ups should contain no more detainees than they were designed to hold and that police should relieve overcrowding through granting bail. However, the proposed reforms have not reportedly been implemented and conditions continue to fall well below international minimum standards, placing some detainees at risk of death or physical injury.

Police lock-ups are severely over-crowded. Reports indicate that they frequently operate at three times capacity or more, with between 11 and 14 people held in cells typically measuring 8 by 10 feet. Detainees frequently have no access to bedding and are forced to sleep on newspaper, and are denied adequate food, water and sanitation.

In September 2000, an Amnesty International delegation visited Hunts Bay police station, Kingston. The lock-up was originally built for 28, but held 99 on the day of the visit. At least eight people were held in cells designed for two, forcing detainees to sleep in shifts and preventing them from moving about, sitting or lying down freely. The detainees were held in complete darkness in cells without sanitation. Detainees were denied access to medical attention and adequate food.

One man, detained in Withorn Police Station in May 2000, described having problems breathing as a result of the poor ventilation and heat within the cell. The cell had just two small air vents - one in the door and one in the back of the wall. It held seven men, despite being designed for two and measured seven feet by nine. Detainees were held in darkness in a cell covered in urine and infested by cockroaches, mosquitoes and red ants. Detainees had no access to mattresses and took turns sleeping on the concrete floor. Food and bathing facilities were also inadequate.

### **Failure of the law to protect suspects in police custody**

Reports of abuses have continued despite the introduction of laws to ensure greater protection for detainees in custody.

The Judicature (Resident Magistrates) Act, passed following the deaths in Constant Spring lock-up, requires magistrates to review on a weekly basis the status of all those in police custody. Each Parish also has a designated custody officer to inform magistrates and detainees' relatives about who is in custody. The Legal Aid Act 1997, implemented on 1 May 2000, provides that interrogation and identity parades may not start in the absence of legal representation. Detainees have the right to legal assistance at all stages from the time of detention or arrest until the first appearance in court, and have to be informed of this right.

Amnesty International welcomes these measures. However, Jamaican law still does not prescribe time limits to ensure that individuals are promptly informed of the reason for their arrest and detention and brought before a judicial authority. Both the Inter-American Commission on Human Rights and the Human Rights Committee have ruled that detention without being brought before a judge of between 48 hours and a week is excessively long.<sup>5</sup>

Another crucial mechanism to prevent torture and ill-treatment is the keeping of accurate written records of those in custody. Yet according to informed sources, the practice is not systematic in Jamaica, despite the appointment of special officers to oversee custody.<sup>6</sup>

### **VIOLATIONS BY THE SECURITY FORCES DURING EMERGENCY MEASURES**

In the last few years, the government has once again resorted to deploying troops with police in joint civilian law enforcement operations, on grounds of maintaining national security and fighting crime. Many critics, including high-ranking police officers, have condemned the practice of deploying the army in a civilian law enforcement role.

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<sup>5</sup> Report of the HRC, vol. 1, (A/45/40), 1990, para. 333, Federal Republic of Germany; *Brogan et al v. United Kingdom*, 29 November 1988, 145b Ser. A33 at 62.

<sup>6</sup> Source: Interview with Executive Director, Legal Aid Council, February 2001.

In July 1999, the government established “Operation Intrepid” in 15 areas of Kingston. The operation authorized the imposition of a wide variety of measures, including dawn-to-dusk curfews, cordons and roadblocks, and spot searches. By April 2000 there had been a total of 5,934 road blocks, 10,824 joint army/police foot patrols, 5,409 joint mobile patrols, 3,242 snap raids, 213 cordon and searches and 105 curfews imposed. The newly appointed head of the Crime Management Unit announced in September 2000 that such measures would be intensified.

Human rights organizations, lawyers and others have reported patterns of harassment and ill-treatment of individuals, predominantly young black men, by members of the security forces during curfews, searches and other emergency measures. Reported abuses include beatings, threats of violence and detention without charge for periods ranging from hours to days. Residents in many areas describe conditions of constant fear and intimidation at the hands of the security forces.

