REPORT

OF THE

MENTAL HEALTH

(OFFENDERS)

ENQUIRY

COMMITTEE

AUGUST 2020

"The cruelty intrinsic to the workhouse system was excused by the need to discourage idleness, much as the malice intrinsic to the mental hospital system has been excused by the need to provide treatment."[1]

CHAPTER 1

Report from the Sub-Committee on the Court Services

PART 1

The Historical Development of Laws Dealing with Mentally Disordered Defendants

1. Our body of law pertaining to defendants who are suffering from mental health disorders has its genesis in the English legal system, dating from the time when Jamaica was a colony of England. Fitness-to-plead laws were ultimately framed to protect the rights of vulnerable individuals who were unable to defend themselves in court and to preserve natural justice, while balancing the need to see justice served and the protection of the public.

2. From at least 1873, Jamaica has had legislation that governed the treatment of the mentally disordered in our society. These laws, the **Lunatics (Custody Of And Management Of Their Estates) Act**, passed March 20, 1873 and the **Mental Hospital Act,** enacted on August 13, 1873, had allowed mentally disordered defendant and convicted persons to be kept in indefinite detention so they could obtain care. This was a paradoxical breach of their right to liberty. The reality of those inmates' existence was not about the curative approach, because in the lunatic asylum the emphasis seemed to have been restraint and custody rather than treatment and rehabilitation. Ironically, the

[1] Thomas Stephen Szasz, ***Cruel Compassion: Psychiatric Control of Society's Unwanted***

situation in this century has not deviated much in practice, the main difference is that they are now housed in correctional institutions.

3. The methods and attitudes in balancing the competing demands for protection of the mentally disordered defendant versus public justice have evolved over time and have led to unclear and incongruous practices. In order to understand better how and why the current problems have materialized, one must look at the historical development of the fitness to plead issue in the legal system.

4. Theories of crime and punishment have existed since early civilization as attested by the recordings of human life and times. In the 4th century BC, the Greek philosopher, Aristotle, in deliberating the circumstances in which a person may not be deemed culpable, defined crime as the act of free will, stimulated by desire. Thus, he argued that certain groups such as children, idiots, the mentally disordered, should not be held responsible for their criminal actions.[2]

5. Roman law[3] has two short dicta regarding the insanity defence, one of which is, "*satis furore ipso punitur*" [4] the English translation is "an insane offender is punished sufficiently by his madness". A variant on this phrase is "*furiosus satis ipso furore punitur*" the English translation being, the madman is sufficiently punished by his madness[5]. The notion here is that suffering from mental illness was punishment enough for criminal behaviour. Hence, offenders with mental disorders, were granted special treatment under the law.

[2] Aristotle, ***The Nicomachean Ethics. Book III***. (trans D Ross). Oxford: Oxford University Press, 2009, pp.38–42

[3] The term ***Roman law*** denotes the legal system of ancient Rome, and the legal developments which occurred before the seventh century AD — when the Roman–Byzantine state adopted Greek as the official *lingua franca*. The development of Roman law comprises more than a thousand years of jurisprudence — from the Twelve Tables (ca. 449 BC) to the *Corpus Juris Civilis* (AD 529–34) ordered by Emperor Justinian I. This Roman law, the Justinian Code, was effective in the Eastern Roman (Byzantine) Empire (330–1453), and also served as a basis for legal practice in continental Europe, as well as in Ethiopia.

[4] From De lege Pompeia de Parricidiis (part of the Corpus Iuris Civilis)

[5] Attributed to Marcus Aurelius

6. In England, before the Norman invasion, a defendant who was unable to understand the nature of a crime was deemed unable to form the necessary intention required for guilt (*mens rea*), even if he had committed the criminal act (*actus reus*). Such category of defendants were usually released to the care of their families rather than punished.[6]

7. Trial by jury was introduced in England after the Norman Conquest, and by the 13th century, the King's court had been established. The practice had by then developed, whereby defendant persons were confronted by their accusers and thereafter, a jury was mustered to determine whether the defendant should be held to account.[7] A conviction invariably resulted in punishment and this would include confiscation of a convict's worldly goods by the Crown. A defendant person when arraigned was required to answer and to say 'guilty' or 'not guilty' in reply to the indictment. If he could not answer, then he could not be held accountable.

8. At that early stage in the development of the incompetency doctrine in England, self-representation rather than representation by counsel was the common practice. Indeed, in serious criminal cases, counsel was forbidden, and the law required the defendant, to appear before the court in his own person and conduct his own defence in his own words. The prohibition against the assistance of counsel continued for centuries in felony and treason cases and as a result, during the formative period of the incompetency doctrine, a defendant stood unrepresented before the court. The modus of trial was merely a long argument between the defendant and the counsel for the Crown. Thus, it was imperative that defendants be competent, because they were required to conduct their own defence.

[6] ***Crime and Insanity in England 1. The Historical perspective***. Edinburgh: University Press, 1968, by Nigel Walker.
[7] *Fitness to Plead in in England and Wales*. Hove: Psychology Press, 1996, by Don Grubin

9. The legality of such trials was called into question,[8] and the courts had to treat with persons who could not, or would not, enter a plea. Such defendants were said to “stand mute”, and a jury was mustered to establish whether they were “mute of malice or mute by visitation of God.”[9] A defendant who was deemed to stand mute of malice was considered to be malingering, that is, deliberately withholding a plea if it appeared advantageous so to do. Malingerers were subjected to *peine forte et dure* – starved and pressed under heavy stones until they answered or, in many instances, died.[10]

10. A defendant found mute by visitation of God was deemed unable to plead, and was absolved from trial and punishment. In the mid-seventeenth century, Blackstone wrote that a defendant who becomes "mad" after the commission of an offence should not be arraigned "*because he is not able to plead... with the advice and caution that he ought*," and should not be tried, for "*how can he make his defence?"*[11]

11. The ban on trial of an incompetent defendant, stemmed from both the common law prohibition on trials in absentia, and from the difficulties encountered in the English courts when defendants frustrated the ritual of the common law trial by remaining mute instead of pleading to charges. Without a plea, the trial could not proceed. In such cases, the English courts were obliged to determine whether a defendant was "*mute by visitation of God" or "mute of malice."*

[8] ***Moral and Criminal Responsibility: answering and refusing to answer,*** by Robert Antony Duff, University of Stirling - Department of Philosophy, 19 Oct 2017. The Paper amongst other things, discusses the way in which answerability requires us to attend to the capacities of the person whom we hold responsible for crimes, not just at the time of the conduct for which he is now being held responsible, but at the time of the holding.

[9] ***What constitutes fitness to plead?*** by Don Grubin, Crim LR 1993;748–758.

[10] ***Historia Placitorum Coronæ: The History of the Pleas of the Crown,*** by Sir Matthew Hale (1800) published posthumously from the Original Manuscripts and with notes by Sollom Emlyn. by E. and R. Nutt, and R. Gosling (the assigns of Edward Sayer), for F. Philadelphia, PA: Robert H. Small, 1847. With Additional Notes and References to Modern Cases Concerning the Pleas of the Crown. By George Wilson. A New Ed. And an Abridgment of the Statutes Relating to Felonies Continued to the Present Time, with Notes and References, by Thomas Dogherty, **1**, London: Printed by E. Rider, for T. Payne, H. L. Gardner, W. Otridge, E. and R. Brooke and J. Rider [and seven others in London], OCLC 645127647.

[11] ***William Blackstone, Commentaries*** (9th ed. 1783); see also ***Matthew Hale, The History of the Pleas of the Crown*** 34-35 (1736).

12. Mute by visitation was invariably associated with mental disorders, thought to be caused by either sacred or satanic influences. Thus evolved the terms:
    a) idiot referring to persons with a cognitive disorder from birth;
    b) insane, which was a broad description of those who developed madness later in life;
    c) lunatic, which was the term more often used in reference to persons who alternated between madness and lucidity; and
    d) deaf mute who were persons afflicted by speech and hearing impediments, but who were without mental illness.[12]

    All these categories were blended into the term insanity, and all such categories of defendants were deemed mute by visitation, and as a result were exposed to the possibility of a court making a finding of "unfit to plead".

13. During the early 18th century, the adversarial criminal process evolved, and defendants were allowed to take a more active role in the trial process[13]. This, alongside the writings of Sir Matthew Hale, shaped the development of fitness-to-plead procedure. Hale, was a 17th century legal scholar with an innovative understanding of mental disorder. He was acutely interested in the causal nexus, the behaviour caused by the disorder, and rejected a status-based approach whereby the mere presence of insanity would be enough to render an defendant person unfit to plead.

14. Hale proposed a useful model which focused on what defendants could do rather than on what they could not. He distinguished and categorized the following groupings:
    i. the out and out mad, whom he viewed as excepted from criminal responsibility,
    ii. the partially insane who were not.[14]

---

[12] ***History of insanity as a defence to crime in English criminal law***, by Homer D. Crotty, Calif. L Rev. Vol. 12, No. 2 (Jan., 1924), pp. 105-123

[13] The origins of adversary criminal trial, by John H. Langbein, Oxford University Press: (Oxford Studies in Modern Legal History) 1st edition, 2003.

[14] ***Manifest madness: mental incapacity in the criminal law***, by Arlie Loughnan, Oxford: Oxford University Press, 2012.

Hale further compartmentalized deaf-mutism from insanity and submitted that deaf mutes should not be found unfit, unless they were also mentally defective. Hale also viewed unfitness as temporary rather than a final outcome, and suggested trials be postponed until the insanity abated. Despite his influence, Hale's approach was not initially embraced by the courts.[15]

15. The Court, by the mid-18th century, began to grasp the full implication that fitness to plead involved far more than merely a defendant's ability to enter a plea when arraigned.[16] Hence Hale's writings gained wider acceptance and importance. This acceptance was precipitated by a number of cases, which helped to shape the course of the issue of fitness to plead in criminal procedure. In 1756, ***Dyle***[17] was charged with murder, his lawyer was unable to take instructions from him as he appeared incapable of *"attending to the evidence"*. The jury deemed him "not of sound mind and memory" and so his trial did not proceed. ***Dyle*** was probably one of the earliest cases of being found "unfit to plead" but the decision was regarded of little consequence until after the passing of legislation in 1800[18]. In 1790, ***Frith***[19] was charged with high treason for throwing a stone at a coach conveying the monarch, King George III. In considering fitness to plead, the Lord Chief Justice declared that *"no man shall be called upon to make his defence at a time when his mind is in that situation as not to appear capable of so doing"*.

16. The leading cases are that of ***R v Dyson***[20] and ***R v Pritchard***[21], both deaf-mutes. In the former, Esther Dyson, a deaf mute, was charged with murdering her child. The Judge, Parke J. being informed by Hale's treatise, told the jury that the question was whether the defendant was able *"to conduct her defence with discretion"*. He also instructed the jury to consider *"if they were*

---

[15] ***Fitness to Plead in England and Wales***. Hove: Psychology Press, 1996, by Don Grubin

[16] ***Commentaries on the laws of England in four books. Volume IV***; by William Blackstone and Thomas McIntyre Cooley, Chicago: University of Chicago Press, 2002

[17] ***R v Dyle*** (1756) OBSP 271; see Walker op cit. pp 222-3.
Walker, N, Crime and Insanity in England, 1: The Historical Perspective, Edinburgh University Press. (1968), especially Chapter 14.

[18] ***Criminal Lunatics Act*** [1800], section 2: "If any person indicted for any offence shall be insane and shall upon arraignment be found so to be by a jury lawfully empanelled for that purpose, so that such person cannot be tried upon such indictment...".

[19] ***R v* Firth**. (1990)

[20] ***R v Dyson*** (1831) 7 C & P 305n; 1 Lewin 64.

[21] ***R v Pritchard*** (1836) 7 C & P 303.

satisfied that the prisoner had not then, from the defect of her faculties, intelligence enough to understand the nature of the proceedings against her".[30] As Ms. Dyson could not challenge the jury or understand proceedings, she was found *"insane"*, spared trial, but detained indefinitely.

17. In the latter case, ***Pritchard*** was indicted for bestiality, a then capital offence. Due to communication deficits, he did not enter a plea, and was found "*mute by visitation*". Subsequently, when asked to answer to the indictment, he used a sign to indicate 'not guilty'. The jury consequently decided he was now able to plead, however, the judge, Baron Alderson, suggested that simply being *able* to plead did not equate him with being *fit* to plead. Proposing both a status-based and functional test, he asked the jury to first find, whether Pritchard was 'sane or not' and then to consider three elements:

> *"First, whether the prisoner is mute of malice or not; secondly, whether he can plead to the indictment or not; thirdly, whether he is of sufficient intellect to comprehend the course of proceedings on the trial, so as to make a proper defence – to know that he might challenge any of you to whom he may object – and to comprehend the details of the evidence."*

18. Pritchard's ability to instruct counsel was not considered because access to legal advice was not routinely available at that point. This criterion arose in ***Davies*** [22], who was found to be unfit as he could not properly instruct counsel due to mental illness, and was thus incorporated into the Pritchard test.

19. The ***Pritchard*** criteria were rapidly and repeatedly adopted as the legal standard for fitness to plead. Although these two cases involved deaf-mutes, Lord Alverstone stated in 1909[23] that to deal with such persons as "insane" was "in accordance with common sense and with the proper administration of the criminal law".

---

[22] [**1853**] 3 Car & K 328

[23] ***R v Governor of Stafford Prison; Ex p Emery*** [1909] 2 KB 81

20. The present procedure and criteria by which defendants are found unfit to plead or guilty but mentally disordered (the special verdict), has come in for frequent criticism and no less so in Jamaica. Under the ***Criminal Justice (Administration) Act*** 1960 (***"CJAA***"), in most instances the consequence of a finding of unfit to plead or stand trial, or a special verdict, has been that the defendant is made subject to a detention order without time limits. The effect of such a detention order is that the defendant may be detained indefinitely, with no automatic provisions for re-entry to the Court or for review purposes.[24] Hence, a defendant found unfit to plead under the provisions of the CJAA, loses his right to be tried and faces potentially indefinite detention in custody for a crime which he might not have committed.[25]

21. Incarceration of mentally disordered defendants, seems to be the approach traditionally followed in this jurisdiction. Persons who are suffering or suspected to be suffering from any mental disorder are locked away in institutions pursuant to an "*institutional custodial philosophy*"[26]. The 1873 law was enacted to *"vest in the court of chancery jurisdiction to deal with the custody and management of idiots, lunatics, and persons of unsound mind, and of their estates in the island…"*[27] Pursuant to that law, the word *"lunatic"* was given the same meaning as *"idiot"* and *"person of unsound mind."*[28] There was no distinction made between persons who had a mental versus those with a physical impediment and none made in relation to those in conflict with the law. In fact, there were no provisions for psychiatric care for persons who were committed to the Lunatic Asylum. The extent of the state's responsibility was for "*the court of chancery to appoint one or more duly registered medical practitioners to inspect and report… upon the care and treatment of any lunatic…at the least twice in each year*"[29]

[24] See paragraphs 112 to 117 for further discussion.
[25] In Jamaica, between 1976 and 1988, 295 defendants were found unfit to plead, and never faced trial but were incarcerated for periods of up to fifty (50) years. Presently there are approximately 148 such defendants detained in correctional facilities. For a more detailed analysis of these cases, see Appendix 5.
[26] Nadria Kerreen Brown, ***An investigation into Diversion at the Point of Arrest (DAPA) Programmes, in Jamaica (2017)***.
[27] Jamaica –Law 4 of 1873.
[28] Ibid section 1
[29] Ibid Section 25

22. ***The Mental Hospital Law*** of 1873 made provisions for *"any constable*" with or without a warrant to arrest persons suspected to be of unsound mind and who were "*found wandering at large*" to take them before a Justice of the Peace. The Justice of the Peace would then make enquiries and call in aid the assistance of a duly registered medical practitioner. Where a person was found to be of unsound mind, for his own good, he was detained in a mental hospital. The provision was for "criminal lunatics", that is, defendants against whom a special verdict was returned pursuant to the *"Administration of Criminal Justice Law, or who shall be found to be insane at the time of arraignment, or who, under the authority of any law now or to be in force, may be committed or removed to a Mental Hospital shall be confined in the Mental Hospital"*[30].

23. Whilst there was a growing recognition in the early 19th century that persons who are mentally disordered were deserving of treatment as with all other illnesses, the realization of accommodation and medical personnel suitable for that need was slow in coming into being. About this time, reforms were taking place in England and throughout Europe and this might have influenced the mental health administration in Jamaica, because conditions to which patients had been subjected previously had improved. By 1868 there was the introduction of newer concepts of therapy, chiefly occupational and recreational, with the abolition of unnecessary seclusion and the complete removal of mechanical restraints. The Lunatic asylum built in 1861 was renamed the Jamaica Mental Hospital in 1938, which then gave way to the Bellevue Hospital in 1946.

24. The first real legislative effort made to treat and rehabilitate mentally disordered persons, was the 1873 ***Mental Hospital Law***, wherein provisions were made for the engagement *"of a duly qualified medical officer, trained and accustomed to the modern treatment of the insane…"* The 1974 amendment to that statute, for the first time, created the position of mental health officer and gave such an officer the authority to enter "*any premises… for the purpose of making such inspection as he thinks fit"* relative to a reasonable

[30] Section 17 of ***The Mental Hospital Law*** [1873]

belief that a mentally disordered person was being kept there without proper care. The constable, however was still the central person of authority in relation to the apprehension of the mentally ill.

25. ***The Mental Hospital Act***, later morphed into the ***Mental Health Act*** of 1997. Under section 2 of that current law, “mental disorder” means-

> *(a) a substantial disorder of thought, perception, orientation or memory which grossly impairs a person’s behaviour, judgment, capacity to recognize reality or ability to meet the demands of life which renders a person to be of unsound mind; or*
>
> *(b) mental retardation where such a condition is associated with abnormally aggressive or seriously irresponsible behaviour, and*
>
> *“mentally disordered” shall be construed accordingly;*

26. Further definitions of phrases are provided in section 2 of the ***Mental Health Act*** to include:

> *“psychiatric facility” or “facility” means any clinic, hospital ward, mental nursing home or rehabilitation centre designated as such under section 4 (1);*
>
> *“psychiatric hospital” means any place designated as such under section 4 (1);*
>
> *“psychiatric ward” means the part of a general hospital designated as such under section 4 (1);*
>
> *“public psychiatric facility” means the Public Psychiatric Hospital and any other psychiatric facility maintained by the Government;*

27. Pursuant to section 9 of the ***Mental Health Act***, the courts can still order the admission of mentally disordered persons to the public psychiatric hospital, for the statute provides that:

> *The managers of a public psychiatric hospital or a duly authorized medical officer shall, on the order issued by a court, admit and detain for treatment in that hospital persons who are –*
>
> *(a) found unfit to plead on trial; or*
>
> *(b) found by a Court to be guilty of an offence but are adjudged by the Court to be suffering from a mental disorder or diminished responsibility.*

28. Initially all mentally disordered persons including convicts and defendant persons were being housed at the Bellevue (Public Psychiatric Hospital), the one and only mental hospital then existing, and still existing. According to the Bellevue Hospital's website[31]:-

> *"The evolution of mental health services in Jamaica started in 1840's. The first designated area for the treatment of mental illness was constructed adjoining the present Kingston Public Hospital. The Jamaica Lunatic Asylum came into existence in 1861 at its present location at 16 ½ Windward Road Kingston. The hospital has had many name changes and its name was changed from the Jamaica Lunatic Asylum to the Jamaica Mental Hospital in 1938. The name was again changed to the Bellevue Hospital in 1946...*
>
> *The Bellevue Hospital was established to provide care for mentally disordered clients. The establishment of the hospital came out of a petition which was led by a private medical practitioner named Dr. Louis Bowerbank. This led to an enquiry the result of which was the establishment of a mental hospital for the custody and care of the mentally disordered."*

29. As one would have observed, the hospital was established long before the law. The ***Mental Health Act*** passed in 1997 (only gazetted on September 1, 1999) repealed both the ***Lunatics (Custody Of And Management Of Their Estates*) Act** and the ***Mental Hospital Act.*** As frequently happens with legislation in this country, the regulations came long after. ***The Mental Health (Prescribed Forms) Regulations*** were brought into effect in 2004 and the ***Mental Health (Public Psychiatric Hospital) (Bellevue Hospital) Management Scheme*** came into effect in 2013.

