

Law breakers

Several Gov't agencies have never submitted annual reports

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With a number of government departments and agencies continuing to break the law by not submitting annual reports — some for more than 15 years — legislators are now working on hammering out a solution to the chronic problem.

According to a status document of annual report submissions to the Cabinet Office, up to June 2014 the Independent Commission of Investigations, Social Development Commission, Parole Board, University Hospital of the West Indies, and the Transport Authority are among those that have never submitted an annual report.

Under the Public Bodies Management and Accountability Act, State agencies and departments are required to submit annual reports as soon as possible after the end of each financial year, but not more than four months thereafter.

According to the Act, the annual reports should include audited financial statements of the public body. The ought to be sent to the responsible minister who should ensure that the reports and statements are tabled in the House of Representatives and the Senate.

At Wednesday's meeting of Parliament's Public Administration and Appropriations Committee (PAAC), at Gordon House, it was also reported that there are five agencies of the Ministry of Agriculture for which there is no record of an annual report.

The status document also lists some of the entities which are five years or more behind, such as the Jamaica National Heritage Trust, with 17 years of reports outstanding; the National Commission on Science and Technology, 15 years; the National Insurance Fund, seven years; and the Passport, Immigration and Citizenship Agency, five years.

"That is very worrying," PAAC member Michael Stewart stated.

A team from the Cabinet Office, headed by Cabinet Secretary Ambassador Douglas Saunders, offered no real defence. "There are cases where we get an annual report, but the report for the previous year was not submitted, so we have to then point out that that has to come before. If there are unaudited statements, for example, we can't send that to Cabinet. Cabinet has to do a kind of sifting there," Saunders explained, but emphasised that these types of delays were rare. He said there are only four reports with similar gaps now with the office.

Member Juliet Holness sternly advised that it would be better to do a restatement of the financials instead of submitting years-old reports to Parliament.

"We would have current accounts that make current sense. While we work on backlog, it is possible to prepare, audit and put down the set of current transactions and when you're completing a fulsome transaction, those pre-audited transactions can form a part of the completed audit," she said.

Lorris Jarrett, deputy financial secretary of the finance ministry's Public Expenditure Division, while noting that the suggestion could be considered, insisted that the Cabinet Office was not in the dark about the financial and operational activities of these entities, despite the tardiness of the reports. "What I don't want is for an impression to be created that we don't know what the current situation is. We do know," she said.

Committee Chairman Dr Wykeham McNeill said the issue could at least be partially resolved by having the public bodies submit and publish their reports with unaudited financials, instead of awaiting a report that is years behind by the time it reaches Parliament. “Some of these financial statements can give you a general guideline of what is being done,” he advised.

MPs also questioned the apparent lack of sanctions for non-submission of reports. “What is the penalty where nothing happens? It cannot be that MDAs (ministries, departments and agencies) are doing whatever they want to do and a decade has passed and there is nothing submitted. It is madness, because accountability ought to be the key,” St Catherine East Central MP Alando Terrelonge asserted.

Director general of the Public Sector Modernisation Unit Veniece Pottinger-Scott explained that public bodies can be reported to the auditor general for the relevant sanctions to be applied, but was unspecific as to the penalties.

She said currently there is a 76 per cent compliance rate among self-financing public bodies. “There are some issues that we are trying to address with those who are on the budget in terms of getting their audits completed,” she added.

Editorial

Extracting the deadwood from the justice system

The Observer



Justice Minister Delroy Chuck
Minister of Justice Mr Delroy Chuck, in his sectoral presentation last week, disclosed important initiatives to enhance the efficient and effective discharge of justice, with special focus on reducing that stubborn backlog of court cases.

Mr Chuck cited progress by the two previous administrations and promised to build on their work to reform our very flawed justice system.

This paper welcomes his broad bipartisan approach as important in the delivery of justice to Jamaicans in the firm belief that a proper functioning justice system should be insulated from politically partisan influences.

Justice, after all, is the foundation on which any orderly and civilised society rests. Without that Jamaicans are greatly tempted to — and we have seen many examples of this — take justice into their own hands, with catastrophic results.

The range of proposals to address well-chronicled ailments of the justice system, identified by Mr Chuck, included: increasing and better use of court personnel at different levels; modernisation; increasing technological assistance; greater use of mediation and restorative

justice; building more courthouses; longer sittings of the circuit court, and generally streamlining the process to enhance improved efficiency.