Members of the Jamaica Defence Force have also been implicated in human rights violations against prisoners. In May 2000, disturbances in St. Catherine’s District prison culminated in a mass beating of an estimated 300 prisoners by soldiers over a three-day period, during which at least two inmates were shot. Soldiers allegedly used batons, rifles, base ball bats, irons and electrical wire to inflict injuries that included fractured skulls and limbs. There were also allegations of attempted asphyxiation. Many of those injured were denied medical attention for days after the incident until the intervention of the prison doctor. After a Commission of Inquiry was established to look into these incidents, Amnesty International received further reports that several inmates who testified at the inquiry were subjected to serious retaliatory violence by soldiers who had remained in their posts pending the outcome of investigations.

In September 2000, soldiers allegedly raped and sexually assaulted a number of female prisoners in Fort Augusta Prison, after 24 soldiers were assigned to the prison to replace warders. A number of the women allegedly became pregnant as a result.

### **Illegal detention**

On 28 July 1999, 52 men were illegally searched and falsely imprisoned in a joint police and military operation in Grants Town, Kingston. The men were made to sit on the hot metal floor of an army truck for at least two hours, before being taken to Constant Springs police station. At the police station, the men, including one who was a diabetic and therefore needed food to regulate his condition, were denied food and water. All were released six and a half hours later without charge.

***Michael Gayle***

Michael Gayle, a young mentally ill man, was beaten to the point of death by at least 14 members of the security forces -- soldiers and police -- on 21 August 1999. He was detained at a road-block in Kingston following the imposition of a curfew in Olympic Gardens. Nearly two years later, the authorities have yet to charge or discipline anyone in connection with the killing.

According to Michael Gayle's account of the incident, given before he died two days later, police and army officers had attacked him, kicking him in the back and hitting him with batons and gun butts, after he was refused permission to cross the security barrier. An inquest jury in December 1999 returned a verdict of manslaughter, finding that Gayle was "excessively beaten by joint security forces" and recommending that all army and police personnel manning the roadblock that night be charged.

On 14 March 2000, the DPP announced that he did not intend to file charges against any of the security officers present at the roadblock on the grounds that, based on the available evidence, he was unable to identify or bring a charge against those individuals who caused the death. The investigation was subsequently reopened after a request from the Minister for National Security and Justice to the Commissioner of Police. In a statement to parliament on 14 March 2000 the Minister stated that: "whatever the legal niceties are, the public dissatisfaction is real". The DPP was unable to give an estimate of when the investigations would be completed and it is further understood that the reopened police inquiry recommended closure of the case, due to lack of evidence.

**INVESTIGATION AND PROSECUTION OF ABUSES**

The authorities in Jamaica have consistently failed to hold to account those responsible for human rights violations. The vast majority of incidents are not investigated promptly, thoroughly and impartially as required by international standards. Although there are well-developed institutional mechanisms to investigate alleged abuses, these are not working in practice.

### **International standards on investigations**

#### **Deaths**

International standards, including Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, provide that when there is a death in disputed circumstances involving the use of force by law enforcement officials, authorities are required to initiate an independent and impartial investigation.

Investigations should examine, among other things, whether the use of force by law enforcement officials was in accordance with the (UN) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

The purpose of such investigations is to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. Investigations must include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses.

#### **Human rights abuses**

International human rights standards provide that governments are to maintain investigative offices to undertake inquiries into allegations of human rights abuse. Investigators must have all the necessary budgetary and technical resources for effective investigation, and must be granted with the authority to obtain all the information necessary to the inquiry, to oblige officials allegedly involved and witnesses to appear and testify, and to demand the production of evidence.

Written reports on the methods and findings of such investigations should be made within a reasonable period of time. The report should be made public immediately and should include the scope of the inquiry, procedures and methods used to evaluate evidence, as well as conclusions and recommendations based on findings of fact and on applicable law. Those responsible are to be brought to justice and victims, their families and dependents granted fair and adequate compensation within a reasonable period of time.

### **Internal investigations into police misconduct**

Two units within the JCF are responsible for investigating alleged abuses by the police -- the Bureau of Special Investigations and the Complaints Division within the Office of Professional Responsibility. Both are accountable to the Commissioner of Police. Members of the public may deposit complaints with either unit, or with the civilian oversight body, the Police Public Complaints Authority (PPCA). Their completed reports are sent to the Director of Public Prosecutions, for a ruling on whether criminal or disciplinary proceedings, or a coroner's inquest, should follow.

### **Bureau of Special Investigations**

The Bureau of Special Investigations (BSI) was established in July 1999 with the intention of taking over investigations of all police shootings from the Office of Professional Responsibility. Headed by the Deputy Commissioner of Police, its officers are intended to work under the close supervision of the Director of Public Prosecutions (DPP).