30. It is of significance to note, that long before the above regulations and scheme came into effect, the Bellevue Hospital had ceased to provide the essential service of housing the mentally disordered defendant. Concerns for the safety

[31] http://www.bellevuehospital.org.jm/a. accessed on June 29, 2020 at 8:00 pm

of doctors, staff members and other patients who were not so charged or convicted were expressed. These security concerns, coupled with a fire at the institution, precipitated a policy decision, to close the forensic ward at the Bellevue Hospital and consequently the mentally disordered defendant persons were transferred to the Tower Street Adult Correctional Centre (formerly the General Penitentiary) in 1979. It seems therefore, that the criminal institutionalization of the mentally disordered defendants had come full circle.

31. Since the closure of the Bellevue forensic facility no other central or specific forensic mental health facility has been provided within the jurisdiction. Presently, mentally disordered defendants are housed and managed by the correctional institutions, at the Tower Street Adult Correctional, St. Catherine Adult Correctional and the South Camp Adult Correctional Centres.

32. The Minister of Health & Wellness is empowered, pursuant to section 4 of the Mental Health Act to:

> *"…designate as a psychiatric facility for the reception, care and treatment of mentally disordered persons-*
> *(a) the whole or any part of a building, house or other place, with any yard, garden, grounds or premises belonging thereto;*
> *(b) any part of a general hospital;*
> *(c) the whole or any part of a nursing home registered under the Nursing Homes Registration Act as a mental nursing home;*
> *(d) the whole or any part of a clinic; or*
> *(e) the whole or any part of a rehabilitation centre."*

33. There is no evidence that any other facility has been designated as a public psychiatric facility. Certainly there is no indication that any Minister of Health pursuant to section 4 of the ***Mental Health Act*** has ever designated the correctional centres or portions thereof as suitable public forensic psychiatric facilities. Enquiries of the Legal Services Department, Ministry of Health returned an interesting response which indicated the following:

    a. *"That the Ministry was not in possession of or aware of any gazettes treating with designated psychiatric facilities.*

b. *While mental health services are provided generally in public hospitals, the Ministry of Health & Wellness understands that the Cornwall Regional Hospital and The University Hospital of the West Indies have a Psychiatric ward. Bellevue hospital carries out operations pursuant to Section 21 of the Mental Health Act and the Bellevue Hospital Management Scheme.*

c. *The Ministry of Health and Wellness has identified several gaps in the current legislative framework which restricts the Government's efforts to fully reform mental health service delivery in Jamaica. This includes the matter regarding the provisions pertaining to the designation of psychiatric facilities."*

34. Our interpretation of this response, is that, there really is no designated forensic psychiatric facility in Jamaica at this time. In the absence of the availability of the Bellevue forensic facility or any other designated or other like facility, therefore any order made by the Court for detention of individuals (including the mentally disordered), it is made pursuant to the Corrections Act, which provides that:

> *"18. The Superintendents appointed under this Act and the persons in charge of lock-ups and remand centres are hereby authorized and required to keep and detain all persons duly committed to their custody by any court. Judge, Resident Magistrate, Justice, Coroner, or other public officer lawfully exercising civil or criminal jurisdiction according to the terms of any writ, warrant, or order, by which such person has been committed, or until such person is discharged in due course of law.*
>
> *19. Every person charged with any offence and remanded in custody to any adult correctional centre, lock-up or remand centre by any court, Judge, Resident Magistrate, Justice or Coroner, shall be delivered to the Superintendent of such centre or to the person in charge of such lock-up or remand centre, as the case may be, together with the warrant of commitment, and the Superintendent, or person in charge, as the case may be, shall detain that person according to the terms of the warrant, and shall cause such person to be delivered to the court, Judge, Resident Magistrate, Justice or Coroner, or shall discharge him at the time named in the warrant and according to the terms thereof.*
>
> *21.-(l) Subject to subsection 21, every inmate and person detained in a lock-up or remand centre shall be released immediately on his becoming entitled to release whether by the*

expiration of his term of sentence, or by pardon, or by commutation, or by remission of sentence, or by other lawful means.

(2) The release of any person … Parole Act.

22 (1) Where the presence of any person confined in an adult correctional centre, lock-up or remand centre is required in any court of civil or criminal jurisdiction, such court may issue an order in writing addressed to the Superintendent or, as the case may be, the person in charge of the lock-up or remand centre, requiring the production before the court of such person in proper custody at the time and place to be named in such order, and such Superintendent, or person in charge, as the case may be, shall cause the person named in the order to be brought up as directed, and shall provide for his safe custody during his absence from the adult correctional centre, lock-up or remand centre; and every such court may, by endorsement on such order, require the person named therein to be again brought up at any time to which the matter in respect of which the person is required may be adjourned.

(2) Every such order issued from the Supreme Court may be signed by a Registrar of the Court, and if issued by any other court shall be signed by the Judge, Resident Magistrate or Coroner, as the case may be."

35. The Commissioner of Corrections is obliged to accept and keep in safe custody all persons who are detained by order of a court, this includes the mentally disordered person. Our mental health professionals and this committee all agree that the prison system is not the ideal place for persons with any form of mental illness. The primary focus of a correctional institution is punishment and control by way of "separation and isolation". Nonetheless, it is the only facility provided by the executive for the mentally disordered defendants.

36. Over the years there has been much hue and cry about the unfortunate circumstances of the mentally disordered within the correctional system and the many deficiencies that exist in their management has been highlighted and enumerated in various reports time and time again. In 2007, there were extensive enquires made regarding the justice system which included the plight of mentally disordered persons in conflict with the law. The then Task Force recommended:

"…that the treatment of the mentally disordered by the criminal justice system be made the subject of special review. Appropriate policies,

programmes, and legislation must be put in place to ensure they are dealt with in a caring and sensitive manner with emphasis on their rehabilitation while at the same time, taking into account the need for public protection in certain cases. These initiatives should have the following features:

- *There should be alternative programmes, outside the formal criminal justice system, to deal with certain mentally disordered persons who commit less serious offences.*
- *Mentally disordered persons who are found unfit to plead or not criminally responsible by the courts should be assessed whether they are a danger to themselves or to others. Those who constitute a danger should be held in a secure forensic ward of a psychiatric hospital or in a special "hospital like" unit of a prison with appropriate services for their care and treatment. Those who are not a danger should be supervised and cared for in the community.*
- *The above assessment, and particularly the need for continued detention in a custodial setting, should be reviewed on a regular basis by a body with appropriate legal and medical expertise.*
- *All personnel who deal with mentally disordered persons in the criminal justice system should receive adequate training in this area.*
- *The individual cases of every person currently held in a prison in Jamaica as the result of a court finding relating to fitness to plea and of those being held at the "Pleasure of the Governor General" be thoroughly reviewed to ensure that their continued detention is justified.*

One avenue for integrating the appropriate support services and ensuring proper treatment of mentally disordered offenders in the justice system is through the establishment of Mental Health Courts. The Task Force recommends that a Mental Health Court be established on a pilot project basis subject to monitoring and a full evaluation. A pilot court of this type would provide a focus for introducing a range of innovative approaches

and service delivery options. Evaluation of this pilot court experience would provide a sound basis for decisions concerning how best to serve this segment of the population"[32].

37. This committee highlight, that despite the previous attention called to the plight and condition of these defendants, no real resources have been committed to making any meaningful changes such as a central and dedicated place to accommodate such defendants and the provision of resources such as, sufficient numbers of qualified personnel to provide for their care.

38. The plight and condition of persons in custody who are mentally disordered, was recently highlighted through media spotlight arising from the death of Mr. Noel Chambers, who was detained at the Governor General's pleasure. Mr. Chambers had been in custody for some 40 years charged with the offence of murder but deemed unfit to plead and therefore unable to stand his trial. If we could ask Noel Chambers his opinion, he probably would have said that he wanted to die a free man in his own home, in his own bed, rather than becoming a rallying cry and symbol for change. But a symbol he has become, like all those before him, prompting change by central Government - usually incremental and not fundamental.

39. The controversies touching and concerning persons like Noel Chambers is not unknown and like a recurring canker no matter how well bandaged and perfumed, breaks out in a festering stink which cannot be ignored by anyone. The death of Mr. Chambers and the circumstances attending his demise has forced the government to again, take a hard long look at the plight and condition of other persons in similar circumstances. The commitment of state actors to implementing fundamental change in relation to the issue of mentally disordered persons with a criminal charge in places of remand is under question.

[32] **Jamaican Justice System Reform Task Force Final Report June 2007, Paragraph 313**

40. The latest report regarding mentally disordered persons in custody was published by the Commissioner of INDECOM, Mr. Terrence Williams in ***The Indecom Quarterly (January – March 2020)***. The report highlights that according to information received from the Department of Correctional Services (DCS), some 146 mentally disordered individuals are within the correctional system detained at the Governor General's or the Court's pleasure whom have been found unfit to plead. These defendants are in custody at the Tower Street Adult Correctional Centre, St. Catherine Adult Correctional Centre and the South Camp Adult Correctional Centre, some persons have been detained in excess of 30 years and at least one for over fifty.

41. There can be no dispute that such periods of detention are inordinately long, bearing in mind that some of these individuals are yet to be tried, but in any event, even if they had been tried and sentenced for serious offences such as murder, the likely sentence that would have been imposed upon conviction (in the normal course of sentencing) would have been spent and they released[33]. Mr Williams has opined that; *"The cases highlighted, and the wider situation, is indicative of a disregard for local legislation and human rights conventions which are unambiguous in the matter".*

PART 2

Managing the Intake Process of the Mentally Disordered Defendant – (The Police & the Lock-up)

42. Mental disorder is a disability. The mentally disordered just like the person of sound mind may come into conflict with the criminal law and having done so, the law enforcement system is one of the first avenues of response and contact., pursuant to the ***Mental Health Act***, section 15:

[33] See section 21 of The Corrections Act.

"(1) Where a constable finds any person in a public place or wandering at large, in such manner or under such circumstances as to indicate that he is mentally disordered, the constable may without warrant take such person in charge and forthwith accompany him to a psychiatric facility for treatment or forthwith arrange for him to be conveyed with all reasonable care and despatch to that facility; and the constable shall, within thirty days of accompanying such person to the psychiatric facility or arranging for him to be conveyed to such facility, make a report thereof in writing to the Review Board. (1) …

(2) Where an offence is committed by a person who appears to a constable on reasonable grounds to be mentally disordered, the constable-

(a) may charge that person for the offence and bring him before a Resident Magistrate at the earliest opportunity, being not more than a period of five days after the date on which the offence is committed; and

(b) may, where it is necessary to detain the person until he is brought before the Resident Magistrate, detain him in a lock-up, remand centre or a place suitable for the detention of mentally disordered persons; and

(c) shall, where the person is charged under paragraph (a) or detained under paragraph (b), make a report in writing to a prescribed person within twenty-four hours of such charge or detention."

43. The rationale for the police to intervene in the lives of persons with mental illness derives from two legal principles, the power and authority of the police to protect the safety and welfare of the community[34], and the state's paternalistic or *parens patriae* authority, which dictates protection for citizens with disabilities who cannot care for themselves, such as those who are mentally disordered. Both principles are often involved when police are dealing with persons with mental illness who pose a threat of danger to the community or to themselves.

[34] Section 13 of the ***Constabulary Force Act*** - The duties of the Police under this Act shall be to keep watch by day and by night, to preserve the peace, to detect crime, apprehend or summon before a Justice, persons found committing any offence or whom they may reasonably suspect of having committed any offence, or who may be charged with having committed any offence.

44. Police officers have a legal obligation to respond to complaints and to provide services twenty-four hours a day, seven days a week. With respect to those with mental disorders, the police have the power to take them into custody when found wandering at large and to transport such persons to a psychiatric facility for psychiatric evaluation and treatment. The police are typically the first and often the sole community resource called on to respond to urgent situations involving persons with mental disorders. The police are responsible for either recognizing the need for treatment for an individual with a mental disorder and connecting them with the proper treatment resources or making the determination that the individual's illegal activity is the primary concern and that he should be arrested[35]. This responsibility thrusts the police into the role of primary gatekeepers who determine whether the mental health or the criminal justice system can best meet the needs of the individual.

45. A major problem with having to fulfil this role is that the police have little or limited training in performing this kind of triage and this is one of the factors that has played an important role in the criminalization of persons with mental disorders. The police have some discretion in the exercise of their duties, including determining what to do when dealing with a person with mental disorders in the community. In some cases, however, public policy and law limits the police officer's discretionary ability. For instance, if the person with a mental disorder is alleged to have committed a major crime, the disposition is pellucid, that the person has been arrested because of the seriousness of the offence. In this scenario, it is the object of the Mental Health Act that mental health evaluation and treatment will take place while the person is in custody.

46. A number of factors have been proposed to explain why when minor offences are involved, a police officer decides to arrest a person with a mental illness rather than taking the individual to a hospital. A person who appears to a mental health professional to be mentally disordered, may not seem so to police officers, who, despite their street smarts, have not had any training in dealing with this issue. In some instances, mental disorders may seem to the

[35] Section 15 of the ***Mental Health Act***

police to be intoxication, induced by alcohol or drugs, especially if at the time of arrest, the defendant has been determined to have been using drugs or alcohol. Another factor is that in the confusion that may accompany an encounter with the police and other citizens, a defendant may have to be forcibly subdued, and therefore signs of any mental illness may go unnoticed. It is also more likely that incidents of violence at the time of police intervention increases the chances that the mentally disordered person will be arrested and detained.

47. Additionally, the police may be more inclined to charge mentally disordered persons with a misdemeanour and take them into custody if they think that no appropriate alternatives are available, a practice that has been referred to as "mercy booking". It is the perception amongst some stakeholders that, Jamaica is under resourced with no forensic psychiatric facilities and limited community mental health services, and hence psychiatric treatment may be more accessible in custody than in the community. Thus the relative availability of psychiatric services in the correctional facilities may influence a police officers' decision to arrest a person with mental illness.

48. Our mental health experts indicate that, there is no objective information to support the above perceptions of the police and that a review of the resources available in communities shows the availability of psychiatrists, other doctors, mental health officers, nurses, psychiatric nursing aides as well as accessibility to the full range of medications approved for treating various mental illnesses in Jamaica. Correctional facilities on the other hand are not adequately staffed and despite suggestions do not make readily available all the medications approved.

49. Even if the police consider a person's urgent problem to stem largely from mental disorders, their choosing the mental health option can be both problematic and aggravating for them. There may be long waiting periods for psychiatric emergency services during which police officers cannot attend to other duties. Mental health professionals may question the judgment of police

officers and refuse to admit the person especially if that individual is prone to violence or has committed a criminal offence. The policeman’s appreciation of the system is that, in circumstances where the mentally disordered violator is currently or was previously a patient of the Bellevue Hospital or Ward 21 at the University Hospital of the West Indies, it is easier to transport such defendants to those said facilities for treatment.

50. Looking at the situation from the perspective of the mental health service providers, hospitals generally try to expedite the psychiatric emergencies. They are sometimes faced with patients who are brought by the police and unceremoniously deposited at the facility, with no indication of who the person is, where they were apprehended and which police officers brought them there. This is out of keeping with the requirements of the ***Mental Health Act*** and impacts negatively on the management of the mentally ill. Hospitals are willing to attend to mentally disordered patients from outside their treatment area as also new patients without this serving as a barrier to care.

51. After treatment at Bellevue the police cannot leave the patient there, unless station bail is granted, because there is no facility to remand ‘under police guard’. At Ward 21 the patient may be admitted and the officer be on guard, but handcuffs are not allowed to be used to restrain patients and neither are the police permitted to have firearms on the wards. Where the mentally disordered defendant, has not been a current or past patient of a psychiatric facility, the police have to take this person to a public general hospital and from there, a referral is obtained to take or transfer the person to a psychiatric facility. Note however that we reiterate that there has been no designation of any public general hospital by the Minister of Health & Wellness.

52. The availability of trained psychiatric personnel to which the police have easy access at the intake stage will result in earlier treatment for the mentally disordered defendant and a more efficient process for law enforcement. The Committee has been duly informed by our mental health experts that police do have access to mental health officers who are on 24/7 roster call, the real question is whether the police exercise this option. Early intake assessment

and treatment of the mentally disordered defendant, would bring Jamaica in accord with the United Nations Convention on the Rights of the Mentally disordered, that is *“to the highest attainable standard of physical and mental health”*.

53. The police are well aware that if they refer a person with mental illness to the criminal justice system, the individual will be dealt with in a more predictable way. Once the defendant is taken into custody, he or she will probably be seen by a mental health professional accessible through the court, and will probably receive psychiatric evaluation and treatment. Thus arrest is a response with which the police are familiar, one over which they have more control and one that may more likely lead to an appropriate disposition. Moreover, when mentally disordered persons who are socially disruptive are excluded from public psychiatric facilities, the criminal justice system becomes the system that must respond.

54. When the interaction between the police and the person with mental illness is initiated by the police themselves, police officers will have the greatest amount of discretion, as to how best to treat with the individual and be more likely to seek the hospitalization/treatment option.

55. Often, the interaction between the police and the mentally disordered person is initiated by citizens. In such cases, the citizens' demands also may come into play and limit the discretion of the police. For example, people who have just been assaulted or injured by a mentally disordered person, frequently are not inclined to be sympathetic or forgiving towards their assailant, even when mental disorder is evident. The result may be an angry citizen who insists on having the mentally disordered person arrested and taken to a lock-up.

56. Mentally disordered persons, who are psychotic and who do not take their prescribed medications, and those who are substance abusers may pose a considerable challenge not only to mental health professionals but also to the police. When the mentally disordered person is alleged to have committed an offence, commonly of violence or damage to property, the police are the first

to receive the report and to intervene[36]. The above begs the question whether police officers are equipped with the requisite training and intake protocol, to reasonably identify a mentally disordered suspect/defendant. The enquiries of this sub-committee reveal that, while there is an intake and interview process at the police stations, these processes however, are deficient when it comes to identifying mental disorders.[37]

57. Currently the intake process utilized by the Jamaica Constabulary Force, identifies a detainee who is for example, “gang related,” such as those from “Hundred Lane” and separates those from detained rivals from “Park Lane”. Likewise, the entry interview/enquiry separates defendants of buggery or same-sex sexual violatiors from the general lock-up population.

