

NIA

National Integrity Action

ST. ANDREW JUSTICES OF THE PEACE MAGISTRATES ASSOCIATION QUARTERLY MEETING
POLICE OFFICERS CLUB, HOPE ROAD, KINGSTON 6, JAMAICA

SEPTEMBER 27, 2014

GUEST PRESENTATION BY PROFESSOR TREVOR MUNROE, EXECUTIVE DIRECTOR,
NATIONAL INTEGRITY ACTION; HONOURARY VISITING PROFESSOR, SIR ARTHUR LEWIS
INSTITUTE (SALISES), UWI MONA

May I first of all thank Custos Marigold Harding for the kind invitation to be your guest speaker this morning, at this quarterly meeting of the St. Andrew Justices of the Peace and Lay Magistrates Association.

I am thankful not least of all because it provides me with an opportunity to express gratitude, too often not forthcoming, on behalf of the public for the services you perform as Justices of the Peace and as Lay Magistrates. Many of these services are simple but essential to the community and to members of the community – certifying a passport photograph, providing a reference to open a bank account, or authenticating a document. You really don't know how important these are, until, for example, you need a photograph to be urgently certified and a JP cannot be located. And, by the way, should there not be an easier way to find out who is the JP nearest you? When we do find you, and you sign the passport photograph, we often don't say thanks. Today, I would like to make up for that bad behaviour.

More importantly, I want to share with you some thoughts on the critical **role of the JP and the lay magistrate in strengthening Jamaica's Justice System**

(PLEASE CHECK AGAINST DELIVERY)

May I begin with this observation: there is an insufficient appreciation amongst our people and perhaps amongst some JPs themselves that you are not only a servant of the community, important as that is, you are technically, a “judicial public officer”, albeit a voluntary one; our citizens often do not realise and new to be made aware that all JPs undergo qualifying training and many specialised training and that the JP is an officer that “is significant in the system of administration of justice in Jamaica”, in children’s courts for example, and in the drug courts. As such, the rules and regulations appointing you require the Governor General to be satisfied that each of you “is of unquestionable integrity... commands the respect and confidence of [your] community, has given good service to the community and the wider Jamaica and demonstrates the potential for continuing to so serve” (Jamaica Gazette Supplement, Dec. 14, 2006). I urge each and every one of you, JPs and Lay Magistrates of St Andrew, to live up to these special qualities and to uphold these high standards.

However, as is too often the case in almost every calling, there will be a few bad eggs and in such circumstances, the reputation of the good will invariably suffer for the bad. May I therefore urge you to identify any bad eggs amongst you and separate them from your ranks. Please recall your oath “to do right to all manner of people”, not just to some, maybe friends and company, and leave out others; to fulfil your responsibilities without fear or favour neither with timidity nor trepidation; most of all, recall your obligation to avoid behaviour that may “bring the administration of justice into disrepute.”

Custos, I am confident that when a complaint comes to you that suggests violation of these requirements, you shall institute the necessary inquiry and as the rules indicate, recommend revocation when the facts so justify.

Decisive action in this regard is one important contribution to maintaining peoples' confidence in our justice system, which - with all its flaws - is trusted more than many other key institutions of governance in Jamaica: more than the parliament, more than the police, more than the political parties. [LAPOP 2012, pg. 129; GCB 2013 page 36]. You must do everything, as JP's and as Lay Magistrates, to contribute to this trust, to sustain and to enhance this confidence in the system as a whole. By the way, this is not just an achievement in terms of the confidence in the Justice system amongst Jamaican institutions. **Outside of Jamaica, in global terms, you and our people should know that Jamaica's Justice System, in particular the independence of the judiciary, is ranked in the top one-third (1/3) of 144 countries worldwide [GCR 2014-2015].** This is no cause for complacency, nor for self-congratulation, but simply to give due respect and recognition in the midst of too much negativism, to acknowledge that all is not bad and that in fact we rank very highly on some indicators, including – may I say in passing – such as freedom of the press and on social wellbeing, where, believe it or not, we are ahead of the United States (Social Progress Index 2014).

