

NIA

National Integrity Action

NATIONAL INTERGRITY ACTION'S ANTI-CORRUPTION AND FINANCIAL CRIME INVESTIGATORS' TRAINING SEMINAR – "TAKING THE PROFIT OUT OF CRIME"

JANUARY 26, 2015

OPENING REMARKS BY PROFESSOR TREVOR MUNROE, EXECUTIVE DIRECTOR, NATIONAL INTERGRITY ACTION AND VISITING HONORARY PROFESSOR AT S.A.L.I.S.E.S, UNIVERSITY OF THE WEST INDIES, MONA.

May I extend a special welcome to each and every one of you here present, but particularly to the Hon Minister of National Security, Peter Bunting and to the author of our Manual, Dr Shazeeda Ali for being here with us this morning. Min Bunting has taken time off from reviewing Cabinet papers and shall have to leave early to attend the weekly Monday morning meeting. Dr Ali also has taken time off from Faculty of Law responsibilities to be with us at this opening session as well. We appreciate them both for recognizing the importance of this Training Seminar by their presence with us.

For our part in National Integrity Action, quite apart from everything else this is an exercise in practicing what we preach, from applying to ourselves the accountability which Jamaica needs and which we ask of others. I say this because it was a little over 2 years ago, in October 2012, when an NIA Seminar for Investigators Seminar, similar to this one, recommended that the complexity of the POCA was presenting problems of effective utilization and called on NIA to produce a Manual to assist. Well, no doubt a little later than we had hoped, Shazeeda, with

invaluable input from Carolyn Hay produced the Manual; we launched on December 3 and promised to convene this Seminar early this year. So the fulfilment of a commitment is one reason why this seminar is of importance to us.

The other, of course, is that this seminar is intended to contribute to an urgent national and international priority and necessity- the priority and the necessity to take the profit out of crime, to better utilize one of the powerful tools Jamaica's law-makers have put at our disposal, the Proceeds of Crime Act. In this regard, it doesn't take much reflection to imagine how demoralizing it must be to you as Investigators to see, after months, even years of careful investigation, to see assets or cash returned after being seized because of a flaw in the application of the law. And how disheartening for the public to see the headlines- Assets returned- and by the same token how encouraging for the king-pins and their facilitators when an asset forfeiture case falls apart because of mis-steps in the application of the relevant law. On another, even more fundamental level, so long as these instances occur it becomes that more difficult to teach the youth crime does not pay and that honesty is the best policy, cost it what it will.

Of course there are clear signs of improvement, signs which give cause for hope. In 2013, for example, over ten times the number of judicial orders was obtained compared to 2012. Assets forfeited and restrained by the FID increased significantly over the same period. And in September last year, the outgoing Head of FID, Justin Felice, confirmed to the media that there were 20 significant cases under investigation, targeting attorneys, major players in the criminal underworld and other facilitators of public corruption. And this is good; this news is to be welcomed; the Investigators involved must be appreciated and others doing good work must be supported.

Which is why we are here this morning and will be here throughout today and tomorrow- to strategize, with the Manual as our base, how to meet the concrete challenges that you as

investigators in the various agencies are facing here and now and how better, in a an environment short of resources and with facilitators strong on connections in high places, how you can more successfully overcome the attendant challenges. The national and international context which makes our task critical and urgent could hardly be clearer.

Nationally, the Jamaican people themselves, in the most recent Don Anderson poll, point to corruption as the most significant reason for our continuing economic crisis- a crisis, among other things depriving our people, particularly the youth, of opportunity and placing Jamaica in the ranks of the slowest growing economies globally, at number 180 of 196 in the first years of the 21st century. In a sense confirming the people s view, Jamaica s new National Security Policy laid in Parliament in April last year (2014) identifies the corruption of elected and public officials , money-laundering and organized crime as a tier a 1, clear and present threat to national development.

On the international level, in December 2013, the President of the World Bank identified corruption as public enemy number one and the Bank estimates that over USD 1 Trillion are paid in bribes each year. In this context, the Global Competitiveness Report 2014/15 ranks corruption as one of the top 3 (of 16) most problematic factors for doing business in Jamaica.