58. In the same way that the intake system addresses gang and sexual orientation vulnerabilities, modification of the process is necessary for identifying defendants with mental vulnerabilities. Additionally, an intake officer might have no training on how to handle the mentally disordered citizen in conflict with the law, and not all police stations are equipped with a lockup or jail. It is thus suggested that at police facilities where the infrastructure includes detention or remand capabilities, there must be at least one trained custody officer on each shift to handle the intake of mentally disordered persons.[38]

59. The experience of the courts is that only some parishes have available, a mobile mental health unit, which may be called upon to handle challenging and threatening situations. For example, an aggressive mentally disordered suspect, armed with a lethal weapon, requires that law enforcement officers get the help of the professionals with psychiatric training, to disarm and apprehend the suspect. Failing this, the situation may escalate and put everyone in danger. The perceived shortcoming in this arrangement is that

[36] See section 15 of the ***Mental Health Act***
[37] See chapter 3, paragraph 98
[38] See chapter 3, paragraph 78

there is no ready access to the Mobile Mental Health Unit. The assigned personnel in these units, as far as the police are concerned, work only the hours of 9-5, Monday to Friday; whereas situations involving law enforcement and the mentally disordered are usually dynamic. Consequently, nights and weekends provide law enforcement with no trained assistance in the handling of such individuals.[39]

60. The mental health service providers have however refuted that this service is not available in all parishes and have additionally indicated that the personnel assigned to the Mobile Mental Health Units are rostered and available 24/7. The issue as they perceive it, is that, the police are not opting to access this service.

61. Currently, the process of taking into custody mentally disordered persons, does have a few guidelines. The forensic mentally disordered defendant must be kept by himself, and visited every half hour with the visits logged in the lockup diary. Media reports have revealed a child detainee committing suicide, in circumstances where the half-hourly visits were not observed.

62. In another instance, sixty-one (61) year old, Paul Coote, a resident of Industry Cove, Green Island, Hanover was in 2018 charged with the triple murder of his two children and their mother. Based on the information that the Legal Aid Council received regarding his mental status, senior counsel, Ms. Tamika Davis, was assigned to the defendant. She was successful in having the defendant kept in isolation, however, fellow inmates were able to video record him making incriminatory and confused remarks regarding his alleged acts. The video was subsequently posted online.

63. Persons with mental disorders are also at particular risk of making false admissions, including outright confessions, under police interrogation. In 2004, a USA study of one hundred and twenty-five (125) proven false confessions, indicated that nearly thirty percent involved at least one mental

[39] See chapter 3, paragraphs 79

disorder.[40] A 2010 review of DNA exonerations involving false confessions revealed that forty-three percent of false confessors suffered from mental disorders.[41] This susceptibility arises from both interrogation techniques, which liberally use deception and psychological manipulation, and mental disorders themselves, which frequently foster suggestibility and inattention to long-term consequences. Mental disorders also undermine the protectiveness of legal safeguards against coercive interrogation, such as administering a caution[42]. As a result, persons with mental disorders are ominously disadvantaged with regard to police interrogation, relative to non-disordered defendants. False confessions can likely result in wrongful convictions, therefore, once a false confession is made, it can devastate the defendant's case.

64. Even though there may not be any recorded case in Jamaica of an actual "false confession" extracted from a mentally disordered person that is not to say it has not happened. In any event, our mental health experts are agreed that when compared to the general population, persons with mental disorders display greater suggestibility, tendencies towards acquiescence, and inattentiveness to long-term consequences. All these make them especially vulnerable to deceptive police tactics. Interrogation is a process designed to elicit information, often against the interrogated party's self-interest, undeniably, skilled interrogators will insidiously levy a variety of psychological pressures on the suspect to achieve their goal. Mental disorders, such as, intellectual impairments and psychotic disorders, can render individuals especially vulnerable to false confessions.

65. In addition to observance of the Judges' Rules[43] and administering cautions, the Legal Aid Act provides the right to counsel during interrogations. This

---

[40] See Steven A. Drizin & Richard A. Leo, ***The Problem of False Confessions in the Post-DNA World***, 82 N.C. L. REV. 891, 970–73 (2004).

[41] Brandon L. Garrett, ***The Substance of False Confessions***, 62 STAN. L. REV. 1051, 1095 (2010)

[42] ***The Judges Rules*** (**Practice Note** (**Judges**' **rules**) [1964] 1 WLR 152. Formulated 1912 & 1918; are a set of guidelines about police and questioning and the acceptability of the resulting statements and confessions as evidence in court. Originally prepared for police in England, the Rules and their successor documents have become a part of legal procedure not just in Britain but in this jurisdiction as well.

[43] Supra

serves to protect the fundamental right to a fair trial, by promoting parity between the police and the defendant. All defendants have the right to the assistance of counsel at all stages in a criminal proceeding, including pre-trial interrogations. During questioning, the protection of the law therefore requires that a defendant will: (1) understand that he has the right to remain silent and he need not self-incriminate (2) understand that he has the right to an attorney during questioning, (3) understand the role and potential benefit of an attorney's presence, (4) withstand the persistent police desire to interrogate without the presence of an attorney, and (5) clearly and firmly express his desire for an attorney. Together, these requirements entail a high level of perceptiveness, cognition, and memory, all of which may be undermined by mental disorders.

66. Section 15 of the ***Mental Health Act*** sets out the powers of a constable with regard to a mentally disordered defendant. It is recommended that the aforementioned Act or the ***Constabulary Force Act*** sets out specific remand protocol for the mentally disordered.

67. In August 2018, twenty-four lawyers were trained by Dr. Oo and Miss Nancy Anderson in the handling of mentally disordered defendants, charged with criminal offences. The Legal Aid Council proposes to conduct further training of Attorneys-at-Law included on the Duty Counsel list. The additional cadre of Attorneys will reinforce the representational steps necessary for mentally disordered defendants, especially with regards to interrogations by the police.

68. The problem within this jurisdiction at times, is not that there exists a dearth of laws but rather, the persons designated to carry out functions under those laws, do not enforce them. Section 15 of the ***Mental Health Act*** prescribes a procedure as to what is to be done when a mentally disordered person commits a crime. We make bold to say that the procedure is honoured in the breach.

69. Where an offence is committed by a person who appears to a constable on reasonable grounds to be mentally disordered, the procedure is as follows:

I. The constable has a discretionary power whether or not to charge the person as s.15(2) uses "may" instead of "shall". That discretion it is expected will be exercised according to the severity of the criminal offence committed.

II. Once the mentally disordered person is charged then the constable is mandated to bring him before a Parish Judge (formerly Resident Magistrate) at the earliest opportunity being not more than a period of five days after the date on which the offence is committed[44]. It is submitted that this might be subject to whether or not the mentally disordered person might have to face an identification parade.

III. Where it is necessary to charge a defendant (which means on an assessment of the circumstances and nature of the offence the constabulary can grant station bail), until he is brought before the Parish Judge, the police can detain him in a lock-up, remand centre or a place suitable for the detention of mentally disordered persons[45]. Again, the law contemplates psychiatric facilities as an alternative to a lock up or remand centre.

IV. Where the mentally disordered person is charged or detained***,*** the constable shall make a report in writing to a prescribed person within twenty-four hours of such charge or detention[46]. It is fair to say that this is a mandatory obligation, perhaps disregarded because of a lack of knowledge as to its existence rather than deliberate disobedience by the police. A prescribed person under the ***Mental Health Act***, is not defined in the interpretation section of the Act. It is inserted into section 6(2)(b) which states that a *prescribed person* is a mental health officer, public health nurse or approved social worker. In a case where the police wanted to be compliant would they know who are the designated prescribed persons for their police areas?[47]

---

[44] S. 15(2)(a)

[45] S.15(2)(b)

[46] S.15(2)(c)

[47] See paragraph 199

V. Where a mentally disordered person appears before the court, namely the Resident Magistrate (now the Parish Court Judge), the Parish Court Judge is entreated by law to:

> "*forthwith call to his assistance a medical practitioner employed to a public psychiatric facility and may summon witnesses; and if on examination of such person and having regard to the opinion of the medical practitioner, it appears that the person is mentally disordered and that he should be detained in a psychiatric facility, the Parish Judge may, by order, direct such person to be conveyed to and detained in a public psychiatric facility*[48]*.*"

70. The above provision, is not a formal hearing of fitness to plead but a determination as to whether or not the defendant is suffering from a mental disorder. Again, the Act retains the policy scheme, which is that, the mentally disordered are to be committed to a facility for health and not one of correction.

71. This intake scheme needs to be adhered to strictly and in the main it is not problematic. However, in reality the following may need to be done:

    i. The police need to be educated as to their role under s.15(2) of the ***Mental Health Act****.* Training led by both law enforcement and mental health professionals, with the active participation of police trainees, might well prove to be a most effective teaching process. At a minimum, training for the police officers should include becoming familiar with the general classification of mental disorders used by mental health professionals; learning and demonstrating skills in managing persons with mental disorders, including crisis intervention.

    ii. Knowing how to gain access to meaningful resources less restrictive than the correctional institutions; and learning the laws pertaining to

[48] The Mental Health Act section15(3)

persons with mental illness, in particular the criteria specified for involuntary psychiatric evaluation and treatment is essential.

iii. Recommendations have been made in the past for the incorporation of issues related to the mentally disordered in the Norman Manley Law School in a more substantive way. This should be implemented so that the lawyers and judges of the future will have a greater awareness and ability to manage such cases

iv. ***The Mental Health Act*** and ***Legal Aid Act*** may need to be amended making it mandatory for the police to inform the Legal Aid Council when mentally disordered defendants are arrested, charged, and unrepresented.

v. The Ministry of Health & Wellness needs to provide a listing of "prescribed persons" to the Jamaica Constabulary Force for all police areas, to whom reports are to be made so that the constabulary can satisfy their statutory obligation.

vi. The Ministry of Health needs to construct and gazette psychiatric facilities all over Jamaica with the attendant levels of security so that the law can carry out its mandate that the mentally disordered are to be hospitalised and not incarcerated.

vii. The intake process should have a properly designed assessment tool to identify the mentally disordered person and at the same time safeguard his rights. In the long term, a psychiatric clinician on call would be able to establish scales of severity. Defendants suffering from the most debilitating symptoms and who are deemed a danger to themselves and others are identified and a treatment/remand protocol established.

viii. The Legal Aid Council is to include on their Duty Counsel list in each parish, clear indicators which will identify Attorneys trained as mentioned previously, and we recommend that Justices of the Peace who conduct lock-up visits should also be the beneficiaries of training regarding mental health disorders.

ix. Crisis intervention training in mental health cases are essential for law enforcement personnel, and the use of force policy should give special

consideration to the methods of apprehending the mentally disordered. Considerable emphasis should be placed on de-escalating situations that might lead to the use of deadly force on persons with mental disorders, however, training alone might not be sufficient without the changes in the curricula at the police training academy in matters such as the use of deadly force.

x. Another important element in resolving crises involving persons with mental disorders in the community, as well as in reducing their criminalization, is the availability of adequate mental health resources and the sensitization of the wider community members.

xi. Increased sensitization of family members is needed. They should be encouraged to come forward to receive and assist their family members with psychiatric challenges who are incarcerated.

xii. The evidence that mentally disordered persons are being criminalized is of concern because the criminal justice system is not designed to be a major point of entry into the mental health system and once incarcerated, prison is hardly the ideal treatment centre for mentally disordered persons. The dissonance of the jail setting works against even the recognition of mental disorder.

xiii. A Forensic Psychiatric Facility to receive mentally disordered defendants who remain in prison as while they so remain it is likely that their mental condition will worsen, this is essential.

xiv. Legislative provision enabling the Correctional Services to directly contact the Legal Aid Council in respect of those defendants whose condition improves after detention by a court. If the defendant is subsequently deemed fit to plead but without a court date, an application for release or determination of the case may be brought before the court before a relapse.

xv. That accurate classification of mentally disordered defendants regarding their legal status be recorded and information in this regard be readily made available to the courts and to the Legal Aid Council.

PART 3

Criminal Practice and Procedure in the Courtroom

72. ***The Criminal Justice (Administration) Act***, deals with the court procedure in determining an defendant person's fitness to stand trial, in particular section 25, which is rather sparse in its provisions. There has been some clarity provided by the 2006 amendment of that statute,[49] but it is still not comprehensive enough in its practical application. The practical aspects of the proceedings in court is augmented by the guidance found in the earlier[50] editions of the Archbold's, Criminal Practice and Procedure.

What is meant by fitness to plead?

73. The terse and unhelpful definition of the phrase "fitness" as provided in section 25 (1) of the ***Criminal Justice (Administration) Act*** *"means fitness to stand trial (including fitness to plead) and the words "fit" and "unfit" shall be construed accordingly."* A more helpful illustration is provided in Blackstone's Criminal Practice 2006. The authors opine that:

> *"An defendant may fail to plead to the indictment when arraigned either because he is mentally incapable of doing so or because he is physically incapable – that is deaf and /or speech handicapped or because he wilfully chooses to stay silent. In the first event he is said to be unfit to plead; in the second he is mute by visitation of God; and in the third he is mute of malice."*[51]

74. The meaning of fitness to plead in a wider forensic interpretation, refers to a defendant's ability to understand and participate in the legal process undertaken during his trial for a criminal offence. The trial process is fundamental to the justice system, because all are deemed innocent until proven guilty, and the principle of fairness requires the full participation by an defendant in the trial process. Whilst our jurisprudence recognises that society must have its due and the public be protected from individuals who

---

[49] Sections 25A – 25E and the fifth, sixth and seventh schedules, 2006 amendment of the ***Criminal Justice (Administration) Act***

[50] 36th edition.

[51] Paragraph D11.15

contravene the law, these rights of society as a whole, must be balanced against the rights of vulnerable individuals who are unable to defend themselves, due to their mental incapacity.

75. The meaningful participation of an defendant in a criminal trial includes the ability to:

- Give instructions to an Attorney-at-Law, enabling counsel to challenge witnesses, and put the defendant's case to witnesses
- Present his case to the tribunal of fact, including giving evidence in his own defence
- Be able to appreciate the nature and consequences of the offence, and
- To challenge jurors (where appropriate)

76. The British philosopher, Duff describes the normative dimensions of trial as much more than simply understanding the facts and entering a plea.[52] A defendant is expected to answer not only to the charge but to account to the Court, the Crown, and to his fellow citizens. The accusation made against him in relation to the alleged crime imputes, unlawfulness not just immorality. Consequently, a conviction is not merely a finding of fact as to guilt but condemnation that will likely be in the form of punishment. While basic cognitive and intellectual capacities are required for the factual dimensions, Duff proclaims these alone are not sufficient for fitness to plead. To engage at trial properly, the defendant must also understand the reasons not to have done the deed, the moral, emotional and criminal aspects of the act, and the prudential reasons for avoiding punishment. An defendant who cannot comprehend the facts or communicate his wishes, is clearly not fit to plead. One who comprehends the facts but is not 'rational' and is unable to grasp the normative dimensions should also be found unfit.[53]

77. The obligation lies on the judiciary to ensure, that an defendant person is *compos mentis* and able to participate fully in his trial, this is a prerequisite of

[52] ***Moral and Criminal Responsibility: answering and refusing to answer***, Robert Antony Duff, University of Stirling - Department of Philosophy, 19 Oct 2017.
[53] ***Trials and Punishments***, Robert Antony Duff, Cambridge: Cambridge University Press 1991.

a fair trial. Accordingly, statutory provisions in section 25 (2) of the *Criminal Justice (Administration) Act* requires that:

> *"Where at any stage of criminal proceedings any question arises as to the fitness of a defendant, the Court may of its own motion, or on the application of the defendant or the prosecutor, direct that the issue of the fitness of the defendant be tried."*

78. The provision makes it pellucid that, if at any time in the criminal proceedings defendants appear mentally disordered, the issue of their competency to proceed may be raised. The issue of fitness may be raised by the Prosecution, the Defence or the Court may do so of its own volition. Where the issue is raised at the instance of the Defence, the onus lies on the defendant to establish on a balance of probability that he is unfit[54]. Where the issue is raised by the Crown, the onus will lie on them but the standard of proof is the criminal standard of beyond a reasonable doubt[55]. There is no known authority, whether statute or decided case which has indicated the standard of proof where the Court on its own volition raises the issue of fitness. It has been suggested by the learned Senior Deputy Director of Public Prosecutions, Mr. Jeremy Taylor Q.C. that in the absence of any such provision or decision, *"that the burden of proof is then on a balance of probabilities."*[56]

When is a fitness hearing/trial to be conducted?

79. In keeping with the obligation to safeguard the rights of the defendant, the court would conduct a Fitness Hearing /Trial, at any stage at which the court becomes cognizant that the defendant person suffers from, or is suspected to be suffering from a mental disability or impairment. There are several procedures prepended in the statute, depending on the Court's jurisdiction and the timing of the application.

---

[54] ***Regina v Robertson*** [1968] 1WLR 1767

[55] ***Regina v Podola*** [1960] 1 Q.B. 325

[56] Paper entitled, ***Fitness to Plead Procedure, by Jeremy Taylor, Senior Deputy Director of Public Prosecutions.***

a) At the Parish Court – where the issue arises during the course of a Preliminary Enquiry/Committal Proceedings but before the ending of the Crown's case *"the Court shall postpone a direction … until a time that is no later than the time that the defendant is called on to answer the charge."* During the course of a Preliminary Enquiry/Committal Proceedings a defendant is never called upon to answer a charge. Rather, the Parish Court Judge will commit him to stand his trial at the Circuit Court once a prima facie case is made out. This provision therefore, can only be reasonably interpreted to mean that where an defendant person is charged with an indictable felony, triable in the Circuit Court, and during the course of a Preliminary Inquiry or Committal proceedings it becomes apparent to the Parish Court Judge that the defendant is or might be mentally challenged, then the issue of fitness should be dealt with in the Circuit Court. It follows that there is no framework within which a fact finding hearing is triggered at this point, the Parish Court Judge simply conducts case management proceedings.

b) During the course of trial – where the issue of fitness arises during the currency of the Crown's *case "the Court may postpone a direction until the opening of the case for the defence; or…any later time"* at the defendant's request. This procedure would be applicable at any level of court at trial, whether by judge sitting alone or with a jury.

c) The foregoing section also enumerates particular restrictions on the conduct of a fitness trial or hearing, to include, where the Parish Court Judge defers the issue to be dealt with by the Circuit Court, where a defendant is discharged or acquitted before the issue is tried, and where a defendant is not represented by an Attorney-at-Law.

How is fitness determined?

80. The statutory provisions in the CJAA section 25A – 25E stipulates how the "Fitness Hearing/Trial" is to be conducted, and distinctly stipulates a different

regime where the trial is by way of Judge and jury versus one conducted by a Judge sitting alone.