Government authorities and the DPP maintain that the speed and quality of investigations has improved since the BSI was established. Amnesty International welcomes

efforts to improve the quality of investigations into police shootings. However, investigations are still inadequate in many respects, failing to comply with international standards.

Incidents are not investigated promptly, impartially and thoroughly. It is common for police investigators to arrive at the scene of a shooting after considerable delays -- of hours, days or even weeks. Investigators do not always undertake thorough examinations at the scenes of shooting. For example, investigators did not arrive at the scene of the shooting of William Richards in September 2000 for nearly 12 hours. As a result, investigators were unable to collect crucial forensic and ballistic evidence. In the case of Delroy Lewis in September 1999, it was reported that investigators only arrived at the scene after one week. During their visit, they failed to view the part of the property where the shooting was alleged to have taken place.

The head of the BSI has told Amnesty International that lack of resources, including under-staffing, is a major factor impeding an adequate response to the volume of complaints received.

### **Office of Professional Responsibility**

Complaints of police misconduct other than shootings are investigated by the Complaints Division, a unit within the Office of Professional Responsibility.

This unit has been repeatedly criticised by human rights organizations, lawyers and others as lacking impartiality and thoroughness. Public confidence in the complaints process is further undermined by the secrecy of police investigations. Amnesty International has been told by many individuals that investigators had attempted to intimidate them to prevent deposition of complaints. Others have complained that the Office of Professional Responsibility failed to follow procedures in responding to serious complaints.

Police investigators frequently lack the specialist training and resources necessary to undertake adequate investigations. For example, the officer leading the police investigation into the death of Michael Gayle had been in the JCF for 19 years but had no formal training as a detective. The two police constables assisting him in his investigations had also not received any training in detective work.

### **Independent civilian oversight: the Police Public Complaints Authority**

The Police Public Complaints Authority (PPCA) is an independent civilian monitoring body, with final oversight responsibility for the investigation of complaints against the police. Established by law in 1993, it is headed by a retired Judge, assisted by a staff of civilian personnel. Its responsibilities include supervising, reviewing and reporting on investigations by the JCF into all complaints regarding death or serious injury, and others as appropriate. It is also empowered to initiate its own investigations. Any complaint made to the police

complaints division must by law be copied to the PPCA.

However, there remains a lack of public confidence in the credibility, independence and transparency of the PPCA, and a widespread belief that the PPCA lacks the political will necessary to confront and challenge impunity. In a period which saw more than 150 fatal police shootings, the major concern cited by the PPCA in its last published Annual Report was the non-return of detainees' property.

Disciplinary and criminal proceedings against officers alleged to have committed abuses are frequently hampered through a lack of evidence, with officers unwilling to provide information. The PPCA has stated that a major factor preventing the full and thorough investigation and supervision of complaints is the failure by police who are the subject of complaints to respond promptly to requests for information from the PPCA. Nevertheless, the Chairperson of the PPCA informed Amnesty International that the PPCA's powers to search premises or review documents are rarely deployed and that independent investigations are rarely initiated. He also stated that he was generally satisfied with the quality of police investigations.

The PPCA chairman stated in an interview with Amnesty International that he did not consider it appropriate or possible to hold the Jamaican police accountable to the same standards as other countries, due to the high level of gun-related crime in the country. Amnesty International is deeply concerned that this suggests that the PPCA is not fully committed to ensuring that internationally agreed minimum standards are adhered to Jamaica.

Despite the fact that soldiers have been implicated in many serious human rights violations in the context of joint police-army operations, the PPCA has no remit to oversee investigations of complaints against soldiers. The office also suffers from under-resourcing. The PPCA is staffed by just four investigators for the whole country. The Chairperson acknowledged that in practice it is difficult for those outside the areas of Kingston and Montego Bay, where PPCA offices are located, to report complaints.

### **Autopsies and obstruction at post-mortems**

One of the major factors prolonging impunity is the inadequacy of forensic investigation into deaths at the hands of the security forces. International standards provide that investigations must include an adequate autopsy, as well as collection and analysis of all physical and documentary evidence and statements from witnesses. Standards governing autopsies into cases of deaths through gunshots are even more specific and detailed. In Jamaica, autopsies frequently fail to conform to an even minimal degree to international standards.