Your responsibility and ours in combatting corruption and organized crime is therefore of the highest national and international importance and your flawless application of the POCA is of the greatest importance in the public interest. In this regard, allow me to thank our pro bono presenters, Shazeeda herself, Justice Bryan Sykes, Ms Caroline Hay, Ms Janet Scotland and each of you who shall be indicating the challenges faced by your particular department or agency.

In this regard allow me also to refer to the Judgment of the Privy Council, dealing with asset recovery under Jamaican law and delivered by their Lordships on January 19. I hope you all read

this as part of your homework! In any event, I am happy to say that just over the week-end I made contact with the distinguished attorney who appeared before the Privy Council in this matter, Michael Hylton QC, and he accepted my invitation to spend some time with us this afternoon, to add his perspective on the implications of the Judgment for our work in applying POCA

Of course because the subject of our Seminar is the POCA, we have been talking about law enforcement. But there are other dimensions to making our combat of organized crime and corruption more effective. One such critical dimension, to complement law enforcement, is law-making; the enactment of new legislation to fill glaring loop-holes in our anti-corruption arrangements. One example of success in plugging a major loop-hole was the anti-lotto scam legislation. We have delayed far too long and the public interest can only suffer from any further delay in plugging two other loop-holes: the absence of special prosecution arrangements for dealing with the corruption offenders and the absence of any legislation dealing with campaign finance.

In regard to special prosecution arrangements for corruption, this administration and the previous government have explicitly acknowledged the inadequacy of the present system; identified fixing the system as a priority; the Governor General has in his April 2013 Throne Speech proclaimed that such would be done in this Parliamentary year and to be fair, the Bill, the Integrity Commission act, to give effect to this commitment has been laid in the Parliament and is now before a Joint Select Committee. But this process is taking far too long- from 2008 till now. Investigating and prosecuting the corrupt, particularly the facilitators in high places, is as much a priority as investigating the lotto-scammers. The Integrity Commission Act must now be approached with Anti-Lotto Scam law speed if the public is to take our anti-corruption declarations seriously.

The other glaring loop-hole facilitating the corrupt, particularly in exercising influence over governance for their own private benefit and against the national interest is the continued complete absence of political party campaign finance regulation, first raised in the Senate over ten years ago, recommended by the Electoral Commission five years ago, approved by Parliament a second time in Sept 2013- yet still no law; not even a Bill yet laid on the table of Parliament. Let us be clear. The continued absence of any campaign finance law means that in the forthcoming Local Government election and the National to follow in 2016 means that

An unregistered, illegal or unregulated financial organization like OLINT or its principal, like David Smith, would be in breach of no campaign law donating millions of US dollars to our political parties as the Confiscation Order issued by the Supreme Court of the TCI alleged that Smith contributed to the PNP and the JLP in 2007;

An individual intent on buying influence with our political parties- to get a development approval or a tax waiver or a contract – none justifiable on public interest grounds- could contribute 5, 10 or 20 million dollars to a campaign in absolute secrecy and the law require absolutely no disclosure to the public

A foreign government could quite legally donate big money to our political parties in order to influence government policy in their interest and against the public interest

Big private contractors with large government contracts could give parties big money- again with no legal requirement for disclosure- to improperly gain further contracts to the detriment of those unwilling or unprepared to buy influence

The Campaign Finance Reform Report already approved by Parliament would prohibit or regulate these abuses, as is done in most democracies around the world, and begin to plug these dangerous loop-holes in Jamaica's governance system.

It is delay, such as on the passage of the Integrity Commission Act and Campaign Finance Reform which has led to a most startling finding of a national survey conducted by Don Anderson in November 2014- Only 4 % of the Jamaican people believe that Government s leadership of the anti-corruption drive is very effective or strong. Such a finding must be to the electoral disadvantage of any administration and, more importantly, dangerously strain people s confidence in national institutions. May I use this opportunity on behalf of NIA and all well-thinking Jamaicans to call on the Government to move far more expeditiously in plugging these loop-holes in anti-corruption legislation by passing the Integrity Commission Act and in enacting long-promised campaign finance reform. Law enforcement needs reinforcement from law enactment.

Again a very special welcome to you all as we look forward to two productive days of building capacity in the interest of the Jamaican people.