81. The classic approach recommended by Alderson, B. in the decision of ***R v Pritchard*** [1836] 7 CP 303, was in relation to deaf mutes but is considered wide enough to encompass situations concerning fitness in relation to mental illness/disability. The Law Lord enunciated that:

> *"There are three points to be enquired into:- first, whether the prisoner is mute of malice or not; secondly, whether he can plead to the indictment or not; thirdly, whether he is of sufficient intellect to comprehend the course of the proceedings in the trial so as to make a proper defence - to know that he might challenge any of you to whom he may object - and to comprehend the details of the evidence, which in a case of this nature must constitute a minute investigation."*

Where the first scenario arises then the court will apply the procedure indicated in section 11 of the CJAA, that is to say:

> *If any person, being arraigned upon or charged with any indictment or information for treason, felony, piracy, or misdemeanour, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the Court, if it shall so think fit, to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.*

82. Where the issue of the defendant's competence to plead and to participate in the trial are the issues under consideration, then it is appropriate to conduct the hearing as per section 25 of the CJAA.

Examples of current practices in the Parish Courts

83. The majority of criminal prosecutions are dealt with in the Parish Court (formerly Resident Magistrates' Court), yet the rules and procedure for defendants with mental health issues who are 'unfit to plead' are piecemeal. There is no neatly codified regime. Instead the procedure, including mode of trial is gleaned from common law practices and procedures as also found in a

combination of statutes. This includes section 15 of The Mental Health Act, which provides that:

> *(2) Where an offence is committed by a person who appears to a constable on reasonable grounds to be mentally disordered, the constable-*
>
> > *(a) may charge that person for the offence and bring him before a Resident Magistrate at the earliest opportunity, being not more than a period of five days after the date on which the offence is com- mitted; and*
> > *(b) may, where it …*
>
> *(3) A Resident Magistrate before whom any person is brought under subsection (2) shall forthwith call to his assistance a medical practitioner employed to a public psychiatric facility and may summon witnesses; and if, on examination of such person and having regard to the opinion of the medical practitioner, it appears that the person is mentally disordered and that he should be detained in a psychiatric facility, the Resident Magistrate may, by order, direct such person to be conveyed to and detained in a public psychiatric facility.*
>
> *(4) The examination of a person under subsection (3) may, if necessary, be adjourned from time to time for a period in the aggregate not exceeding ten days during which time he shall be detained in a lock-up, remand centre or a place suitable for the detention of mentally disordered persons.*

Assessment of Whether Defendant is Mentally Challenged – Parish Court

84. In the absence of any codified approach or standard guidance provided to the Parish Court Judges, assessment of mentally disabled persons appearing before the court may occur in varying ways, the following is a compendium of the actual practices which currently obtain in the several Parish Courts within the jurisdiction.

- The Clerk of Court, will assess the file and have dialogue with the investigating officer. Any mental health challenges should be noted and in particular where the officer makes reference to the defendant being mentally disordered. Additional information may be gleaned from the complainant, and any other witness. In court, the Clerk of Court will raise this situation with the Parish Judge.
- In some instances, the assessment begins in open court. Upon the defendant's appearance, the Parish Judges engages him in dialogue and based on responses, may discern that a defendant may be suffering from a mental disorder or disability.

- Sometimes questions as to the defendant's mental status are also raised by the circumstances of the allegations or the abnormal behaviour of the defendant in court. In a few parishes, there is a specifically designated day for the mentally disordered.
- Judges in some parishes ask the Clerk of Court to write to the psychiatrist employed to their region requesting that an evaluation be done. In some parishes copies of the statements on the file accompany the request sent to the psychiatrist, so as to assist with the assessment of the defendant. If the family member(s) is/are present in court and can afford to and are proposing private care, some judges ask that a representative from the private facility attends court on the next court date, so they can immediately take the person into their care. That then becomes a condition of bail.

Availability of Family Support – Parish Court

85. The Judge will ask the investigating officer, police liaison officer or a probation officer to make efforts to contact relatives of the defendant if none is present in court at the time when the defendant is being dealt with. In Hanover, the court enlists the aid of the media representatives who are present in court to assist by publishing the names of the defendant and asks that relatives come forward. More often than not, the majority of the complainants in a case are usually family members of the defendant, and they are not usually inclined to forgive and forget or assist with his supervision.

86. On the Return Day or any subsequent day, a family member of the defendant may be in Court and if:
    a. The family member indicates that he or she is willing and able to have the defendant reside with him/her, to supervise the defendant in the taking of medications and to ensure scheduled visits to a Mental Health Clinic;
    b. the defendant is charged with a minor offence within the court's jurisdiction;
    c. the defendant is not known to be violent and will follow instructions;

d. the family member undertakes to collect from the Courts Office, a letter addressed to the local psychiatrist requesting a report pertaining to his Fitness to Plead;

Bail would be likely offered to the defendant, and the defendant would be released into the care and custody of that relative as a condition of the bail offer. Conversely, if the allegations are serious, sometimes even where family members are willing to assume responsibility for the defendant, the Court may await a psychiatric report before considering releasing him into their custody. If the Court forms the view that the Defendant may be a danger to himself and the wider society then bail would not be offered but rather he would be remanded in custody for psychiatric evaluation and treatment.

Disposition of cases – Parish Court

87. In some parishes, if family members are present and are willing to compensate the complainant where a minor injury or damage was the cause for the charge, then that is explored in mediation on the Return Day.

- If the complainant is not inclined to pursue the prosecution of the offence, and restitution is made that day then ***"No Order"***, ***"no evidence offered"*** or ***"admonished and discharged"*** are the verdicts/sentence entered on the record.
- The matter may also be discontinued or withdrawn by the prosecutor.
- Sometimes complainants will attend court and indicate that they recognize that the defendant is mentally disordered and that they do not want to continue with the case as no useful purpose would be served. In these circumstances the complainant would sign a statement to that effect and the matter would be disposed of. Thereafter the defendant would be released into the care of a family member.

Legal Representation – Parish Court

88. If a defendant person attends court without family support or where the family members are unable to afford the services of a lawyer:

    - Some Parish Judges routinely make a Legal Aid order for the defendant to obtain representation. The Clerk of Court is then instructed to make

contact with the Legal Aid Council or to simply call a lawyer to ask if they are willing to accept a Legal Aid Assignment, or the Judge will ask counsel in Court to accept an assignment

- The above practice is however not common to every parish. In some parishes if the defendant is in custody and the matter is one for committal then a pool of attorneys previously identified in some parishes are asked to accept assignments.
- In some instances, if there are family members present, the Parish Judge may suggest that the family members obtain legal representation and if they are unable to afford it, then the Parish Judge informs the family members about the availability of legal aid. They are then instructed to attend the Legal Aid Council, or to attend upon the Courts Office for an interview regarding eligibility for legal aid assistance.

Remand – Parish Court

89. Remand usually occurs where there is no family or social support available. In most instances the matter is adjourned and the mentally disordered defendant is remanded to facilitate an evaluation by a Psychiatrist as to his fitness to plead. The defendant is remanded either to the local lockups or to the psychiatric wing of one of the correctional facilities, usually the Tower Street or the St Catherine Adult Correctional Facility or the Horizon Remand Centre. The defendant may be remanded for this purpose, if the Crown is opposed to bail or the Court is of the view that the remand is necessary to facilitate the preparation of the psychiatric evaluation report pursuant to *section 4 (f)* of the ***Bail Act***.

Adjournments (Next Court Date) – Parish Court

90. Adjournments are usually scheduled at one (1) to three (3) month intervals.

- At the next court date, the Parish Court Judge enquires of the Defendant and or his family members, if any, as to his status, how the defendant is faring and if he had been taking his medication.
- If the family member is attending court for the first time the issue of bail is again considered, alongside the other considerations earlier mentioned.

- If the psychiatric report indicates that an defendant is unfit to plead and the defendant is in custody, the psychiatrist usually requires him to be reviewed further and so he will be further remanded for continued treatment and evaluation. The case may be adjourned either to the next month or to 2 -3 months hence, according to the practice in the parish.
- If the defendant had been on bail, the same enquiries are made of the family member. Where the psychiatric episodes are a result of drug use, the defendants are sometimes referred to the drug court for treatment/rehabilitation. This referral is always based on the nature of the offence as well as the availability of persons to assist the defendant in providing social support.
- From time to time evaluations are not carried out by the adjourned court date and this compels the court to further remand the defendant for evaluation and a report. If no report is presented, the Clerk of Court must advise the Parish Judge as to the reasons for failure. The Parish Judge then directs the Clerk of Court to follow up on the request.

Fitness to Plead Hearings – Parish Court

91. A few Parish Court Judges will conduct a fitness to plead hearing where Psychiatric Reports indicate that a defendant will never be fit to plead**.** If the person is found to be unfit they may either be released to willing and able family members or sent back to a local lock up or to the psychiatric wing of one of the correctional facilities. One Judge indicated that a fitness to plead hearing will only be conducted if the matter has been on the list for an inordinately long period of time, and the psychiatric evaluation suggests that the defendant will never be fit to plead and is a danger to society.

- The Judge orders that the Commissioner of Corrections submit monthly reports on the condition of the defendant, to include the state of the defendant in relation to his fitness to plead. The defendant will remain at the correctional institution until deemed fit to plead.
- If the monthly report from the Department of Correctional Services indicates that the defendant is fit to plead, then the defendant should be taken to the parish so that another psychiatrist can do another evaluation and produce a

second report. If both reports indicate fitness to plead, then the matter proceeds as per the provisions of the ***CJAA***.

- Some Parish Judges are of the opinion that the relevant statute requires Reports from two (2) Forensic Psychiatrists for a Hearing to be held and since only one (1) is available in the public sector no hearing can therefore be held. (**NOTE**: Section 25 requires a minimum of two (2) duly qualified medical practitioners at least one of which must be an approved medical practitioner having special experience in the diagnosis or treatment of mental disorder, so both **DO NOT** need to be forensic psychiatrists).
- Some Parish Judges deem it more appropriate to have the case fixed for subsequent mention dates. This is to ensure that the defendants are seen by the Court with sufficient regularity and that the progress of such persons is frequently monitored in order to prevent a situation where the defendant gets lost in the system or the relevant follow ups are not done in relation to them.
- One Court has even been making **"No Order"** in the matters against defendants who are mentally challenged. The mistake in thinking is that because no fitness to plead hearing can be held without two forensic psychiatric evaluations, the matter can only be brought back before the Court when a fitness to plea hearing can be held. Where that is done, the Parish Judge advises the family members about the course of action going forward, i.e., the Defendant is to take their medication, be taken to the hospital, etcetera, and the Defendant given words of encouragement then released.
- If the psychiatric report indicates that the defendant is "Fit to Plead" or the Judge adjudges him to be so:
    - I. Mediation is canvassed again or Restorative Justice explored
    - II. If the complainant is interested in pursuing the prosecution of the offence, where the offence is a matter within the court's jurisdiction to try, if yes then an early trial date is scheduled,
    - III. Some Judges will request that the defendant be assessed again by another psychiatrist to confirm the diagnosis and if there is a common finding of his fitness then the case proceeds on a normal trajectory- to trial.

Major Challenges – Parish Court

92. The Judges in each Parish Court were asked to supply information relative to those mentally disordered defendants with pending cases within their parishes. The reports presented were as at June 30, 2020, and included information as to the number of defendants who have been remanded in custody for psychiatric evaluation and treatment. The total number of mentally disordered defendants in custody island-wide was reported to be one hundred and thirty-eight (138).

- The parish of Manchester had recorded the highest number detained, at twenty-seven (27) and Hanover had the least, that is, two (2). At month ending June 2020, the time spent in custody varied widely. The parish recording the longest detention period was St. Mary, where one mentally disordered man had spent so far, over seven and a half years as a result of being unfit to plead. St James, had one defendant remanded for over twenty (20) months, St. Ann for two hundred and sixty-one (261) days and another in St. Thomas for one hundred and fifty-four (154) days. In a number of the cases the parish Court Judges have been making efforts to locate family members of the defendant so that they can be released into their care, pursuant to a guardianship order
- From the data presented, it is noted that mentally disordered defendants are taken to court for their first court appearance on average about two (2) weeks after they are arrested. Specifically, in St. James the average is twenty-two (22) days, fourteen (14) days for St Mary, eleven (11) days for St Thomas and eight (8) days in Portland.
- We note that any period that is in double digits should be considered as an inordinately long one, having regard to the statutory requirement of five (5) days maximum. There is therefore need for improvement in this area, persons in custody should be brought to court without delay.
- As at June 30, 2020, the intervals between court attendance also varied widely in each parish. The average interval was some twenty-five (25) for the Corporate Area Parish and one hundred and twenty-six (126) days in St Ann. The recommended period is one month in accordance with the 2001 Practice Direction. Presently the interval in most parishes is two to three months.

- Some of the Parish Court Judges had highlighted in their reports[57] that the mentally disordered defendants appeared much more coherent and looked physically better, on their return to court after the two or three months' hiatus.

Additional Challenges – Parish Court

- Weak family/social support
  Psychiatric reports not submitted
- In some instances, when reports are submitted which indicate that the defendant is fit to plead, the lawyer might nonetheless assert that they cannot take instructions from the defendant
- Limited number of psychiatrists available to conduct evaluations
- When defendant persons are remanded into the custody of the police, transportation woes cause the defendant persons not to be taken to the psychiatrist, where assessment and evaluation are conducted out of parish or at specified locations within a parish.
- Transportation issues lead to the defendant not being brought to court.

PART 4 – Statutory Fitness to Plead

Procedure in the Circuit Court with Judge and Jury

93. The Amendment to the Criminal Justice (Administration) Act (Act No.1/2006) sets out the procedure to be followed in relation to the trial of the issue of 'fitness to plead'. This obtains where the court directs the issue of fitness to be tried pursuant to section 25A (2) whether:
    (a) before the defendant is given in charge to the jury – in this scenario, the jury will first try the issue of fitness and can then go on to try the offence(s) on the indictment with the defendant's consent.
    (b) after the defendant has been given in charge to the jury – in this scenario, the trial of the offence(s) on the indictment is already

[57] Appendix 3

underway, so that the jury is then sworn to additionally try the issue of fitness.

i. The Indictment is preferred. At the section marked "arraigned" endorse the words ***"ISSUE OF FITNESS TO PLEAD"*.**

ii. Ignore the word "plea" on the back of the indictment - ***AS NO PLEA IS TAKEN.***

iii. A panel of jurors is then sworn to try the issue as to whether or not the defendant person is fit to plead.

iv. The jury must be comprised of the number of jurors required in respect of the substantive charge for which the defendant is indicted and being tried or to be tried, that is seven (7) or twelve (12).

v. Neither the Prosecutor nor the Defence Counsel can challenge any of the jurors.

vi. The jurors either swear or affirm the following oath:

"I swear by almighty God that I will faithfully try whether the defendant at the bar is fit to stand trial and give a true verdict according to the evidence"[58].

vii. Having been sworn a foreman is selected and the trial judge gives the following charge to the jury:

"Members of the Jury, the defendant John Doe is charged as follows:

The defendant John Doe is indicted for the offence of murder for that he on the 1st day of June, 2020 in the parish of St. Andrew murdered Jim Public and it is alleged that he is not fit to stand trial upon this indictment. It is your charge therefore to say, having heard the evidence, whether or not he is fit to stand trial"[59].

94. The evidence is then marshalled and the jury is left to make their deliberations but the jury cannot render a verdict unless they have heard the evidence of two or more qualified medical practitioners one of whom must be an approved medical practitioner which means the same thing as a duly authorized medical

[58] Form B, pursuant to section 25A (3) and the Fourth Schedule
[59] Form A, pursuant to section 25A (3) and the Fourth Schedule

practitioner under the Mental Health Act, one "*having special experience in the diagnosis or treatment of mental disorder.*"

95. After the evidence is taken the judge gives directions to the jury, the directions given by the trial judge would include the following exhortations:

    a. The only question for you to decide is whether this defendant is under such a disability of mind that he is not fit to be tried on this indictment.

    b. The test which you must apply is whether this defendant is capable of understanding these proceedings so that he would be able:

        i. To understand the nature of the charge.

        ii. To understand the difference between a plea of guilty and not guilty.

        iii. To put forward a proper defence

        iv. To properly instruct counsel, this means that he must be capable of telling his lawyer what his case is and whether he agrees or disagrees with what the witnesses have to say

        v. challenge jurors whom he might have cause to object to

        vi. follow the evidence in Court.

    c. If the defendant cannot do all these things you must find that he is not fit to be tried.

    d. The mere fact that the defendant is highly abnormal/not capable of acting in his own best interest is not conclusive that he is unfit to be tried; although it is a factor which you may take into account.

96. If the jury returns that the defendant is fit to be tried, then the trial will commence in the normal manner with an indictment being put to the defendant, or the trial will continue in respect of the defendant as if the issue had never arisen. Where the jury has returned a verdict that the defendant person is unfit to be tried the indictment is to be endorsed at ***"verdict"*:**

"Under a disability such that he cannot be tried/unfit to plead"

Procedure – by Judge alone - Parish Court

97. Amendments were made to the ***Criminal Justice (Administration) Act*** in 2006, where it sought to lay down a procedure in relation to mentally disordered defendant persons being declared fit to plead. The provisions of section 25A (4) of the ***CJAA*** are also relevant to proceedings in the Parish Courts. In that instance, the court is sitting as judge alone and is enjoined "to try the issue and render a verdict". This means that the judge will determine the issue and decide whether the evidence supports that the defendant is fit to plead or otherwise. This also means that the usual rules of evidence do not apply during fitness hearings, and it is not appropriate for the prosecution or defence to adduce evidence other than through the proper channels – i.e. the calling of witnesses, statutory hearsay and agreement through section 31CA of the Evidence Act.

Practice and Procedure pursuant to Section 25 of The Criminal Justice (Administration) Act and The Mental Health Act - by Judge alone

98. On the Judge's motion, *at any stage of criminal proceedings*,[60] the Judge may direct that the issue of fitness to plead be tried – **[S. 25 (2) CJAA]**
    i. To this end, the Judge makes an order for a psychiatric evaluation to be done. The Clerk of the Court/Registrar will be instructed to prepare a letter outlining to the respective personnel that the report has been ordered, as the Court is minded to conduct a fitness to plead hearing, pursuant to sections 25 of the ***CJAA***.
    ii. The letter should request that there be assessments conducted by a minimum of two (2) duly qualified medical practitioners at least one of whom must be an approved medical practitioner.
    iii. Simultaneous to the order for psychiatric evaluation, If the defendant is not represented by a lawyer, the Judge can grant a Legal Aid assignment **[S. 25 (5) CJAA].**

[60] *Whether the person is being tried; or arraigned to be tried; or where the person is charged pursuant to section 15 of the Mental Health Act; or appearing before the Parish Court Judge pursuant to committal Proceedings, or other reasons – [**S.25A (4) CJAA**]*

99. As is the position where the fitness issue is tried by a jury, before concluding either way, the Court/Judge sitting alone must receive evidence from two medical practitioners, one of whom must be an "approved medical practitioner". This means *"a duly qualified medical practitioner approved for the purposes of section 7 of the Mental Health Act as having special experience in the diagnosis or treatment of mental disorder".*

100. Jamaica does not currently have specialist registration. In our jurisdiction there will need to be clarity on who is considered a specialist in forensic psychiatry. All psychiatrists receive some training in forensics (especially in the last 10 years, to include risk assessment), some have experience in correctional settings and only one currently has certification in Clinical Forensic Mental Health.