We especially like the idea of re-engaging retired judges to lend their expertise and service to the process. As Mr Chuck pointed out, several of our retired judges have given their expertise to various commissions, or are working overseas, and by his estimation, at least 20 would be available to offer their service to the courts.

Mr Chuck said he hoped, by year-end, to bring the appropriate constitutional amendment to Parliament for this proposal to become a reality.

While we support this initiative, we would urge that due care is taken in deciding which judges are to be hired. Although we would be surprised if this were not generally the case, as can be inferred from the quality of their work, we need to ensure that these judges are in good health and fine mental fettle.

We have a bad practice of spoiling a good thing by hiring friends in need of a job without reference to the qualification necessary to perform. Moreover, in the same way lawyers are now compelled to attend refresher seminars to keep them on the cutting edge of modern legal trends, there should be equivalent seminars for retired judges.

We note also the plan to hire a statistician to collect and analyse data regarding case backlog, as well as a proposal to go to Cabinet shortly to enable the hiring of more judges to serve in parish courts across the island on a part-time basis, along with additional clerks of the court and other court personnel.

If Mr Chuck succeeds in eradicating even half of the problems confronting the justice system, it will not only redound to the benefit of the country in the legal field, but also in the dire area of crime-fighting, which would engender greater trust and confidence in Jamaica as a safer place.

Implementation is at a premium. We have been at this justice reform for a long time now. It may be necessary to weed out the dead wood in the system, those people whose attitudes are of those who resigned from the task but refuse to leave. Nothing gets done under their watch

Jamaican Police Say Conviction Guaranteed After 25-Y-O Man Charged For Deaths Of US Missionaries

[Jovan Johnson](#)

Jamaican police say a conviction should be expected based on the evidence they have turned over to prosecutors, who will seek to get locked away Andre Thomas, 25, the man charged with the murders of two United States missionaries in the north-eastern parish of St Mary in April. Ealan Powell, assistant commissioner of police of the Jamaica Constabulary Force, yesterday announced that Thomas, also called 'Baugh', had been charged with murder as well as illegal possession of firearm and ammunition. A second suspect, 25-year-old Dwight Henry, also called 'Dougie' and 'Chino', is being hunted in a case that has drawn further international attention to Jamaica and its notorious crime problem.

Forty-eight-year-old Randy Hentzel of Mango Valley in the parish and 53-year-old Harold Nichols of Boscobel were found dead hours apart in Wentworth district in the Albion Mountain region between April 30 and May 1.

They were killed while on their way to visit a house they were building, and according to the police, they were last seen alive when they left Tower Isle, St Mary, on motorcycles.

Powell said robbery was the motive behind the killing of the men who, for 14 years, built houses and provided medical services to vulnerable Jamaicans.

"That matter was very difficult to resolve - extremely difficult because there was a paucity of information - but the team worked assiduously to have the matter resolved."

Investigators from the US Federal Bureau of Investigation helped in the initial stages of the probe.

Deputy Superintendent of Police and Crime Officer for St Mary Bertland Reynolds declined to give details as to how Thomas was arrested, but he noted that "persistence, checking, and double-checking" of information helped significantly.

Satisfied With Work

Detective Sergeant Glandale Murdock, the lead investigator in the case, told The Gleaner that the team was satisfied with its work and that it was now up to the prosecutors to deal with the case they believe should end in a conviction.

"We did not want to just make an arrest. We wanted to ensure that when we made an arrest, the arrest would stick. It's going to be a matter for the prosecutor to decide on. We, as the police, our duty is to bring the evidence to the court, and I'm satisfied," he said when asked to respond to the quality of the evidence.

Regarding Henry, who is being sought, Powell warned that he must turn himself over to the police by six o'clock this evening.

Thomas is from Albion Mountain, while Henry is from Port Maria. A court date has not been set for Thomas' first appearance.

Nichols and Hentzel were part of the US-based TEAMS for Medical Missions and had been in Jamaica since 2002.

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August 10 Mention Date For Cops In Kamoza Clarke Murder Case



The Gleaner

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The case against the five policemen charged in connection with the 2013 death of Trelawny resident Kamoza Clarke is set to be mentioned on August 10.

The remain on bail until that time.

When the appeared in the

Trelawny Parish court, defence attorneys indicated that full disclosure has not been completed to allow the case to proceed to the Circuit Court.