A forensic expert, Professor Derrick Pounder, reviewed a series of autopsy reports undertaken by state pathologists where there had been disputed accounts of fatal shootings. In each case he concluded that the autopsies, "did not constitute autopsies in the normally

understood sense of the word”, and failed to reach internationally accepted standards for best practice. Every autopsy report lacked basic, essential data. In some cases, the cause of death was not even stated. The autopsy of Sylvester Wint stated only that the body was discovered “lying on the ground suffering from a gunshot wound”, with no further information on injuries. In another, that of Rasheed Williams, the pathologist failed to fully open the skull, despite the fact that he was shot in the head.

In many cases, such as that of Matthew Mullins, vital forensic evidence -- clothing -- has been discarded after the autopsy, thus preventing its use for forensic examination.

International standards state that the family of the deceased has the right to insist that a medical or other qualified representative be present at the autopsy. Administrative procedures regarding autopsies were reformed in October 1999, following the outcry over the killing of Michael Gayle and attempts by the state pathologist to prevent an independent pathologist observing his autopsy. Despite this change, state pathologists have continued to refuse relatives or their representatives full access to autopsies. Independent forensic observers have reportedly been prevented from viewing the body during the examination, from asking questions and from taking notes.

In an interview with Amnesty International in August 2000, the DPP stated that he considered the quality of forensic and ballistics evidence to be satisfactory. He also stated that whilst many inadequately detailed post mortem reports had been received prior to the establishment of the BSI, no files had been returned for lack of forensic evidence since its inception.

### **Inquests**

The UN Human Rights Committee has noted that not all cases of deaths at the hands of police or security forces in Jamaica are subject to a coroner’s inquest. It recommended that all such deaths be investigated. (As in other countries with similar legal systems, the main function of the inquest system in Jamaica is to inquire into the circumstances and determine the cause of sudden or unnatural deaths which are not the subject of criminal proceedings.)

Under Jamaican law, coroners have discretion in deciding whether to hold an inquest. In practice, these are often only held following sustained public pressure.

When inquests into police killings are held, they are often subject to frequent adjournments and delays. There is a general shortage of coroners and some have failed to turn up on the appointed day.

The relatives of the deceased have no right to legal representation at the inquest and there is no system of legal aid provision for families to obtain representation. Given the quasi-legal status of inquests, they are often therefore placed at a disadvantage.

*Amnesty International has also received recent reports that in a number of cases, such as the inquest into the death of Rasheed Williams in March 2001, witnesses have been intimidated into refraining from giving evidence at coroner's inquests. In the case of Williams, the witness was reported to have withdrawn after police reportedly visited his house several times.*

**Avoiding accountability: covering-up evidence**

In many cases of alleged police abuses, accounts are disputed or there are no independent witnesses. Cases often rest on the word of the victim or witnesses against that of the accused officer. Efforts to cover-up abuses, and the "code of silence" that prevents officers testifying against each other, are major barriers to overcoming impunity.

Members of the security forces have frequently resisted giving evidence at inquiries. At the inquest in December 1999 into the death of Michael Gayle for example, the Jamaican Defence Force (JDF) refused to make available statements that could have aided the police inquiries.

There are several other means by which police cover up abuses. These include forcibly preventing individuals from viewing incidents; intimidation and death threats; charging the victim, or potential witnesses, with offences such as possession of narcotics or firearms or assault; failing to report misconduct and filing false or incomplete reports (commonly by claiming that fatal shootings occurred in the context of shoot-outs); and contaminating forensic evidence.

Amnesty International has received consistent reports that police officers implicated in shootings have removed or interfered with vital forensic and ballistics evidence. Evidence taken from hand swabs which detect if someone has fired a gun is particularly crucial, given the number of disputed allegations by the police that victims were involved in shoot-outs.

Bodies of deceased victims are handled and removed immediately after the shooting took place by the police officers involved, before the arrival of forensic practitioners. Bodies are not normally stored in body bags, a standard procedure to prevent the body being contaminated with substances that could interfere with the forensic evidence. One man described seeing the body of relative stacked on top of a pile of other naked bodies in a mortuary.

Reports also indicate that ammunition shells are removed and disposed of by police

officers, in contravention of international standards. Interference with ballistics evidence also contravenes domestic policy, which provides that every piece of ammunition used and every use of a firearm must be immediately accounted for to superior officers, registered and reported. In several cases, the police have ransacked properties after a shooting has taken place, disturbing crucial forensic evidence.