101. Where the court determines that the defendant is fit, then criminal proceedings shall continue as if the issue had never arisen and the Court may give consideration to bail in accordance with the provisions of the Bail Act.

102. If a trial was commenced and during the course of that trial, evidence is given that the defendant is suffering from a mental disorder so as not to be responsible according to law for his actions at the time when the act was done or omission made and it appears to the judge or jury that such was the situation, then the court can return a special verdict: **defendant guilty but was suffering from a mental disorder** – [**S.25E CJAA**]

103. This special verdict also, cannot be returned until after considering the **written** or **oral** evidence of two (2) or more duly qualified medical practitioners (at least one of whom must be an approved medical practitioner) – **S. 25E (2) CJAA.**]

What Happens After a Court Finds a Defendant Unfit?

104. A fact-finding hearing including the issue of fitness to plead, will not necessarily result in a conviction, unless the process was conducted during the course of a trial and the special verdict is returned. Where a defendant was tried and convicted by way of a special verdict, the court has the power to indefinitely detain the defendant, pursuant to an order that he be "held at the court's pleasure". [**S. 25E (3) CJAA**]. So too, the court could impose a sentence with slight variations, in any event the Court shall make any of the following orders:

    [a] remand the defendant in custody at the court's pleasure as a forensic psychiatric inmate in such place and in such manner as the court thinks fit;

    [b] make a supervision and treatment order;

    [c] make a guardianship order.

105. Where proceedings are conducted in the Circuit Court and where a verdict of unfitness is returned by a jury, the court may make any of the following orders which are endorsed at "**sentence**" on the back of the indictment:

    a) that the defendant be remanded in custody at the Court's pleasure; or

    b) that in accordance with the Fifth Schedule, the defendant be admitted to a named psychiatric facility to be held at the Court's pleasure; or

    c) in accordance with the Sixth Schedule, make a supervision and treatment order in respect of the defendant; or

    d) in accordance with the Seventh Schedule, make a guardianship order in respect of the defendant.

106. Where the fitness hearing is conducted by a Parish Court Judge or Judge sitting alone, if the Court's determination is that the defendant is unfit to plead then:

    a) If a plea was previously entered, it is set aside – [**S.25 C (1) CJAA**]

    b) The court may then make any of the following orders pursuant to section **S.25C (2) CJAA**:

        i) Order that he be held in custody at the Court's pleasure

ii) Order that he be admitted at the Court's pleasure to a psychiatric facility;

iii) A supervision and treatment order

iv) A guardianship order

107. Where the defendant has been remanded in custody at the Court's pleasure, following proceedings in the Circuit Court; the Registrar of the Supreme Court and the Court Administrator of every Parish Court shall keep a register which ought to contain the following:

a) The name of the person remanded
b) The type of order made by the Court
c) A summary of each report received from the Commissioner of Corrections.

(See the Practice Note of Wolfe, C.J. dated 5th March 2001)[61]

Periodic Reports – Unfit Defendants

108. A Detention Order by the Court shall also include a requirement, that the Commissioner of Corrections submit to the Court once every calendar month a report on the condition of a defendant – [**S. 25D CJAA**]. These reports include a report from the psychiatrist as to the defendant being fit to plead or not.

a. The Judge must review these reports once received and give directions as the Court deems fit
b. The Registrar/Administrator must inform the judge within seven (7) days after the expiration of the time allowed for submission of any failure to submit a report [**S.25D (3) CJAA**]
c. If the Commissioner of Corrections fails to submit a report, then the Judge can subpoena the Commissioner and on oath or affirmation elicit evidence and consider his reason for failure.[62] [**S.25D (4) CJAA**]

[61] Appendix 1

d. The court can then issue such directions as it deems fit to secure the submission of the report. It is to be noted that the statute does not contain a provision for sanctions that the Court can impose for failure to comply. It is our view that the court could initiate contempt proceedings.

109. In respect of a defendant convicted pursuant to a special verdict, a periodic report at six (6) month intervals is also required "for the duration of the order". Copies of the said report shall be supplied to the Director of Public Prosecutions (DPP) and to the defendant, his guardian or family member.

110. The Court may on consideration of such reports and after hearing submissions from the DPP and the defendant or his representative[63] may:

(a) confirm the order made under subsection (3);

(b) make such other order under subsection (3) in respect of the person as the Court considers appropriate; or
(c) revoke the order made under subsection (3) and discharge the defendant.[64]

The Review Register of defendants deemed unfit to plead – The Supreme Court

111. There is no evidence in the registries of the Supreme Court that steps were taken to implement the provisions of section 25D of the Criminal Justice (Administration) Act. The Practice Note issued by retired Chief Justice Wolfe dated March 5, 2001[65] does not appear to have been widely circulated because very few persons were aware of it. There are some judges (particularly in the Parish Courts) who made an effort to set further dates to mention these cases but the formality prescribed in the Act and in the Practice Note were not implemented. There was no register kept in any registry in the Supreme Court that reflected the persons remanded in custody at the court's pleasure. At least certainly not in the last 20 years.

[63] For the purposes of subsection (7), representations may be made on behalf of the defendant by, his attorney-at-law; or a near relative of the defendant.
[64] Section 25E (7).
[65] See Appendix 1

112. Late last year (2019), the Criminal Case Management Court had to deal with a case where the fitness of the defendant was an issue. Steps were made by the judge to keep the case active and to get updates on the evaluation ordered. The government psychiatrist was eventually summoned to court to explain the delay in getting the evaluation done. Since that time, an initiative was taken to note cases of this nature. There is however still just this case although there are a few cases which might be heading in this direction.

113. Cases involving children who are mentally ill are not very common and I am not aware of any special measures to follow these cases. Judges, however, as a practice are minded to treat cases involving children with more sensitivity.

114. The case of Noel Chambers has brought to the fore that the courts of Jamaica have been in breach of their responsibility under the statute. The Criminal Registry has begun to implement the provisions of the statute and the Practice Note issued in 2001. A record is made of persons deemed unfit. Steps are to be taken to fully comply with the provisions by:

I. Implementing the register with the details of each case as provided in the schedule to the Act. The register should include not just cases going forward but will be updated with cases that are already in the system.[66]

II. Preparing a template for the order required by 25D (1).

III. Including in the work flow the measures required to be compliant.

IV. Sensitise and train staff to follow the procedures.

V. Including this responsibility in the written job functions of the Registrar and Deputy Registrar to ensure it is not forgotten in the future.

[66] Appendix 2A – Form C, Section 25D Criminal Justice Administration Act (Fourth Schedule) and Appendix 2B – Form D, Section 25E Criminal Justice Administration Act (Fourth Schedule)

115. It is expected that all of the above will be concluded before the beginning of the next court term in September 2020. Also of note is the assistance being given by the other agencies to identify cases where inmates have been deemed unfit.

What is meant by the phrase held at the Court's Pleasure?

116. This term evolved from our colonial ancestry where persons who were detained for committing a crime for an indefinite period were said to be held at his/her Majesty's pleasure. This sentence represented a period of detention that was at the discretion of the Crown and would be imposed upon persons found guilty by reason of insanity as well as on juvenile offenders, accordingly this type of detention can still be found in various Commonwealth countries. The terminology had previously been altered in places such as Jamaica to reflect the representative of the Crown in that territory. That person being the Governor-General.

117. Since 2003, the terminology has changed in Jamaica again, as a result of a development in our law and jurisprudence. In the Privy Council case of **DPP v Mollison**[67] the court determined a sentence of *"detention at the Governor-General's pleasure"* to be unconstitutional. The reason that it was found to be unconstitutional was not that it represented an indefinite period of detention, but rather that it violated the doctrine of the separation of powers. The Governor-General being a part of the executive arm and not the judiciary. This lead to the ruling that persons under detention at the Governor-General's pleasure were now being detained at the Court's pleasure. Interestingly enough section 9 of ***The Mental Health Act*** has not been amended to reflect this change in the law, for it still provides that persons can be detained at the Governor General's pleasure.

PART 5

Procedure for Re-entry and Review – (indefinite detention)

[67] [2003] UKPC 6

118. The present statutory framework does not allow for the absolute discharge of a mentally disordered defendant unless he was tried and found not guilty. Technically, however, the court's power to absolutely discharge a defendant is only permissible, following a trial where the defendant is acquitted or where the prosecution offers no evidence/no further evidence or where the prosecution fails to make out a prima facie case on their evidence.

119. To a limited extent a judicial discharge of a defendant is possible pursuant to section 25E (7) (c) of the CJAA following an initial detention at the court's pleasure where a special verdict was rendered at trial. Here, the court after considering a report submitted by the DCS *"under sub- section (5), and hearing the Director of Public Prosecutions and any representations made by or on behalf of the defendant, the Court may… revoke the order made under subsection (3) and discharge the defendant."*

120. In particular, an outright discharge of a mentally disordered defendant, does not obtain where an indefinite detention order is made relative to a determination of unfitness, not at any level of jurisdiction. Even where there is evidence that the defendant will never be fit to plead and stand his trial, there is no provision in the current law as to how the court is to dispose of the matter in a determinative way.

121. There is no bar to a defendant who has been found unfit to plead or to be tried being placed on trial once he has recovered his sanity. There is specific provision in section 25C (3) of the CJAA that, *"[A] verdict of unfit to stand trial shall not prevent the defendant from being tried subsequently if he becomes fit"* In the decision of ***Richard Brown v R***[68] an appeal to the JCPC from Jamaica. As per Lord Toulson:

> *"If a defendant recovered his sanity, there was nothing in the Act to prohibit the Crown from sending the defendant back to the court*

[68] [2016] 3 LRC 355; [2016] UKPC 6

with a view to his arraignment and trial. Otherwise, an innocent defendant who had been found unfit to plead and had then recovered his health would have no possibility of acquittal, but would remain liable to executive detention for the rest of his life. The appellant's argument was a misinterpretation of s 25 of the Act".

122. The prosecution, at its election, will determine whether it will proceed to trial if a defendant is found fit to plead. This right is not restricted by the length of time spent in custody awaiting a return to fitness. This decision will be subject to the court's abuse of process jurisdiction. The prosecution of those persons will always be determined by whether or not it is in the public interest to mount such a prosecution, especially after a lengthy period of detention.

123. Some of the factors the Crown ought to consider as to whether or not to continue a prosecution are:
    I. Whether or not the defendant will ever be fit to plead;
    II. The period of time spent on remand, especially if the period on remand exceeds or has equalled the maximum sentence that the person would have served for the offence;
    III. The impact of delay upon the defence and the prosecution of the matter;
    IV. The nature and complexity of the case - included in those factors is the severity of the offence. The greater the offence, the more likely it is that the Crown will give due weight to its consideration in mounting a prosecution.

124. The ***CJAA*** provides for periodic reports to be sent to the court regarding a defendant's status. The Court is obliged to review the report and:

> *(a) in the case of the Supreme Court, a Judge of the Supreme Court;*
> *(b) in the case of a Resident Magistrate's Court, a Resident Magistrate,*
>
> *[who] shall give such directions as he thinks fit having regard to the contents of the report, supplied.*

125. Significantly, the statute makes no explicit provision for defendants to be brought back to court, but the committee is of the view that the court is not powerless and in making such orders as the court deems fit, can demand the appearance of the defendant before the court utilizing the provisions of *The Corrections Act* at sections 19 and section 22.

> *19. Every person charged with any offence and remanded in custody to any adult correctional centre, lock-up or remand centre by any court, Judge, Resident Magistrate, Justice or Coroner, shall be delivered to the Superintendent of such centre or to the person in charge of such lock-up or remand centre, as the case may be, together with the warrant of commitment, and the Superintendent, or person in charge, as the case may be, shall detain that person according to the terms of the warrant, and shall cause such person to be delivered to the court, Judge, Resident Magistrate, Justice or Coroner, or shall discharge him at the time named in the warrant and according to the terms thereof.*
> *22 (1) Where the presence of any person confined in an adult correctional centre, lock-up or remand centre is required in any court of civil or criminal jurisdiction, such court may issue an order in writing addressed to the Superintendent or, as the case may be, the person in charge of the lock-up or remand centre, requiring the production before the court of such person in proper custody at the time and place to be named in such order, and such Superintendent, or person in charge, as the case may be, shall cause the person named in the order to be brought up as directed, and shall provide for his safe custody during his absence from the adult correctional centre, lock-up or remand centre; and every such court may, by endorsement on such order, require the person named therein to be again brought up at any time to which the matter in respect of which the person is required may be adjourned.*
> *22 (2) Every such order issued from the Supreme Court may be signed by a Registrar of the Court, and if issued by any other court shall be signed by the Judge, Resident Magistrate or Coroner, as the case may be.*

126. The “order in writing” referred to in section 22(1) above could be a ***writ of habeas corpus ad respondedum***[69] which orders the custodian of a defendant in the custody of DCS to produce him/her physically in court so as to enable the judge to make an inquiry concerning his or her detention. The circumstances of the detention must invariably include the mental status of such defendant.

---

[69] Appendix 4

The Civil Procedure Rules

127. Part 75 of the Civil Procedure Rule ("CPR") allows for an application for review, to be made by "inmates" held at the court's pleasure. It is to be noted that there is no indication whether those held at the Governor General's pleasure can utilize this procedure, albeit that law was struck down as being unconstitutional. There is however, no indication that inmates previously so detained had been regularized to the extent that there was any automatic transferral to detention at the court's pleasure nor has there been any court appearance of these individuals for such purposes.

128. The application under Part 75, requires that it is the defendant/ applicant who must initiate the application by way of written notice and supported by affidavit evidence. Thereafter, the application is to be filed and served on the relevant parties to include the DPP. There is a stated time period when an initial application can be made, that is, no earlier than after the lapse of five (5) years following the detention of the inmate at the court's pleasure and any subsequent applications may be renewed at two (2) year intervals. The general position can be circumvented and applications made after shorter periods of time in "exceptional circumstances."

129. The process of review anticipated by Part 75, puts the onus on the Defendant/Applicant to make re-entry before the Court, following remand at the court's pleasure and therefore, the procedure we believe, is for that reason, flawed. The liberty of the subject is a right guaranteed under the Constitution and any continued detention should be justified by the State, therefore the review process should be automatic; and not the responsibility of the Defendant/Applicant to have the matter brought back before the court for review.

130. The committee further questions the effectiveness of Part 75, because on closer examination, it would seem that not all defendants' detained at the

court's pleasure could utilize this provision, based on the options open to the court in Part 75.6, to wit:

I. *Release the applicant unconditionally;*
II. *Release the applicant on parole with conditions;*
III. *Dismiss the application with or without recommendations as the court deems fit.*

131. What is meant by "release?" Does this mean release pursuant to the Bail Act? If so, this should be clearly stated. If it means release in the sense that the matter is brought to an end, then, can the court properly "unconditionally" release a person not yet tried? Or is this to be a decision within the remit of the DPP? Could a court release on parole a person who is not serving a sentence? And further, is it within the jurisdiction of the court to contemplate matters of parole or is this within the remit of the Parole Board pursuant to the Corrections Act? These questions remain unanswered.

132. Notwithstanding that a defendant is detained at the Court's pleasure, there is nothing to preclude a statutory provision for re-entry of such a person before the Court as the Court deems fit. In that vein, the Court must fashion its own schedule for review, taking account of whether a defendant was tried and convicted but found to be insane or suffering from diminished responsibility; or whether he was detained after being found to be unfit to plead.

Convention on the Rights of Persons with Disabilities ("CRPD")

133. The CRPD was passed by the General Assembly of the United Nations in December 2006, and by February 2013, it had been signed by some 155 countries and ratified by 127, including Jamaica. On the 30th March 2007, Jamaica ratified this Convention without any reservations and in 2014 enacted the Disabilities Act. The CRPD sets out key rights that citizens with a disability should enjoy in a fair society. It is one of the nine core human rights treaties of the UN. The overall purpose, stated in Article 1, is to *"promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their*

inherent dignity". The elimination of discrimination by ensuring that rights may be enjoyed on an equal basis with others is a fundamental aim. While, arguably, most of the rights in the CRPD are already protected by other UN treaties, the CRPD frames rights in a way that is specific for people with disabilities.

134. Disability' is not formally defined in the CRPD, it was left to individual State Parties to coin their own definitions. Pursuant to section 2 of the Disabilities Act:

> *"persons with disabilities" or where the context requires "person with a disability" includes a person who has a long-term physical,* ***mental****, intellectual or sensory* ***impairment*** *which may hinder his full and effective participation in society, on an equal basis with other persons;*

135. The use of the word '*include'* in the definition above allows for a non-exhaustive description of 'disability' that is not settled neither are the meanings of terms such as *'long-term'* and *'impairment'*. It is therefore wide enough to include individuals suffering from a 'mental illness' and diminished responsibility (referred to in the Mental Health Act). Whether all people with a 'mental disorder are appropriately considered as having a 'disability' is a moot question which the existing legislation does not answer.

136. One aspect of the CRPD appears to be particularly challenging to conventional mental health practice. This concerns involuntary treatment. Along with the general right to liberty, similar to that contained in other human rights instruments, it provides that *'the existence of a disability shall in no case justify a deprivation of liberty.'* (Art. 14(1)(b)). The Office of the UN High Commissioner for Human Rights adopted a liberal and spirited view of this provision, as it applies to psychiatric detention.

> *"[48.] … Article 14, paragraph 1 (b), of the Convention unambiguously states that "the existence of a disability shall in no case justify a deprivation of liberty". Proposals made during the drafting of the Convention to limit the prohibition of detention to*

> *cases "solely" determined by disability were rejected. As a result, unlawful detention encompasses situations where the deprivation of liberty is grounded in the combination between a mental or intellectual disability and other elements such as dangerousness, or care and treatment. Since such measures are partly justified by the person's disability, they are to be considered discriminatory and in violation of the prohibition of deprivation of liberty on the grounds of disability, and the right to liberty on an equal basis with others prescribed by article 14."*

137. On this basis, 'mental disorder' or 'mental impairment', as contemplated by the Jamaican statutes even if it comprises only one of a number of necessary criteria for involuntary detention, seemingly makes that set of criteria incompatible with Article 14 of the CRPD, that a disability shall in no case justify a deprivation of liberty. It is to be noted also that section 14 (1) of the Charter of Fundamental Rights and Freedoms of the Constitution, allows for deprivation of liberty in consequence of a person's *"unfitness to plead to a criminal charge" and where he is "suffering from a mental disorder … where necessary for his care or treatment or for the prevention of harm to himself or others..."*

138. The Convention further recognizes and reaffirms some specific human rights such as dignity and individual autonomy and embraces a domestic legal framework that promotes, formulates and evaluates policies, plans, programmes and actions to further equalize opportunities for persons with disabilities.

139. In article 3, the CRPD embraces its general principles: respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference; equality of opportunity and accessibility.