As a result, parish judge Ruth Lawrence put off the matter.

District Constables Alwayne Eccleston, Onecko Brown, and Sergeant Derrick Henry are charged with murder in connection with Clarke's death, while District Constables Desmond Lawrence and Tristan Turner are charged with neglect of duty.

The cops are accused of being involved in an attack on Clarke, who was badly beaten while in custody at the Falmouth Police Station on October 20, 2013.

Clarke was taken to hospital in a coma and later died from his injuries.

Attorney: Money Belongs To NHT Not Contributors

The Gleaner

[Livern Barrett](#)

Contributors to the National Housing Trust (NHT) do not "legally or beneficially" own any of the funds held by the NHT, lawyers for the agency have asserted.

In fact, Kevin Powell, who is representing the NHT in a suit filed by St James businessman Fitzroy Fagan, said the NHT Act recognises that funds held by and for the agency "are the resources of the trust".

"And (the NHT Act) allows the NHT to use its resources (which include the contributions paid to it) in ways that do not directly benefit the contributors," Powell argued.

Fagan is challenging the decision of the last Portia Simpson Miller administration to withdraw \$45.6 billion from the NHT for budgetary support.

The three High Court judges hearing the case have reserved their decision.

The Simpson Miller government also amended the NHT Act to enable the agency to pay over the money in annual instalments of \$11.4 billion, starting in 2013 and ending this financial year.

Public Outcry

Amid much public outcry over the withdrawal, the Government explained that the money was needed to help meet fiscal targets included in the country's four-year extended fund facility with the International Monetary Fund.

However, Fagan, through his attorneys, is contending that the NHT (Amendment) (Special Provisions) Act 2013 is unconstitutional because it deprives him of property without putting in place a mechanism for fair and adequate compensation.

Powell, in his response yesterday, noted Fagan's claim that the NHT holds his contributions 'in trust'.

"This claim is misconceived," the NHT attorney argued.

According to him, the NHT was never intended to operate as a private trust scheme, despite the use of the word 'Trust' in the name.

"The word 'Trust' in the statute merely describes the organisation the NHT Act creates. It does not describe a legal or fiduciary relationship between the NHT and its contributors," Powell argued.

In addition, he said the manner in which the NHT is allowed to use contributions indicates that Parliament did not intend to create a trust.

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Policemen spending too much time in family courts — Montague

The Observer



Security Minister Robert Montague

MINISTER of National Security Robert Montague has reiterated that too many policemen are spending valuable time in the family courts for maintenance orders when they should be on the streets fighting crime.

“[We are] wasting too many man hours where police constables are sitting in family courts answering to maintenance charge when they should be out there policing,” Montague told reporters and editors at this week’s **Jamaica Observer Monday Exchange**.

The minister also took issue with the failure of fellow police personnel to serve maintenance orders on their colleagues.

“When the courts issue a maintenance order and it goes to the station, I am being told it is sitting there for six months, a year or two years because you cannot find the police officer who reports for duty everyday at the same station, come off duty at the same station, and even sleep at the same station,” he said, adding that this speaks to public trust.

Noting that it has a grave impact on the efficiency of the Jamaica Constabulary Force, the minister said taxpayers have invested a lot in the training of police to be kept safe.

“People may want to take it as a joke, but when you add up the man-hours that is lost when a policeman has to sit in family court for the whole day, when him fi out deh a run down a man weh tief people coconut,” he said.

“I cannot have so many policemen sitting down in family court when I need them flooding the streets, occupying public spaces. The public space I want them to occupy is in the street, not in the courthouse,” he continued.

Recently, the minister was criticised for his comment instructing policemen to use condoms if they are not prepared to take on the responsibility of maintaining a child, but Montague said he stands by it.

“You have some policemen who believe every district they are transferred in they should leave a child. And you have some citizens who also believe that every new police come you must have a child for them,” he said.

He noted, however, that it is the police who is a trained professional and must exercise the responsibility.

“I don’t train a policeman to go out there go get children, I train them to go out there to keep the peace and to reassure the citizens,” he said.

— Jedrael Carter

'Only The Ministry Can Approve Ganja For Religious Use'

The Gleaner



[Tamara Bailey](#)

MANDEVILLE, Manchester:

With a hope to gather additional information in fine-tuning the regulations that will properly establish the industry management framework and strengthen the country's marijuana and hemp industry, the Cannabis Licensing Authority (CLA) hosted its third and final

public meeting in Manchester last Thursday.