Having said this, of course there is much room for a great deal of improvement and in that improvement you the JP here in St Andrew and across the Island, each has a critical role to play. Take one question, recently and justifiably very much in the news – the question of lockups. In this regard, you know better than I what your responsibilities are but many of our citizens do not. So allow me to remind and to indicate what the official guidelines (Appendix A to Force Orders 3237 dated 2009-06-18) stipulate: **Visiting Committees of Justices of the Peace are “authorised to enter any police station in the parish in which they are appointed to... interview any prisoner alone or in the presence of a member of the force... to record any complaints... to inspect lockups... and report on their suitability in respect of i) comfort, ii) hygiene, iii) general conditions... observe and assess the state of the building**

housing the lockups and bring to the notice of the divisional officer, the Custos, the Commissioner of Police and the Minister of National Security, any repairs, alterations, additions, etc. which may appear necessary.” I remind you that each of the nation’s seventy (70) “lockups should be visited at least once each week... prearranged with the police, or if considered necessary, without notice.”

In light of recent events concerning the brutal, gratuitous death of Mario Deane and heightened public concerns regarding the state of our lockups, this responsibility assumes even greater importance. Moreover Jamaica s Charter of Fundamental Rights and Freedoms states that *Any person deprived of his liberty shall be treated humanely and with respect for the inherent dignity of the person* (14)(5). Visits to lock-ups by our JPs not only are therefore of importance not only in responding to public outcry but, potentially, play a critical role in upholding a fundamental constitutional right of the citizen. In enhancing your contribution to strengthening Jamaica s justice system, I urge you as members of Visiting Committees to accord this responsibility number 1 priority. And ensure that your reports set out the truth, the whole truth and nothing but the truth about the state of the lock-up and those detained therein.

Of course, I am aware that the guidelines state that reports “should remain confidential and should not be released to the public under any condition.” Those guidelines were established in 1993; the Access to Information Act, acknowledging that transparency and accountability are essential to Jamaica’s democratic governance, was passed in 2002. I suggest that in today’s circumstances, freedom of information must supersede confidentiality in a matter such as this. The public needs to know, from your duly authorised reports, what is going on; the light of day must shine into these dark cells of detention in which Jamaicans, not convicted of any crime, are being held.

Of course, even when you perform your duty, according to oath, without fear or favour, other elements in the system must also be called on to play their part in order to better uphold justice .

- For one, successive Governments, often with the tacit support of successive electorates, habitually under-resource the justice system. Take the 2013-2014 budget; I will give any of you a prize if you can guess the percentage of the budget allocated to the Ministry of Justice. It was 0.9%, and that was almost 300 million more than the allocation for the previous period (ESSJ 2013, Chapter 24.1)
- Next, take successive reviews of our performance under the IMF programme. It is good that we are passing these tests, but transparency requires that we need to know more - at what expense? at what cost? Each review which we pass is accompanied by revenue shortfall, requiring expenditure to be cut in order to meet agreed targets. **Between April and July 2014, for example, \$7.7 Billion was - for this reason - cut from budgeted expenditure. The public needs to know, cut from which specific programmes and from what capital items were these cuts made? The public's watchdog, the co-chairman of the EPOC, needs to report on this- from what budgeted line items are expenditure reductions being made when he gives his regular review. And, we have to insist that those cuts do not touch the miniscule budget of the Ministry of Justice , some critical tiny, but essential, allocations in the Ministry of National Security (and of course, with the dreaded chick-v flying around, relevant allocations to elements of the Health Ministry) _ these should not be cut.** I'll give you an example; the 2013-2014 the revised estimates of expenditure tell us that \$214.2 Million was spent on the administration of 70 lockups in Jamaica and the Jury process in Kingston and St. Andrew. The estimates for 2014-2015 are \$151.3 Million. Can we justify further cuts in

a line item such as this, especially when of the \$151.3 Million allocated; \$135.2 Million is for compensation of employees and expect our lock-ups to be properly maintained and our jury system to function adequately?