140. The Convention underpins certain rights that must be guaranteed to all persons with disabilities. These rights include the following: right to life (article

10), equal recognition before the law (article 12), access to justice (article 13), liberty and security of person (article 14), freedom from torture or cruel, inhuman or degrading treatment or punishment (article 15), freedom from exploitation, violence and abuse (article 16), protecting the integrity of the person (article 17), health (article 25), and *“habilitation and rehabilitation”* (article 26).

141. Countries subscribing to the Convention are obliged to take steps to modify or abolish any existing discriminatory laws, regulations and practices, as well as to provide facilities and programmes to give full effect and to support the rights of persons with disabilities (Article 4). These obligations include, for example, a duty to provide appropriate training regarding disability issues to those involved in the administration of justice (Article 13), concrete programmes to assist people with disabilities and their caregivers to recognise and combat exploitation (Article 16), obligations to provide community support services (Article 19), and overarching duties on states to raise awareness of disability issues (Article 8) and to combat discrimination (Article 5). Furthermore, for states that have ratified the optional protocol, individuals who consider themselves victims of violations of the Convention will be able to make formal complaints for determination by the Committee.

142. One of the focal points of this Committee is an examination of the relevant legislation that impacts the mentally disordered defendant, and to make a critical assessment of the same with the aim of identifying whether the conventional legislation, such as the ***Mental Health Act, The Criminal Justice (Administration) Act and Corrections Act***, appear to violate, for example, Article 4 (‘no discrimination of any kind on the basis of disability’), Article 12 (persons shall ‘enjoy legal capacity on an equal basis with others in all aspects of life’) and Article 14 (‘the existence of a disability shall in no case justify a deprivation of liberty’).

143. States parties have to respect and promote these rights, but this might provoke some controversial situations. Since one ought to have the right to choose freely in equal recognition how they want to live. A defendant with a

mental disorder who comes into conflict with the law can be detained or receive treatment against his will. In the criminal justice system, the aforementioned situation provokes a considerable challenge to the Convention. Although rights defended and promoted by the Convention should be respected, in specific situations a right may be overridden by stronger conflicting rights or even by other values. Besides, we have to recognize that even endeavouring best efforts to adhere to the Convention, detention and involuntary admissions for psychiatric treatments can be necessary for a defendant's health, life and rehabilitation as also the protection of others.

144. ***The Constitution*** recognises a person's right to liberty except in certain stated circumstances. The Constitution at Part III (Charter of Fundamental Rights and Freedoms, by section 14 provides that:

> *(1) No person shall be deprived of his liberty except on reasonable grounds and in accordance with fair procedures, established by law in the following circumstances-*
>
> *(a) in consequence of his unfitness to plead to a criminal charge;*
> *(b) in execution of a sentence or order of a court … in respect of a criminal offence of which he has been convicted*
> *(c) …*
> *(d) In execution of the order of a court …*
> *(e) For the purpose of bringing him before a court …*
> *(f) The arrest or detention of a person …*
> *(g) In the case of a person who has not attained the age of eighteen years, for the purpose of his care and protection*
> *(h) the detention of a person-*
> *i. for the prevention …; or*
> *ii. suffering from mental disorder ….*
> *(i) ….*
>
> *(4) Any person awaiting trial and detained in custody shall be entitled to bail on reasonable conditions unless sufficient cause is shown for keeping him in custody.*
>
> *(5) Any person deprived of his liberty shall be treated humanely and with respect for the inherent dignity of the person.*

145. ***The Mental Health Act*** and ***the Criminal Justice (Administration) Act*** as previously discussed make provisions for the arrest and detention of mentally disordered defendants. ***The Mental Health Act*** governs the treatment and detention of mentally disordered persons whether voluntary or involuntary. The ***Criminal Justice (Administration) Act*** also makes provision for the detention of these mentally disordered defendants where they are found not fit to plead or where a jury returns a special verdict.

146. These provisions are in keeping with the limitations of entitlements arising under the constitutional Charter of Rights. The committee is therefore, of the opinion that the deprivation of rights and liberties pursuant to the foregoing statutes, although controversial, falls within the acceptable norms. Particularly, since they are intended to enure to the benefit of mentally disordered defendants. There is one overarching statutory policy in relation to mentally disordered persons, who have committed criminal offences. Hospitalization and treatment is the intention of Parliament, not incarceration in a correctional institution.

147. The foregoing principle goes all the way back to 1873. Under the repealed ***Mental Hospital Act,*** section 18 stated:

> *All persons with regard to whom a special verdict is returned under section 25 of the Criminal Justice (Administration) Act, or who in accordance with the provisions of that section shall be found to be insane at the time of arraignment or in respect of whom the Minister has made an order under section 26 (1) of the Corrections Act, or who, under the authority of any enactment now or to be in force, may be committed or removed to a mental hospital shall be confined in Bellevue Hospital.*

148. ***The Mental Health Act,*** section 9, with some variation restates the policy imperative that the mentally disordered are to be hospitalised not incarcerated. The provisions are that:

The managers of a public psychiatric hospital or a duly authorized medical officer shall, on the warrant of the Governor-General, admit and detain for treatment in that hospital persons who are -

(a) found unfit to plead on trial; or

(b) found by a Court to be guilty of an offence but are adjudged by the Court to be suffering from a mental disorder or diminished responsibility.

149. ***The Corrections Act*** in section 26(1) states:

Where an inmate or a person detained in a lockup or remand centre appears to the Minister on the certificate of a registered medical practitioner to be of unsound mind the Minister may, by order in writing setting out the grounds of belief that the inmate or person detained is of unsound mind, direct his removal to any public psychiatric facility within the Island, where he shall be kept and treated as if he had been ordered to be detained in the public psychiatric facility under the Mental Health Act and subject to section 27, until the senior medical officer or the mental hospital certifies that such inmate or person detained has ceased to require treatment in that institution.

150. Section 27 qualifies section 26(1) of the ***Corrections Act,*** it states:

Where an inmate or person detained in a lock-up or remand centre is removed to a mental hospital by order of the Minister under subsection (1) of section 26 or to any institution specified in an order made by the Minister under subsection (2) of that section, the Superintendent or, as the case may be, the person in charge of the lock-up or remand centre shall give written notification either to the senior medical officer of the mental hospital or to the person in charge of the institution, as the case may require, of the date on which such inmate or person detained would be entitled to be released from the adult correctional centre, lock-up or remand centre and as from that date, the inmate or person detained shall no longer be regarded as being in legal custody by virtue of this Act and no steps shall be taken to prevent

his escape by reason only that he had been an inmate or a person detained in a lock-up or remand centre.

151. The foregoing provisions underscores that care and rehabilitation for the mentally disordered are the underlying statutory intentions and not punishment. The only question, which arises here, is, why must it be the relevant Minister of Government who makes the referral or removal to the public psychiatric facility? Why not the Commissioner of Corrections who has the day to day administrative responsibility for the said institutions?

152. "*Ratio legis est anima legis*, *et mutata legis ratione, mutatur ex lex"* the English interpretation of this Latin maxim is that, the reason for a law is the soul of the law, and if the reason for a law has changed, the law is changed. The question therefore is has the principle or reason behind the mental health law changed? We must bear in mind that one of the objectives of such laws even as early as 1873 was to provide for the care of the mentally disordered (insane). This underpinning has not changed. *Cessante ratione legis, cessat et ipsa lex* (the reason for a law ceasing, the law itself ceases) is one of the oldest maxims known to our law and it is consistently followed by our courts. Of this maxim, it was said in the American decision of ***Beardsley vs City of Hartford***, "This means that no law can survive the reason of which is it founded. It needs no statute to change it; it abrogates itself". [70]

153. It is the view of the committee that the principles behind the law dealing with the mentally disordered defendant has not changed, and the law itself has not ceased. The legislative and policy dissonance arises in the ***Mental Health (Public Psychiatric Hospital) (Bellevue Hospital) Management Scheme 2013*** (hereafter the MHR 2013). Where in article 18(1) it speaks to persons being found unfit to plead by a Court: *"...shall be attended to at the Public Psychiatric Hospital in the presence of a police constable or correctional officer."* It is this legislative and policy disharmony that moved the issue from

[70] 50 Conn. 529, 47 Am. Rep. 677, 682 (883).

being one of health to one of corrections. **We should therefore admit and detain at the Public Psychiatric Hospital and not the correctional facility as remains the law.**

154. It is the view of this committee that the mentally disordered have been detained in circumstances not provided for in the law, but according to a policy devised by the executive which has rendered any orders made by the court otiose, in that there will be no admission to the only public psychiatric facility. The laws exist, and there being no legislative amendment or repeal the executive has effectively circumvented their enforcement.

The Sufficiency of the Criteria in *R v Pritchard* in Fitness to Plead Proceedings

155. Fitness to plead to a charge or charges at the outset of a criminal trial, differs significantly from insanity, in that, it is concerned with the question of a defendant's mental state at the time of his or her trial and not at the time of the offence. There are two fundamental differences between these concepts.

156. Firstly, in relation to procedure, if a person is unfit to plead, he or she cannot be tried in the same way as a person who is fit. Conversely, a person who pleads insanity is subject to the normal criminal trial process.

157. Secondly, in terms of outcome, a fitness hearing does not lead to a verdict of guilty. A trial in which a plea of insanity is raised, on the other hand offers the prospect of a special verdict[71]

158. For a defendant to be unfit to plead under the present law there must be a finding that a defendant is "under a disability" such that it would constitute a bar to trial. A defendant under such a disability is said to be "unfit to plead". The legal test of whether a defendant is under a disability (unfit to plead) is still known as the ***Pritchard*** test. Although the definition of "disability" is any disability, whether mental or physical. The legal test employs specific criteria for determining whether the defendant is under such a disability.

[71] Section 25E (1) of the Criminal Justice (Administration) Act.

159. Expert witnesses who speak to the issue of whether the defendant is unfit to plead therefore now have to give evidence on the question of whether the defendant is able to meet the Pritchard criteria. An inability to meet any **one** of the criteria is sufficient to render a defendant person unfit to plead. The fact that the court may take the view that the defendant is not capable of making decisions which are in his or her best interests is not enough to conclude that he or she is unfit to plead (see ***R v Robertson***[72]).

160. *The Law Commission Consultation Paper No 197*[73] stated that the Pritchard test really only addresses extreme cases of a particular type (usually bearing on cognitive deficiency) and it has been used widely by courts. However, it was perceived to exclude cases including amnesia regarding the alleged offence as seen in the case of ***R v Podola***. The ***Pritchard*** test continues to set too high a threshold for finding a defendant unfit to plead. It also fails to cover all the aspects of the trial process (for example, the ability to give evidence) and therefore has the practical effect of limiting the number of people who are found to be unfit to plead. The **Pritchard** test was nonetheless approved by the UK Court of Appeal in **Friend (No 1)**[74] in the context of a decision concerning the application of section 35 of the Criminal Justice and Public Order Act 1994. The **Pritchard** test was also left intact by the statutory developments in the 1964 Act and the 1991 UK Acts.

161. In recent times, the courts have been making the best use of these dated criteria for the determination of unfitness to plead, expanding them where possible. For example, the criteria were expounded in ***M (John***) [2003] EWCA Crim 3452, [2003] All ER (D) 199 in a way that attempted to make them consistent with the modern trial process. In that case the appellant had been convicted of rape, indecent assault on a female, indecency with a child and taking indecent photographs of a child. At trial, the defence contended that the defendant suffered from a serious impairment to his short term memory,

[72] [1968] 3 All ER 557
[73] The Law Commission Consultation Paper No 197 - Unfitness to Plead (A Consultation Paper)
[74] ***R v Billy Friend*** [1997] 1WLR 1433

known as anterograde amnesia, which rendered him incapable of following the proceedings and giving evidence in his own defence, and that he was therefore unfit to plead. The issue was contested before the jury. There was evidence from various witnesses on the issue including that of three psychiatrists. Two of the psychiatrists had concluded that the defendant was unfit to plead and one was of the view that he was fit, although this psychiatrist had previously noted that special steps would be required in order to deal with his memory problems.

162. The trial judge in ***Friend***, directed the jury that it was sufficient for the defence to persuade them on the balance of probabilities that any one of the following things was beyond the defendant's capability:

I. understanding the charges;
II. deciding whether to plead guilty or not;
III. exercising his right to challenge jurors;
IV. instructing solicitors and counsel;
V. following the course of proceedings; and
VI. giving evidence in his own defence.

163. The judge then proceeded to explain in detail, what was meant by each of these factors. The jury found that the defendant was fit to plead and therefore to stand trial. He was convicted and appealed. The first ground of appeal was that the trial judge had misdirected the jury by setting the test for fitness to plead too low, with the result that it was too easily met. In addition, it was argued, that the first two of the six items (understanding the charges and deciding whether or not to plead guilty) should not have been included. The appellate court having considered the decisions of ***Pritchard, Robertson and Berry***[75] enunciated that: *"When we consider the judge's directions in the present case in the light of those authorities we can find no deficiency in them. Indeed, this Court regards them as admirable directions. They do not set the test of fitness to plead at too low a level."* [76] The court further pointed out that

[75] (1978) 66 Cr. App r 156
[76] ***R v M*** 2003 [EWCA] crim 3452, [2003] All ER (D) 199 at para 31

the question of whether the appellant had been fit to be tried was a question for the jury who could take whatever view they wished of the evidence.

164. The legal test for establishing unfitness, the ***Pritchard*** test, in the view of this committee is outdated and inconsistent with modern psychiatry. The principal problem with Pritchard is that it represents a focus on the intellectual abilities of the defendant as opposed to his or her capacity to make decisions. The emphasis is therefore on cognitive ability. In ***Robertson***, for example, the defendant was able to comprehend the court proceedings but was found to be unfit to plead on the basis that he suffered from a paranoid illness and was thought to be unable to defend himself. The medical evidence was that *"delusional thinking might cause him to act unwisely or otherwise than in his own best interests".*

165. The Court of Appeal overturned the finding of unfitness, the Law Lords relied on ***Pritchard*** and held that the mere fact that the defendant was not capable of doing things which were in his own best interests was an insufficient basis for a finding of unfitness. In other words, a defendant's capacity to understand proceedings is separated in law from the question of whether he or she is capable of sound decision-making in relation to the conduct of those proceedings. These concepts have been thought to be sufficiently discrete for the courts to be able to say that only the former will have any bearing on the fitness to plead of the defendant.

166. Whilst the issue of fitness and competency are now deeply entrenched in court proceedings, questions have arisen which challenge whether such procedures justly assess the abilities needed to participate in a trial. The ***Pritchard*** test as formulated by Lord Alderson made insanity a necessary condition for unfitness before summarising the functional abilities required for trial. Do these criteria however, reflect the normative conditions necessary and sufficient for a fair trial? Secondly, is it necessary to be insane to fail to meet these conditions? Despite evidence suggesting he was neither 'insane' nor unable to plead, Pritchard was deemed unfit and then indefinitely

detained. How, therefore, does the law serve its purpose of protecting natural justice and individual rights?

167. Protecting the rights to a fair trial and liberty are intrinsic to the purpose of considering fitness to plead, but the present procedure seems to be failing on both reckoning. Depravation of liberty by way of indefinite psychiatric detention can no longer be justified. It is to be noted that not all defendants found unfit to plead are really beset by mental disorders. Some persons are really mentally impaired and others are suffering from communication deficits. While medical evidence is now a requirement in fitness proceedings, the assessing doctors are not asked about the appropriateness of detention and the judge has no limits as to his discretion of detaining at the court's pleasure. This kind of inflexibility is of real concern. Such concerns had been encapsulated by Richards, J. as follows:

> *Those [Pritchard] criteria do not correspond directly to the criteria for a mental disorder sufficiently serious to warrant detention, and it may be possible for a person to be found unfit to be tried without his suffering from a mental disorder sufficiently serious to warrant detention. Yet once a person facing a charge of murder has been found to be unfit to be tried, there is no further consideration of his mental condition … If the jury find … he did the act charged, it is mandatory for the judge to make an admission order … The judge cannot consider whether such an order is justified on the medical evidence … This feature of the procedure does raise the question whether detention is 'arbitrary' in the sense explained by the ECHR*.[77]

RECOMMENDATIONS

168. Proposals for Legislative Amendments

[77] **R v Grant (Heather***)* [2001] EWCA Crim 2611

[1] Judge alone fitness to plead hearings ought to be conducted with the agreement of the crown and the defence. In a time of Covid -19, such as this, legislative amendment would be an important and practical move which would reduce delay and increase efficiency.

[2] The Mental Health Review Board (s.26 of the **Mental Health Act**) should be better utilised. The Court ought to be able to make referrals to the Board however, s. 27(2) of the **Mental Health Act** would have to be amended to allow for them to acquire that jurisdiction and s.27(1)(b) should also add lock ups, remand centres and prisons.

[3] After a fitness to plead hearing, a defendant detained at the court's pleasure should be reviewed quarterly. The frequency of the reports – currently monthly – is too onerous for the psychiatrists and medical practitioners who have to prepare them given the existing resources. This would allow for more time to be spent with the defendant while allowing for medication to take effect and lead to a more thorough assessment.

[4] Perhaps the provisions of the **Criminal Justice (Administration) Act** ought to be amended to have the Court act on the report of one duly approved medical practitioner who has seen the defendant three or more times. But a provision could be included for the Court, if it deems fit, to order a report from a second duly approved medical practitioner.

169. The Committee further recommends that:

1. Revocation of Indefinite Detention

As it relates to defendants who are deemed unfit to plead, the nature and seriousness of the offence ought to be considered and balanced against the length of detention the individual has spent in custody without benefiting from a trial.

a. If the defendant has been in custody for a period longer than or equal to the likely sentence he would have received if found guilty of the offence for which he is charged, serious consideration should be given to his release from custody into suitable care and the formal dismissal of the matter in the interest of justice.
b. The above recommendation may be easily put into practice for minor offences triable in the Parish Courts, such as, Malicious Destruction of Property, Unlawful Wounding, Assault Occasioning Actual Bodily Harm etc.
c. Legislative changes would be required to put this recommendation into practice.

2. Reporting

Quarterly reports should be supplied by each Senior Parish Judge to the Chief Justice as it relates to the mentally disordered defendants before the courts. These reports will be used to track the defendant's appearances before the court, fitness progress and alleviate the risk of the defendants being lost in the system. With the assistance of the Department of Correctional Services, these reports can also speak to the defendant's physical condition i.e. weight, health and general well-being whilst remanded for psychiatric treatment. It is also recommended that a standard reporting format be utilized in reporting, this would ensure that pertinent information is included in these report[78].

3. Mental Health Court

Consideration may also be given to the implementation of Mental Health Courts in the Supreme Court and in the Parish Courts to better manage mentally disordered defendants. This could be executed in the Parish Courts, in a similar manner to implementation of the drug courts which were designed to help individuals with substance abuse and to reduce the risk of recidivism. The Mental Health Courts would consist of a judge, DCS liaison officer, psychiatrist, clerk of the courts, probation aftercare officer and duty counsel willing to accept matters of this nature.

[78] See appendix 3B as to the suggested format.