### **Threats, intimidation and torture of witnesses, relatives and attorneys**

Law enforcement officers have harassed and intimidated victims, relatives of victims, lawyers and witnesses, in an attempt to prevent them making official complaints or testifying at inquiries. For example, in June 2000, eyewitnesses reportedly received death threats from police officers following the fatal shootings of Quwame Pickering and Danville Patterson in Craig Town.

Witnesses testifying against the police have not received adequate state protection. The Witness Protection Programme is administered by the police. In September 2000, personal information on a individual in the programme was reportedly leaked to police officers under investigation for drug offences. A police officer reportedly visited the individual's house and that of his relatives and made death threats.

Lawyers representing victims of alleged abuses and human rights activists have also been targeted for threats and intimidation. The national human rights organization Jamaicans for Justice reported receiving a number of death threats following the killing of seven men in Braeton on 14 March 2001. Over three days in June 2000, Dr. Carolyn Gomes, its Director, received death threats by phone. Jamaicans for Justice has also reported surveillance of their work, including through wire-tapping and police infiltration of meetings. Following the killing of Sylvester Wint in 2000, high-ranking police officers allegedly criticised Jamaicans for Justice in a press conference, accusing them of politically motivated involvement in the shooting. A journalist who had queried political involvement behind the shootings also reportedly had a gun placed through his window the next day and was threatened. Attorney Dahlia Allen left Jamaica in August 2000 after alleging intimidation and harassment, including death threats. She had represented a number of those ill-treated by the police in Montego Bay in June 1999, as well as prisoners allegedly ill-treated during the course of disturbances in St. Catherine's prison in May 2000.

In May 2000, the Minister for National Security and Justice suggested that human rights organizations were "human rights wimps" who cared little for officers killed in the line of duty. The Chairman of the Police Federation also made allegations suggesting links between a national human rights organization and armed criminals. Such comments are conducive to a climate of disrespect for human rights and may further encourage harassment of human rights defenders and undermine freedom of expression.

### **Secrecy of investigations**

Public confidence is further undermined by the secrecy of police internal investigations and civilian oversight processes. This lack of transparency was criticized in 1997 by the UN Human Rights Committee for breaching international standards which stress that families are to have access to hearings and all other information relating to investigations, the results of which must be made public.

In October 1999 the Constabulary Communications Network (CNN) was established as a public information service for the JCF, providing certain data on demand, such as the numbers of fatal police shootings and of police officers killed. However, complainants and their lawyers have continued to report extensive difficulties in obtaining information about the status and outcome of police investigations. The authorities have likewise frequently failed to respond to Amnesty International's requests for information about the outcome of investigations.

In some cases, police have even refused to confirm whether a casualty was alive or dead. In one case, a mother had to be informed of the death of her son in a fatal police shooting by hospital staff, after police refused to confirm or deny reports.

The legislative framework governing investigations is a further disincentive to openness. Under the Police Public Complaints Authority Act for example, the PPCA may -- and generally does -- withhold interim reports if an investigating officer considers it might "adversely affect the investigation of the complaint".

Other investigative and prosecutorial bodies are also failing to provide adequate information. In an interview with Amnesty International, the DPP was unable to provide information on prosecutions of police officers. The PPCA does not publish regular, detailed information regarding its activities or the quality of police investigations. It has only published one annual report since its inception, and that provided very little relevant information about disputed killings. In August 2000, the PPCA was unable to provide Amnesty International with current statistics detailing the time normally taken to dispose of complaints.

### **Failure to discipline and prosecute**

Successful prosecutions of police officers and soldiers invoked in human rights violations are reported extremely rarely, despite the range of laws punishing offences from assault to murder, and despite the fact that, every year, hundreds of successful civil actions result in costly payouts to families. Writs are filed at a rate of approximately 10 to 12 per week, although proceedings are often lengthy, with victims waiting years to receive compensation. Disciplining is also rare, despite the fact that both the JCF and the JDF provide disciplinary punishments for officers who commit abuses or who fail to report misconduct.

Prosecutions of police and army officers alleged to have committed abuses are clearly hampered by the inadequacies of investigations. They are also hampered by long trial delays which may lead to witnesses forgetting evidence or becoming unavailable, and the loss or destruction of other evidence. In several cases, police officers charged in connection with killings have absconded.