The CLA,has the power to offer licences to individuals and companies for the purpose of cultivating, processing, transporting, retailing and researching marijuana for medicinal, therapeutic and scientific purposes.

However, with the provisions under a rigid requirements system, farmers and potential farmers of these plants, some of which contain THC levels in excess of one per cent and remain illegal under the Dangerous Drug Act, are doubtful that this will be a viable option for them.

Among the issues highlighted were the cost of licences, which generally starts from as low as US\$2,000 up to US\$10,000; the non-compliance of financial institutions locally to provide loans to be used as capital for this venture; the number of countries that will issue export licences; and the compliance of local participants with international rules to safeguard Jamaica.

CLA Role

"The role of the CLA is to constantly monitor and enforce the industry. That exercise is an expensive exercise, it is one that is necessary to prove to our international partners that we have the ability to separate legal from illegal trade," announced chair of the CLA, Cindy Lightbourne. While several persons still argue the need for the legalisation of marijuana for recreational purposes, the CLA is clear on its role as a regulatory body, whose licences are used only for medicinal purposes. The agency noted that the Ministry of Justice is the only body that can grant permission for the use of ganja for sacrificial or religious purposes.

"You have to be an advocate now to get this off the ground. This is where your voice has to be heard to get it off the line of [being] a dangerous drug," stated CLA representative Prophet Greg. rural@gleanerjm.com

Battle Over NHT Funds Begins - Court Case Commences Over PNP's Decision To Extract \$46 Billion

The Gleaner

[Livern Barrett](#)



[Rudolph Brown](#)

The National Housing Trust

The Supreme Court is today expected to begin hearing a legal challenge to the decision of the Portia Simpson Miller administration four years ago to tap into the coffers of the National Housing Trust

(NHT) for \$45.6 billion in budgetary support.

Through an amendment to the NHT Act three years ago, the previous government got the green light to withdraw \$11.4 billion from the Trust annually, starting in 2013 and ending this financial year.

However, self-employed St James businessman Fitzroy Fagan, through his attorneys, has asked the court to declare the National Housing Trust [Amendment] [Special Provisions] Act 2013 void.

Fagan, who claims in court documents that he has contributed to the NHT for 22 years without receiving a benefit, also wants the court to find that the multibillion-dollar withdrawal constitutes a 'deprivation' of his property that is in breach of the Constitution.

"The second defendant [NHT] is holding the contribution of the claimant and other contributors on trust. Those contributions represent the private property of the contributors. It is a breach of trust for the board of directors of the second defendant to hand over the funds on trust to the third defendant [the minister of finance]," Fagan claimed in court documents obtained by The Gleaner. A victory for Fagan, one attorney-at-law told The Gleaner yesterday, could mean that the Government would have to reimburse the NHT the \$45.6 billion. "They would have to pay back the money," the attorney suggested.

Simpson Miller and Dr Peter Phillips, the then finance minister, used a national broadcast in February 2013 to announce the Government's decision to tap into the NHT's coffers for budgetary support.

The Government, in taking the matter to Parliament for approval, said the draw-down on the NHT funds was necessary in order to allow the country to meet certain fiscal targets under the four-year extended fund facility with the International Monetary Fund (IMF).

The announcement drew public outcry from a wide cross section of the society, including the then Opposition Jamaica Labour Party, led by the current prime minister Andrew Holness, which described the Government's action as a raid of the NHT funds.

"We believe that matters as fundamental as these - that is the property rights of Jamaicans, the status of the NHT and the scope of the property rights under the Constitution - deserve ventilation before the courts," Holness said after the amendment to the NHT Act was passed in Parliament.

However, in announcing that the NHT would pay over the \$45.6 billion to the Government, chairman of the NHT at the time, Easton Douglas, insisted that the Public Bodies Management and Accountability Act and the amendments enacted in 2011 give the finance minister the authority to seek from any public body an amount drawn from surpluses, deferred earnings or profits.

Fagan's attorneys are, however, contending that even with the amendments, the provisions of the Public Bodies Management and Accountability Act do not apply to the NHT Act.