4. **Social Support**

Capable relatives should have a legal responsibility to care for and ensure that medication is administered to their mentally disordered family members who are prone to violence. Just as a parent has responsibility for his/her child pursuant to the ***Child Care Protection Act***, similar legislation can be considered in relation to the mentally challenged who require just as much attention.

5. **Inter-Agency/Governmental Collaboration**

Collaboration between at least two key stakeholders from the criminal justice and mental health systems is identified as the single most significant factor for the success of criminal justice diversion programs. Getting stakeholders to the table—which is often the greatest challenge—can be facilitated by ensuring that key leaders know the full benefits of collaboration. Involvement of social services agencies, mental health and addictions agencies, hospital/emergency room administrators, local corrections (institutional and community) agencies, law enforcement agencies, victim services, elected officials, mental health advocates, and persons with mental disorders and their family members is recommended.

Local and regional networks with representation across different sectors should be formed to examine and resolve barriers to services at the interface of the mental health and criminal justice systems. Often, the need for inter-agency/governmental collaborations is only realized, and transformational change achieved, after the enactment of legislation or sensational incidents/crimes involving individuals with mental disorders.

6. **Service Integration, Streamlined Services, and '*Boundary Spanners'***

A key to successful diversion programs is the integration of services that encouraged through a liaison person, or *'boundary spanner,'* with a mandate to effect strong leadership in coordinating agencies. A boundary spanner is a person who bridges several systems (i.e., mental health, addictions, criminal

justice, social support) and can engage the right people in relevant agencies to exchange information, coordinate, and collaborate on effective integration.

7. **Active Involvement and Regular Meetings among Key Personnel**
   Successful diversion programs begin with sustained involvement of all relevant mental health, addictions, social support, and criminal justice agencies. Regular discussion of topics such as service coordination, information sharing, and establishing written Memoranda of Understanding (MOUs) is recommended.

8. **Early Identification and Formal Case-Finding Procedures**
   Procedures for identifying persons with mental disorders who are involved with the criminal justice system and in need of services are critical to the success of diversion programs. The mental health treatment needs of an individual should be screened as early as possible to determine their appropriateness for diversion.

9. **Standardized Training, Cross-Training, and Increased Awareness**
   A core element of diversion programs is the training of police, court support staff, Judges, crown and defence Attorneys, probation and parole officers, and Justices of the Peace on issues relating to mental disorders and the availability of mental health and addiction services. We therefore recommend comprehensive basic training for all ensuring that all court participants are aware of any pre-trial diversion program in existence.

10. **Enhanced Community Resources Adequate Resources**
    Active case management and appropriate housing—must exist in the community for any diversion program to be effective. The ability to help meet basic needs and access services is a necessity at each diversion point within the criminal justice process.

11. **Leadership and Accountability**

Strong leadership is needed to network, coordinate, and provide direction for policy and program development—ideally using pooled funding for diversion strategies.

Chapter 1, was authored by the Chairperson, Fraser, J, Her Honour Mrs. A. Lawrence-Grainger, Mr. Jeremy Taylor, QC, Mr. H. Faulkner. We were also assisted by Mrs. Nicole Walters-Wellington, and Mrs. Tamsyn Bailey, Registrar and Deputy Registrar, respectively, Supreme Court.

CHAPTER 2

Report from the Sub-Committee on the Department of Correctional Services

1. This Sub-Committee has been tasked with the responsibility of examining the operations of the Department of Correctional Services (DCS) regarding the treatment of mentally disordered persons who are in its custody. In order to achieve this, we will first look at the circumstances which result in such persons being incarcerated there. We will then examine the challenges faced by the DCS in housing such persons and then close by making recommendations for the improvement of the treatment of these individuals.

2. There are numerous instances in which provision is made for the detention of persons deemed to be mentally disordered in a psychiatric facility. In circumstances where a person who appears to be mentally disordered commits an offence, a Parish Judge is empowered by virtue of *Section 15(3)* of the ***Mental Health Act*** to order that such a person be detained in a psychiatric facility. Similarly, *Section* 26 of the ***Corrections Act*** permits the Minister of Health to direct that an inmate of a correctional centre be transferred to a psychiatric facility where such an individual appears to be of unsound mind.

3. Prior to 1974, persons deemed mentally disordered or unfit to plead in the criminal justice system were sent to Bellevue Hospital which is the Public Psychiatric Facility designated under the Regulations pursuant to the ***Mental Health Act***. However, due to security and other concerns, a decision was taken to close the forensic ward at the Bellevue Hospital where such mentally disordered offenders were normally housed. This decision officially ended the Bellevue Hospital's role as an admitting forensic mental health facility and resulted in the relocation of approximately four hundred (400) mentally challenged criminal offenders to the Tower Street Adult Correctional Centre (then called General Penitentiary). At the time of the passing of the ***Corrections Act*** *in 1985, section 26* was ineffective as there was no psychiatric facility to which inmates of correctional centres who appeared to be of unsound mind could be transferred to for treatment. It also resulted in there being no forensic facility to which a Parish Judge could order the detention of an inmate in need of treatment pursuant to *Section 15(3)* of the ***Mental Health Act***.

4. It should be noted that *Section 6(1)* of the ***Corrections Act*** provides that the purpose or reason for which adult correctional centres exist is "for the imprisonment or detention of persons in custody." With the closure of the forensic ward at Bellevue, however, the DCS was forced to not only accept these vulnerable persons who were remanded by the Courts and to continue to house those inmates who appeared to be of unsound mind but also now had the responsibility to provide care for these persons though unequipped to do so. This brings us to the structure of the DCS.

5. The Department of Correctional Services is a paramilitary organization which falls under the auspices of the Ministry of National Security (MNS). The core function of the DCS is to manage offenders involved in both non-custodial and custodial programmes as well as to craft systems which nurture the rehabilitation and reintegration of defendant persons back into general

society. The Department is comprised of six (6) Adult Correctional Centres, one (1) Adult Remand Centre, four (4) Juvenile Centres and seventeen (17) Probation offices with approximately 3,555 persons in custody as at July 16, 2020.

6. Currently there are approximately one hundred and forty-eight (148) mentally disordered persons who are in correctional centres who have never been convicted or sentenced and another one hundred and fifty (150) who have been convicted of an offence and sentenced. With respect to the one hundred and forty-eight (148) mentally unsound inmates who have not been sentenced, they are housed across three (3) of the eleven (11) Correctional Centres namely, the St. Catherine Adult Correctional Centre, the Tower Street Adult Correctional Centre and South Camp Adult Correctional Centre. Of this number, at least a total of seventeen (17) are currently held at the Governor General's Pleasure, ten (10) are held at the Court's Pleasure and one hundred and twenty-one (121) are awaiting trial.

7. Two (2) of these correctional centres house the vast majority of the mentally disordered inmates and both have surpassed their ideal capacities and are now overcrowded. These facilities were not constructed with a focus being placed on the therapeutic environment required for the rehabilitation of this vulnerable group.

8. For instance, the mentally disordered inmates located at the Tower Street Adult Correctional Centre are housed in an area referred to as the George Davis Centre (GDC) which is located towards the back of the building. This makes it more difficult to monitor those in need of direct supervision and also makes it possible for other inmates to locate and abuse those deemed mentally disordered. Though this section is currently being refurbished it is our respectful submission that the finished product will still not be conducive to a therapeutic environment. Due to the lack of qualified health professionals,

adequate psychiatric care is not generally provided and it is of particular concern that the DCS does not have a full time psychiatrist on staff.

9. The DCS is currently required to provide psychiatric services to the following:
   - Persons before the Courts who have been deemed unfit to plead;
   - Convicted persons deemed mentally disordered at the time of the commission of an offence; and
   - Convicted persons who become mentally disordered after incarceration.

10. The DCS has a responsibility to the Courts in relation to cases involving the mentally disordered. At the request of the Court, the DCS is required to carry-out psychiatric evaluations for defendant persons and to submit certificates indicating their fitness to plead. In some instances, a more detailed evaluation of their mental state may be required and this can guide judges as to whether the defendant understands the charges so that the case can proceed. The evaluation can also guide the Court in determining the appropriate sentence to be delivered after conviction.

11. Unfortunately, it is this period that marks the commencement of indefinite incarceration for some defendant persons who are deemed unfit to plead. In the past, although evaluations were completed, they were not delivered to the Courts and this contributed to these inmates remaining incarcerated for prolonged periods of time. These persons usually have numerous court dates to facilitate the Court monitoring their mental condition with the hope that lucidity returns so that they can understand the charges for which they are before the Courts and participate in their defence. A number of these individuals are prone to violence and have no family or support structure. As such, they are usually remanded in custody for their own safety, the safety of the wider society and to ensure they are placed on a treatment plan to address their mental condition. The desired outcome should be that in a

structured therapeutic environment they can receive the psychiatric treatment necessary to facilitate their recovery.

12. There are also those for whom the prognosis for improvement is not good, with the medical opinion being that there is little chance that their mental disorder will ever change. Such persons who also fall into the category of being violent and/or with no support structure are often remanded in custody for very lengthy periods and hence become prone to being 'lost' in the system.
13. The following obtains when a request is made by the Courts:
    i. Requests for Fitness to Plead certificates are sent directly to the Correctional Centre.
    ii. Typically, requests are received on a monthly basis.
    iii. The Fitness to Plead certificate is completed by a Psychiatrist and is sent with the defendant to Court on his next court date. As there is no full time psychiatrist employed to the DCS the certificates are prepared as follows:
        - One Sessional Psychiatrist is responsible for preparing the certificates for Tower Street Adult Correctional Centre, St. Catherine Adult Correctional Centre and South Camp Adult Correctional Centre;
        - One Sessional Psychiatrist is responsible for preparing the certificate for Metcalfe Street and South Camp Juvenile Correctional Centre;
        - One Sessional Psychiatrist is responsible for preparing the certificates for the Horizon Adult Remand Centre (once per month);
    iv. Requests for Fitness to Plead certificates can be completed after one interview, however due to the overwhelming number of inmates to be seen and other inmates that need mental health services, it can take between six and eight weeks.

v. Two full-time Psychologists and two sessional psychologists provide services to all eleven facilities (3555 persons) plus staff.

vi. Requests for detailed psychiatric evaluations take at least two interviews with the defendant, a review of the statements and sometimes interviews with family members. This takes six to ten weeks to prepare.

vii. The Department currently prepares a list of all the mentally disordered that will be submitted to the Public Defender, the Chief Justice and the Director of Public Prosecutions.

14. Challenges associated with the current process:

i. In addition to the Correctional Centres, requests are sometimes also sent to the Office of the Commissioner of Corrections and the Medical unit, but not consistently to the Medical unit.

ii. Completed certificates/evaluations are kept at the Correctional Centres and not sent directly to the Courts. Hence the statutory requirement under the *Criminal Justice Administration Act* is not being fulfilled[79]

iii. The Medical unit does not have the necessary resources such as a comprehensive list of the Courts requiring reports and a contact person there or a working number or e-mail to communicate any concerns or challenges being faced in providing the certificates/evaluations.

iv. Requests from the courts are not always clear and the medical jargon is sometimes used incorrectly in requesting the certificate/evaluation.

v. The Department of Correctional Services is currently unable to provide two evaluations when needed as none of the Centres has more than one sessional psychiatrist assigned to it.

vi. The requests for monthly Fitness to Plead certificates for persons previously deemed unfit is a major issue for the DCS based on the

[79] Pursuant to section 25D (1) and 25E (5)

number of persons to be assessed, the very few psychiatrists available and the fact that it is unlikely that there will be any change in a person's health on a monthly basis.

vii. Clarification is needed in terms of what document the Courts require on a monthly basis and where the relevant documents should be submitted.

15. Proposed solutions to challenges currently being faced:

i. Requests for certificates/evaluations from the Courts should be directed to the Medical Unit of the DCS at its headquarters at 12 – 14 Lockett Avenue, Kingston 14, and not to the Correctional Centres. Please see Appendix 6 which sets out the proposed guidelines for such requests.

ii. Requests from the Courts should state clearly whether a Fitness to Plead certificate or a comprehensive evaluation is required.

iii. Requests should provide the Medical Unit with comprehensive contact information (name of contact person, telephone number, e-mail address and address of the Court) for person to whom the certificate/evaluation should be submitted.

iv. Fitness to Plead certificates to be provided every two - three months rather than monthly, perhaps at the recommendation of the psychiatrist. This however might necessitate statutory amendments as the CJAA requires that these reports be sent to the Courts monthly.

v. Forensic psychiatric services to be provided jointly by the Ministries of Health and National Security/Department of Correctional Services.

vi. Ministry of Health to provide technical services in the form of a mental health team to include: a psychiatrist, psychiatrist aides, a psychologist, a behaviour therapist and social workers.

vii. Where a secure psychiatric facility is established to house inmates with mental disorders then security should be provided for this facility by the Ministry of National Security/Department of Correctional Services.

viii. The submission of the DCS for additional posts be approved facilitating the following: Ideal staff ratio for 4000 inmates:

- Psychiatrist in ratio 1 per 1000 patients (4)
- Mental Health Nurse in a ratio 1 per 200 (20)
- Psychiatric aides in a ratio of 1 per 50 (80)

16. Efforts already made to correct the "incarceration of the unfit to plead"

- 2004 - Under the leadership of Major Richard Reece (Retired) the DCS formed a partnership with the Independent Jamaica Council for Human Rights (IJCHR) in an effort to have inmates deemed unfit to plead brought back before the Courts.
- 2004-2009 - Forensic Psychiatric Proposal drafted and submitted to Ministry of Health.
- 2014-2015 - Pan-American Health Organization (PAHO) funded Stakeholder Consultation on a Forensic Facility. Dr. C. Sewell submits a draft proposal.
- 2016-2018 - Minister of Health, The Hon. Dr. C. Tufton formed a Mental Health Task Force. An inspection of Tower Street Correctional Centre conducted by Mental Health Unit. Task Force makes recommendations for a Forensic Facility. Miss Nancy Anderson submits proposal for The Release of Mentally Disordered Inmates and a Diversion Programme.
- Research indicates that the Department of Correctional Services has made several attempts to approach the Ministry of Health for the establishment of a Forensic Facility. There is also a detailed structure

suggested for the staffing of the Health Services for the Department and that a 30 bed Forensic Facility be built at the Tamarind Farm Adult Correctional Centre.

Conclusion and Recommendations

17. It is the view of this sub-committee that inmates with mental disorders belong in a secure psychiatric facility and not in a correctional centre.

18. It should be noted that a psychiatric facility is defined under the ***Mental Health Act****, section 2,* as any clinic, hospital ward, mental nursing home or rehabilitation centre designated under *Section* 4(1) of the Act. *Section* 4(1) empowers the Minister of Health to designate an institution or part thereof as a psychiatric facility. There is however no indication that there has ever been any such designation. In an effort to ascertain whether there was in fact any designation made in respect of the correctional centres, an enquiry was made to the Legal Services Department of the Ministry of Health. We were advised of the Ministry's 2015-2020 Strategic Plan for Mental Health which includes the development and dissemination of guidelines for psychiatric facilities including designation.

19. We were further advised that several gaps have been identified in the current legislative framework which restrict the Government's efforts to fully reform mental health service delivery in Jamaica. This includes provisions pertaining to the designation of psychiatric facilities. Having regard to the Decision of Cabinet for amendment to the Act, drafting instructions being developed thereto include instructions to amend *section 4* to detail and clarify the procedure for designation of psychiatric facilities and to provide for:
    - varying types of psychiatric facilities;
    - competences and standards for those who manage these facilities; and

- a basic standard of care in psychiatric facilities.[80]

20. Where persons are detained as a result of their mental illness and remanded pursuant to *Section* 15(3) of the ***Mental Health Act***, (or Section 25B, 25C and 25E of the ***Criminal Justice (Administration) Act***) in circumstances where the DCS has not been designated as a psychiatric facility, **then the question we have to grapple with is whether such detentions are lawful. This is an untenable situation in need of urgent attention.**
21. The recent report by the Independent Commission of Investigation (INDECOM) on the death of Mr. Noel Chambers highlights the challenges faced by the Justice System and the inadequacies in having the Department of Correctional Services substitute for a psychiatric facility without being equipped with the requisite resources. In fact, the provision in *Section* 26 of the ***Corrections Act*** empowers the Minister to order an inmate to be transferred to a public psychiatric facility reinforces our view that the DCS was never envisioned to be custodian of the mentally disordered.

22. Whilst rehabilitation is now one aim of the correctional services, the other main function is the imprisonment and detention of those in custody. On the other hand, the focus of mental health services is the diagnosis, treatment and rehabilitation of mentally disordered persons. It would seem therefore that there is likely to be conflict between the focus of the correctional services and that of mental health services as there are innate challenges in implementing mental health services within a correctional facility.

23. Currently, many mentally disordered persons receive very limited mental health care while in custody thereby causing a worsening of their condition. Additionally, the absence of continuity of care protocols when a mentally disordered offender is released from custody allows a number of them to go unsupervised and this significantly increases the risk of them reoffending.

[80] See paragraphs 46 and 63 for further discussion

24. Experience has shown that there are several factors in correctional centres that have negative effects on mental health. These include overcrowding, various forms of violence, enforced solitude, lack of privacy, lack of meaningful activity, isolation from social networks, insecurity about future prospects and inadequate mental health services. All these factors detract from the therapeutic environment which is needed to successfully treat the mentally disordered.

25. One recommendation, therefore, is for a Diversion at the Point of Arrest (DPA) programme which would divert mentally disordered defendant persons from the criminal justice system to a community psychiatric service which may either prevent incarceration or cut it short. The diversion system was proposed by a Psychiatric Task Force in 2004 and is currently used by the Ministry of Health and Wellness.

26. Individuals with mental disorders may be identified for diversion from the criminal justice system at any point, including before formal charges are brought and after the individual has been arrested. Before charge, diversion occurs at the point of contact with law enforcement officers (for example, as contemplated in *Section* 15(1) of the ***Mental Health Act*** whereby a constable is given the authority to divert a mentally disordered person to a psychiatric facility) and relies heavily on effective interactions between police and community mental health services.

27. After charge diversion occurs when an individual is arraigned at Court. This programme would facilitate:
    - the screening of individuals potentially eligible for diversion for the presence of mental disorders;
    - the evaluation of their eligibility for diversion;
    - the negotiation with prosecutors, defence attorneys, community-based mental health providers and the Courts to produce a disposition outside

remand, as is allowed by the ***Criminal Justice (Administration) Act***, in lieu of prosecution or as a condition of a reduction in charge; and

- the linking of individuals to the array of community-based services they require.

28. It is important to note that the ***Criminal Justice (Administration) Act*** makes provisions for two scenarios. That is, (1) persons unfit to stand trial or unfit to plead pursuant to *Section* 25C and (2) persons found to have committed the act that constitutes an offence, but are also found not to be responsible according to law for his/her actions at the time when the act was done, pursuant to *Section* 25E. Both scenarios provide for a variety of orders that a Court can make:
    - an order for remand in custody;
    - a supervision order for supervised treatment; or
    - a guardianship order.