- Then there is the work many of you do in the courts as Lay Magistrates. This is important work, fully appreciated seven (7) years ago in the report of the Justice Reform Task Force, chaired by the late Professor Barry Chevannes and including representatives of all elements in the Justice System, the Private Sector and Civil Society. That report referred to your function as Lay Magistrates as playing “an important and singular role within the Jamaican legal system” (page 208). In this context, it referred to your role in the Petty Sessions Courts. **But there is absolutely nothing petty about these courts, your role in these courts- nor indeed there anything petty about any aspect of the justice system. Hence the Task Force recommended that the term ‘Petty Sessions’ be abolished and the court be re-designated the ‘Lay Magistrates’ Court’. Such a re-designation costs little or no money - The time has come, indeed has long passed, for this to be done.** I would hate to believe that the IMF has to demand it as a structural benchmark before we implement it and make a change good for all of us!! So let s get it done!

There is one other matter I wish to share with you on this occasion. Jamaica’s New National Security Policy – **Towards a Secure and Prosperous Nation** was laid in Parliament in April 2014 by the Hon. Prime Minister .**That policy identified “high-probability, high impact, Tier-1 clear and present dangers” to the nation’s security. Amongst there are: Corruption of elected and public officials; public works contracts awarded to criminals; and corruption in the institutions of state” including in the Justice System.** I

suggest that each and every citizen – and you more so, as an important part of that Justice System – has a critical role in defeating this danger, a defeat of that is requiring enhanced investigative capacity, such as is contemplated in the ‘new MOCA’, modernised judicial arrangements, such as is contemplated in the Criminal Case Management System, sentencing guidelines, a judicial code of conduct, a strengthened Justice Training Institute and very importantly, legislation to plug loopholes in our current anti-corruption arrangements. In that regard, I bring to your attention and encourage your advocacy and support, alongside NIA, of three pieces of legislation, long-pending and now imminent.

- **Amendments to the Representation of the Peoples Act to provide for the registration, regulation and funding of political parties. Political parties, however imperfect, are now indispensable, vital institutions to democratic governance, in Jamaica and elsewhere,. They can no longer have the legal status of a private club; but, since the party, as government, exercise public power, they must become statute-based, regulated and accountable to public regulation as happens in democracies all across the world.**
- **A Single Anti-Corruption Agency now designated the Integrity Commission. Amongst other things, this bill provides for a Director of Corruption Prosecutions with power to prosecute the corrupt-accused, thereby relieving the Office of the Director of Public Prosecutions of this responsibility given their onerous workload.**
- **Campaign Finance Reform. The imminent bill arising from the recommendation of the Electoral Commission of Jamaica, proposes measures to limit the extent to which the voter s equal power to vote is subverted by the very unequal power of money to subvert the vote and unduly influence elections and public policy**

outcomes in favour of private interests. Caps on how much a party can spend or receive in an election campaign; banning of contributions from unregulated financial organisations; prohibitions of donations from foreign entities are but a few of the necessary arrangements to modernise and regularise campaign financing in Jamaica.

None of these proposed pieces of legislation are perfect but they are a good beginning .These three proposed laws are, let me repeat, critical components in Jamaica’s endeavour to defeat the clear and present danger of continued corruption, to remove impediments to our advance towards becoming “a secure and prosperous nation”. I urge you in your personal capacities as citizens to support, and perhaps even as an association to make private submissions to the Authorities to delay no further in the quick debate and expeditious passage of this legislative package.

May I conclude by once more expressing sincere appreciation for the extraordinary voluntary service that each of you gives to the citizens of St Andrew, for your contribution to strengthening Jamaica s justice system and to urge on you constant striving to live up to that high standard of “unquestionable integrity.”