"If the provisions of the Public Bodies Management and Accountability Act and the amendments thereunder were intended by the Parliament to apply to the statute creating the second defendant [NHT], those provisions would conflict with the provisions contained in Section 15 (1) (a) of the Charter of Rights and Fundamental Freedoms," the St James businessman argued.

The case is to be heard by the Full Court.

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Man attempts multimillion-dollar insurance fraud

The Observer



KINGSTON, Jamaica — The police yesterday arrested a man who allegedly attempted to defraud an insurance company.

Charged with conspiracy to defraud and attempting to obtain money by false pretense is Headley Thomas of a St

Andrew address. He is scheduled to appear in the St Andrew Parish Court on Thursday.

According to reports from the Major Organised Crime and Anti-Corruption Agency (MOCA), Thomas attempted to defraud the insurance company after a motor vehicle accident along Constant Spring Road in St Andrew in September 2015.

At the time, a report was made to the Half Way Tree Police Station, in which the accused said he was the only person travelling in the vehicle.

However, the lawmen report that between the time of the incident and February this year, Thomas attempted to obtain a four-million-dollar pay-out from his insurance company by submitting a claim that family members were also travelling in the vehicle.

Preliminary investigations by the insurance company revealed that there were no passengers in the vehicle and as such, a report was made to MOCA, leading to his arrest.

Ex-con imprisoned for visa trick

Tells judge he borrowed money he's accused of stealing

BY TANESHA MUNDLE Observer staff reporter mundlet@jamaicaobserver.com

The Observer



AN ex-convict, who conned a man out of US\$900 and \$70,000, claiming he could file documents for the man to get a United States visa, was on Wednesday slapped with an 18-month prison sentence.

Andrew Pryce was sentenced by Senior Parish Judge Judith Pusey after he pleaded guilty to obtaining money by false pretence in the Kingston and St Andrew Parish Court.

According to the facts, the complainant met Pryce through a mutual friend and, between May 15 and 26, paid over monies to him after Pryce told the complainant that he was a businessman who lived in the US and could help him to get a visa.

Pryce also told the complainant that it would cost US\$1,000 to file the documents, but the complainant told him that he only had US\$900 and gave that to him.

Pryce then told the complainant he needed a bank statement, which showed that he had \$150,000 in his account. The complainant subsequently told Pryce that he did not have any money in the bank and could only come up with \$70,000.

However, Pryce told the complainant that he would find the additional \$80,000 and would prepare the statement for him. As a result, the complainant gave the money to Pryce.

Pryce and the complainant then made arrangements to meet, but Pryce kept cancelling the meetings. After several failed attempts to recover his money, the complainant reported the matter to the police.

But on Wednesday, when Pryce appeared in court, he told the judge that he did not defraud the complainant and had only borrowed the money.

“I am willing to pay him back his money,” Pryce told the judge.

However, Judge Pusey told him that she was very familiar with him and that he can repay the complainant at the end of his prison sentence.

“I don’t need nuh more enemies,” Pryce said in reply.

Pryce told the judge that he had struggled to find a job because of the trouble that he had with the law six years ago, which had damaged his reputation. He said that he now has a job and had every intention of paying back the complainant.

“I, Judith Pusey, can see now how you con them, that smile and that gift of gab, but use it over suh,” the judge said, implying that Pryce should use his talents in prison.

The judge asked Pryce how long he had served in prison for his prior offence and he disclosed that he had received an 18-month non-custodial sentence.

“But you lucky! I must have been sleeping that time. You going [in] this time though,” she told him before sentencing him to 18 months in prison.

“You must stop it, you have ability, you can do better,” the judge then remarked.

Cop freed of corruption charges

By [Rasbert Turner](#)

Star Online



Police Corporal Fitzroy Benneth was freed of corruption charges in the St Catherine Parish Court yesterday.

Benneth was charged with trying to pervert the course of justice, soliciting and accepting a bribe and breach of the Corruption Prevention Act.

He was freed after his lawyer, Courtney Maxwell, asked that the case be dismissed as no evidence was offered.

Maxwell told the court that more than 10 trial dates were set for the matter to get underway and that the complainant had been absent on all occasions.

He told Parish Judge Natalee Brooks that the investigating officer had been absent on some occasions, including yesterday.

The Crown agreed with the submission made by Maxwell.

Allegations before the court were that Benneth had charged the complainant with breaches of the Road Traffic Act.

The crown had alleged that Benneth solicited \$52,000 from the complainant not to pursue the matter.

The End