Disciplining of officers who have committed abuses is also hampered by a lack of clear chain of command accountability within the JCF. The majority of complaints about human rights abuses within the JCF are against lower-ranking officers and the JCF has itself acknowledged the need to improving the supervision of lower ranking-officers.

## **CONCLUSION: LIVING WITH POLICE VIOLENCE TOO LONG**

The loss of life at the hands of the Jamaican Constabulary Force (JCF) borders on a human rights emergency. Urgent action is needed to ensure that law enforcement officials do not use lethal force except when strictly unavoidable in order to protect life. They should be made fully aware of their right and duty to disobey orders which might result in serious human rights violations.

Changing the climate of impunity which encourages continuing police violence is an immediate priority. The Jamaican government should ensure that those responsible for extrajudicial executions, torture and other human rights abuses are brought to justice. This means that all complaints and reports of extrajudicial executions and torture must be investigated promptly, impartially and effectively. Government officials have told Amnesty International that the system of investigation into possible police misconduct is autonomous and that it would therefore be wrong to “interfere” with the process. This line of reasoning ignores the fact that the government is responsible for ensuring that the police are held accountable and that justice is served.

The government must invest the resources and demonstrate the will to improve the timeliness and quality of investigations into abuses by the police. The authorities should ensure the effective protection of witnesses, victims’ relatives, lawyers and human rights defenders from death threats and other forms of intimidation. Investigations into killings must include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. Those undertaking autopsies should be experts in forensic pathology. Relatives of the deceased should be entitled to appoint their own doctor to carry out an autopsy or to have full access to observe the autopsy on their behalf. Relatives should be allowed to view the body of the deceased.

The Jamaican government should make clear its total opposition to extrajudicial executions, torture and other human rights violations by the police and security forces, and its determination to ensure that any officers that commit violations are brought to justice. It should demonstrate its seriousness by ratifying the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and by ensuring an end to incommunicado detention. Information on the arrest or detention of any detainee must be made available to relatives, lawyers and the courts.

Amnesty International believes that the problems of lack of public trust in the police and the JCF’s inability to prevent violent crime are closely related. The authorities repeated calls for the public to aid the police will not be heeded if the police continue to beat and kill with impunity. For the sake of the people of Jamaica, Amnesty International calls on the government to implement the following 10-point Human Rights Action Plan.

## ***Human Rights Action Plan against Torture in***

## **Jamaica**

- ⇒ *Law enforcement officials should not use lethal force except when strictly unavoidable in order to protect life. They should be aware of their right and duty to refuse to obey any order, to participate in an extrajudicial execution or act of torture.*
- ⇒ *Jamaica's highest authorities should demonstrate their absolute opposition to extrajudicial executions, torture and ill-treatment committed by the security forces.*
- ⇒ *All allegations of human rights violations by members of the security forces should be investigated fully, promptly, impartially.*
- ⇒ *The Jamaican government should ensure the effective protection, from death threats and other forms of intimidation, of all those involved in investigations or other proceedings against those alleged to have committed HRVs, including victims, their relatives, witnesses, police officers or soldiers, lawyers and human rights defenders.*
- ⇒ *The Jamaican government should ensure that those responsible for extrajudicial executions, torture and other human rights abuses are brought to justice*
- ⇒ *Autopsy reports should conform to international standards, including those where the manner of death was by shooting. They should be full, detailed, clear, comprehensible and objective.*

Relatives, or doctors appointed by relatives, should be granted full access to observe autopsies.

- ⇒ The practice of incommunicado detention should be ended. Accurate information on the arrest or detention of any detainee must be made immediately available to families, lawyers and the courts. All detainees must be informed of their right of and given access to legal representation. No interrogations should take place without the presence of a lawyer.
- ⇒ Children in police custody should be provided with adequate safeguards in accordance with international standards. Children should be separated from adults.
- ⇒ It should be made clear during the training of all officials that deliberate and unlawful killings and torture are criminal acts. Training for both soldiers and police should conform with international standards and be strictly enforced.
- ⇒ The government should ratify without reservations international treaties containing safeguards against torture, including the Convention Against Torture and Other, Cruel, Inhuman and Degrading Treatment or Punishment. It should comply with all rulings of international bodies.