29. Each of these orders presumes mental health treatment for the person. As we have seen this does not happen if incarcerated in a Correctional Centre **nor should this responsibility lie with the Department of Corrections.**

30. It is recommended as follows:
    1) The proposed solutions to challenges currently faced by the DCS which are set out herein should be implemented as a matter of urgency.
    2) A diversion programme should be instituted and the necessary guidelines provided so as to have it effectively resourced and implemented throughout the justice system.
    3) The guidelines developed by the Ministry of Health & Wellness, which is set out in its strategic plan for mental health, should be revisited as a matter of urgency with a view to ensuring that the law is followed.

4) In-patient, forensic rehabilitation facilities, totalling three hundred to four hundred and fifty (300-450) beds should be constructed and designated as public psychiatric facilities so that individuals suffering from mental disorders and needing to be treated in a secure facility can be housed in these facilities, close to their families.

5) In the event the requisite facilities as outlined above cannot be constructed in the immediate to short term, urgent improvements should be undertaken to the current infrastructure of the DCS so as to allow for its temporary designation as a psychiatric facility at which persons with mental disorders can be detained and provided with the necessary treatment.

6) A comprehensive forensic audit should be done of all the persons in custody at the DCS with specific attention being placed on those suffering from mental disorders.

7) A standardized prisoner file management system, and in particular, one for inmates deemed to be mentally disordered, should be introduced for the DCS. Such a system should comprise an electronic database of records in which a file is created for each inmate upon his/her admission and would contain information related to the judicial process including dates of court hearings and legal representation, the day and hour of his/her admission, date of evaluation, the next court date, date of release, etc. Procedures should also be implemented to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system. It should be noted that the DCS prepares a monthly report which provides some of the information required for this system. This could be expanded to include other information to satisfy this recommendation. (See Appendix 7.)

31. A citizen who has a mental disorder and is charged with an offence is constitutionally entitled to bail, the presumption of innocence and to equitable and humane treatment. He/she has an illness and as any person with an

illness, is entitled to medical attention while charged with an offence. If a person with a mental illness is receiving treatment, he/she should be allowed to continue that treatment. If not receiving treatment, he/she needs to be referred for treatment to a mental health facility. Incarcerating him/her in a Correctional Centre which does not have a psychiatric ward or wing is not humane, nor does it assist the individual.

32. The conditions at the Correctional Centres will only serve to exacerbate as opposed to treat the mental condition. Inmates who fall within this vulnerable group deserve nothing less than the services offered by a proper psychiatric facility.

Chapter 2: was authored by His Hon. Mr. Vaughn Smith, Ms. Nancy Anderson, Dr. Donna Michelle Royer-Powe and Ms. Stefany Roper.

CHAPTER 3

Report from the Medical Health Services, Sub-Committee

After consultation with group 3 participants, the regional psychiatrists, legal officer, Ministry of Health and Wellness, Supt John Knight of the JCF and having reviewed several of the works of the late Dr. Frederick Hickling of the UHWI, the sub-committee has developed the following recommendations from the perspective of a judge and both psychiatrists:

Medico-Legal perspective

1. We recommend the immediate return to Bellevue of all defendants in conflict with the law who are detained by a court. This institution has been designated the public psychiatric facility to house the mentally disordered defendant, this remains the law. Bellevue should therefore be secured and

staffed to accommodate forensic psychiatric defendants as well as those defendants assessed to be of lesser risk who are being held in custody.

2. The Ministry of Health & Wellness should swiftly seek to fill the function of forensic psychiatrist performed and left vacant by Dr. Sewell in 2019, as well as increasing the posts in this discipline. The Ministry of Health & Wellness should formulate a medium and long term strategic plan to have Forensic Psychiatric professionals such as Forensic Psychiatrists, Forensic Psychologists and Forensic Nurses in the establishment. There is now no qualified forensic psychiatrist in the government service despite, forensic psychiatric evaluations being frequently requested by the courts. There is a clear and pressing need for many additional psychiatrists in the government service, at Bellevue, at the correctional facilities and at the regional service level.

3. Mental health officers should be made available to the police at point of arrest as well as to the courts, they should be accessible to provide assistance to the court in pre-trial evaluations as well for supervision and treatment orders pursuant to section 25C (2) of the CJAA after a hearing.

Diversion by the court

4. We recommend that the court should have available to it, the discretion to place a defendant on court ordered diversion.[81] The idea is to divert an individual out of the criminal justice process at any stage of the proceedings. Such a discretion should be subject to the interests of justice, taking into account various factors, including:
    1) the seriousness of the offence;
    2) the effect of such an order on those affected by the offence;
    3) the arrangements made (if any) to reduce the risk of recidivism
    4) the availability of support to the individual in the community;

[81] Mental health court, see paragraph 35

5) Whether the family or guardian of a defendant who intends to receive him is **both** able and willing to do so;
6) the submissions of the defence and the prosecution;
7) the protection of the public.

Defendants who have committed serious offences should only be diverted from the full trial process where absolutely necessary and in the interests of justice.

5. We recommend, that the exercise of a discretion to divert the defendant should not prevent the prosecution from applying for leave to resume prosecution in appropriate cases, where the defendant subsequently achieves the status of being fit to plead. Alternatively, the prosecution shall reserve the right pursuant to section 25C(3) to determine the matter upon successful completion of the court-ordered diversion programme.

6. For defendants who are unfit to plead, where the level of seriousness of the offence is low and arrangements can be made in the community, substantial court intervention, may not be necessary. We therefore recommend the diversion of such individuals out of the criminal justice system, once they have been found unfit to plead, where the court is satisfied that such an approach is in the interests of justice using the factors set out at paragraph [4].[82]

7. On the conclusion of diversion, the court needs to have the ability to make orders which deliver effective support and assistance to a defendant, to reduce the possibility of recidivism. The disposal of the case must also simultaneously provide robust protection for the public where necessary. At present, the supervision and guardianship orders (which are the only community disposal orders available to the court) lack the constructive elements to support the supervised individual and offers little scope for managing an individual who has difficulty complying with such an order. We

[82] Section 25C(2)(c)(d) and 25E(3)(b)(c)

recommend that the court builds sanctions and incentives into any diversion programme.[83]

8. In a diversion programme, where there is non-compliance, we recommend that an appropriate order would be a rehabilitation order with intensive supervision and surveillance. Such an order would only be available where the original offence charged was punishable by imprisonment. We make this recommendation with the consideration that this is a serious case which may be retained by the court, however, the court may form the view that a custodial sentence may not be the only appropriate disposition. Early identification of defendants with participation difficulties is the key to ensuring that suitable and effective orders are made by the court, whether to diversion or to the traditional stream. We therefore recommend in principle that all defendants appearing for the first time in the court should be screened for participation difficulties. We anticipate that this screening could be conducted in the setting of a mental health court.

Diversion at point of arrest

9. The Diversion at the Point of Arrest Programme ("DAPA") was introduced in 1974 as an alternate procedure to imprisonment for the mentally disordered in conflict with the law.[84] We recommend that diversion at the point of arrest be by way of a screening process using a standardized form to ensure officers exercising a discretion pursuant to section 15(1) of the Mental Health Act have documented their reasons for diversion.[85] The officer so named is the first point of contact with the person suffering from a mental illness, it is important for treatment purposes that his observations and any biographical or community related information is recorded for what will later form part of JCF, possibly Department of Correctional Services records, medical and/or court records.

[83] See Creating a Mental Health Court, By S. Wint-Blair, J, this is the task of a steering/ advisory committee.
[84] Owning our Madness: Contributions of Jamaican Psychiatry to decolonizing Global Mental Health, by Dr. Frederick Hickling in Transcultural Psychiatry 2020, Vol. 57(1) 19-31
[85] Appendix 12

10. The current test for diversion at point of arrest is based on the discretion of a police officer in section 15(1) of the Mental Health Act which provides that the circumstances of the defendant shall "**indicate**" mental disorder within the meaning of the Act. This means that it should '**appear** to a constable on reasonable grounds' that there is a mental disorder based on the circumstances in which he has found the defendant whether in a public place or wandering at large. The officer having decided that a mental disorder exists, as opposed to homelessness or a physical disability **may lay a charge** pursuant to sub-section (2). In other words, if the person has committed no offence then the officer may take the person found wandering to a psychiatric facility for treatment. This person will become a patient within the meaning of the Mental Health Act.

11. If an offence has been committed then as provided in sub-section (2), the officer **may** charge and detain this person in a lock-up, remand centre or place suitable for the detention of the mentally disordered for up to 5 days before bringing him before a Parish Court. An offence having been committed, the mentally disordered offender then becomes known as a defendant within the meaning of the CJAA. The officer pursuant to section 2(c) having laid a charge and/or detained a person, shall write a report to a prescribed person within 24 hours of such charge or detention. A prescribed person in the Mental Health Act is a mental health officer, public health nurse or approved social worker. This commences the community mental health aspect of the legislation with a view to allowing for diversion by a parish court.

12. There is a third option embedded within section 15 of the Mental Health Act and this is where the officer has decided on reasonable grounds that the person who has committed an offence shall not be charged. There is no provision for what should be done in this instance. This discretion should be removed from sub-section (2). This would allow for equality of treatment for all people with mental disorders, removing the probability of discrimination based on class, race, type of offence or poverty. It would not be up to the officer to decide the appropriateness of a criminal charge based on the

offender he/she has observed, as all such cases would have to be brought before the parish court.

13. Special measures to assist vulnerable defendants in communicating with the court is extremely limited in contrast to the provisions for vulnerable witnesses. At present the only special measures available to vulnerable defendants under statute, would be the giving of evidence at trial via live link or any accommodations made pursuant to the Disabilities Act. We recommend the appointment of social workers in the mental health unit of the Ministry of Health & Wellness specially trained to deal with defendants who are subject to mental illness for support to the defendant during a trial or hearing. To this end, we further recommend that there be mental health officers tasked by the Ministry of Health and Wellness to support the courts and the mentally disordered defendants on hearing or trial dates.

14. The defence may, as a matter of trial strategy, forego raising the issue of fitness to plead if the defendant may succeed at trial. This will lead to a reduction in the numbers of persons in the court system who are being treated and difficulties may not arise until the trial has commenced, thereby causing delays and frustrating witnesses.

15. We recommend that all members of the judiciary, and all legal practitioners, engaged in criminal proceedings receive training in understanding and identifying the participation and communication difficulties of the mentally disordered, and to raise their awareness of the available mechanisms to accommodate defendants who are mentally disordered to facilitate effective participation. This would be similar in nature to the Children's court, where accommodations are currently being made. This would improve the accurate and timely identification of participation difficulties, reducing delays in these proceedings and the uncertainty and anxiety caused to complainants and witnesses where the defendant's participation difficulties are raised at the last minute.

The legal test

16. We recommend that the legal test be formulated by statute to determine whether a defendant lacks the capacity to participate effectively in the trial

17. We recommend the standardization of the fitness to plead form currently in use by the DCS[86] and would recommend that courts follow the guidelines for requesting forensic assessments[87] as well as the Bellevue Hospital forensic evaluation protocol[88] in order for the courts to make clear to a medical practitioner what precisely is being requested, in order that the evaluation meets the criteria for a fitness to plead hearing to be conducted by the court.

18. All the psychiatrists consulted have said that they often do not know which report is being requested or the purpose of the reports requested by various courts and this causes uncertainty and delay. We recommend the standardization of the guidelines currently in use by the DCS and the Bellevue Hospital forensic evaluation protocol as earlier indicated as well as the referral form developed by this committee at Appendix 10,[89] in order for the courts to make clear to the psychiatrist what is being requested and why the request is being made. Uncertainty of request may stem from a lack of understanding on the part of the Judge or Clerk of Court as to what type of assessment is needed as well as inadequate information from the officer who has laid the charge under section 15(2) of the Mental Health Act. The use of the standard screening form at Appendix 12, should help to eliminate an information deficit in requests made by the court.

19. The current Pritchard test should be reformulated by statute to give rise to a test of effective participation which includes a test for decision-making capacity, rather than intellectual ability. This would create a test in keeping with advances in modern court process, in consultation with advances in psychiatry and psychology. It would remove the current and undue focus on intellectual ability and provide a test which, would more appropriately identify

[86] Appendix 8
[87] Appendix 6
[88] Appendix 9
[89] Appendix 10

those who are unable to engage with the trial process due to a lack of capacity, which means the defendant does not have the ability to make decisions, or more particularly, decisions within the setting of a trial.

20. This statutory reformulation of the test should be undertaken by the legislature as a matter of urgency. We consider this essential to address the inconsistency of application, in the current common law test because of the absence of a test in the CJAA.

21. The American Psychological Association, Dictionary of Psychology defines words commonly used in the mental health setting as follows:

__Ability__ means:

n.

existing competence or skill to perform a specific physical or mental act. Although ability may be either innate or developed through experience, it is distinct from capacity to acquire competence (see aptitude).

__Capacity__" means:

n.

1) *the maximum ability of an individual to receive or retain information and knowledge or to function in mental or physical tasks.*
2) *the potential of an individual for intellectual or creative development or accomplishment.*
3) *inborn potential, as contrasted with developed potential (see ability).*

Capability

n.

1) *the possession of able qualities.*
2) *an ability, talent, or facility that a person can put to constructive use. For example, a child may have great musical capability.*
3) *a characteristic that can be developed for functional use.*

(Source:The American Psychological Association, Dictionary of Psychology.)

22. *"__Mental capacity__"* means being able to make your own decisions.

Someone lacking capacity - because of an illness or disability such as a mental health problem, dementia or a learning disability - cannot do one or more of the following four things:

•*Understand information given to them about a particular decision*

•Retain that information long enough to be able to make the decision
•Weigh up the information available to make the decision
•Communicate their decision.

We all make decisions, big and small, every day of our lives and most of us are able to make these decisions for ourselves, although we may seek information, advice or support for the more serious or complex ones. For large numbers of people their capacity to make certain decisions about their life is affected either on a temporary or on a permanent basis.

A person with a learning disability may lack the capacity to make major decisions, but this does not necessarily mean that they cannot decide what to eat, wear and do each day.

A person with mental health problems may be unable to make decisions when they are unwell, but able to make them when they are well.

A person with dementia is likely to lose the ability to make decisions as the dementia gets more severe.

What causes a lack of mental capacity? A lack of mental capacity could be due to:

- *a stroke or brain injury*
- *a mental health problem*
- *a learning disability*
- *confusion, drowsiness or unconsciousness because of an illness or the treatment for it*
- *substance or alcohol misuse." (Source:Mentalhealth.org.uk)*
- *a learning disability*

23. A legal test explicitly incorporating decision-making capacity is recommended, the test should be applied in the context of the proceedings in which the defendant will be required to participate. The absence of decision-making capacity from the current test undermines its ability to identify all those who require the protections available under the current fitness to plead procedure.

24. The most widely favoured formulation comes from the trial judge's directions to the jury in the case of **R v M (John)** [2003] EWCA Crim 3452, which were approved by the Court of Appeal and in which express reference is made to the need to be able to give evidence. In that case the judge directed the jury that the defendant should be found unfit to plead **if any one or more** of the following was beyond his or her **capability**:

    (1) understanding the charge(s);

    (2) deciding whether to plead guilty or not;

    (3) exercising his or her right to challenge jurors;

    (4) instructing solicitors and/or advocates;

    (5) following the course of proceedings; and

    (6) giving evidence in his or her own defence. See **Pritchard** (1836) 7 C & P 303, 173 ER.

25. The common law Pritchard test, focuses too heavily on the intellectual ability of the defendant, and fails to take into account other aspects of mental impairment and other conditions which might interfere with the defendant's ability to engage in the trial process such as those contemplated by the Disabilities Act. In particular, it does not capture those defendants whose ability to play an effective part in his or her defence may be seriously impeded through certain conditions some of which may be temporary in nature as indicated in paragraph 22.

26. The Pritchard test requires no explicit consideration of the defendant's ability to make the decisions required of him or her during the trial. This contrasts with the focus on decision-making in the civil capacity test in section 29 of the Mental Health Act.

27. Section 2 of the UK Mental Capacity Act 2005 provides:

People who lack capacity

> *2 1). For the purposes of this Act, a person lacks capacity in relation to* ***a matter*** *if at the material time he is unable to make a decision for himself in relation to the matter because of an*

impairment of, or a disturbance in the functioning of, the mind or brain.

*2). **It does not matter whether the impairment or disturbance is permanent or temporary**.*

3). A lack of capacity cannot be established merely by reference to—

(a) a person's age or appearance, or

(b) a condition of his, or an aspect of his behaviour, which might lead others to make unjustified assumptions about his capacity.

*4). In proceedings under this Act **or any other enactment**, any question whether a person lacks capacity within the meaning of this Act must be decided on the balance of probabilities."*

Inability to make decisions

3(1) For the purposes of section 2, a person is unable to make a decision for himself if he is unable—

(a) to understand the information relevant to the decision,

(b) to retain that information,

(c) to use or weigh that information as part of the process of making the decision, or

(d) to communicate his decision (whether by talking, using sign language or any other means).

(2) A person is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).

(3) The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent him from being regarded as able to make the decision.

(4) The information relevant to a decision includes information about the reasonably foreseeable consequences of—

(a)deciding one way or another, or

(b)failing to make the decision."

28. Our law does not address the aspect of capacity within the context of the criminal law. It is singularly focused on the issue of fitness to plead. This concept of lack of capacity is closely allied to fitness to plead but there is uncertainty as to the exact correlation of the two principles and consideration ought to be given in our local cultural setting where many are considered "simple" or "slow", without an exploration as to the reason this view of the defendant has arisen. We recommend that the officer who lays the charge record the reason for the defendant being referred to by such a descriptor on the standard screening from which shall form a part of the court file and medical records of the defendant.[90]

29. In the Mental Health Act, pursuant to section 29, there is a test for capacity which is based on affidavit evidence which includes medical evidence. The criminal trial standard is therefore much more burdensome for the mentally disordered defendant. There is no reason to believe that a failure to be able to make a decision should be criminalized. There is a far more benevolent approach in the Mental Health Act to the "patient" defined as a person who is suffering from or is suspected to be suffering from a mental disorder. In the CJAA, the defendant who is also suffering from a mental disorder is not referred to as a patient but as a defendant as he has now found himself in conflict with the law. The defendant who lacks capacity, having offended against the criminal law is subject to prosecution despite the fact that the offence may be minor in nature with neither injury or damage (such as a common assault with no touching). We recommend the test for capacity be legislated and also that there be standard use of Appendix 8 reformulated to include and specifically diagnose the test for decision-making capacity.

[90] Appendix 12

30. Fair trial guarantees under article 6 of the ECHR require a defendant to be able to participate effectively in the proceedings. This has been interpreted as requiring a defendant to have: a broad understanding of the nature of the trial process and of what is at stake for him or her, including the significance of any penalty which may be imposed. It means that he or she, if necessary with the assistance of, for example, an interpreter, lawyer, social worker or friend, should be able to understand the general thrust of what is said in court. In the Jamaican context, there are many people with disabilities who can communicate only with a particular family member or members in a language peculiar to just them. Standard interpretation such as with sign language does not work as the defendant may not be able to sign.

31. In the Full Court in **R v Mervin Cameron** [2018] JMFC FULL 1, the court pronounced that:

> *"Conversely, the right to a fair trial is absolute. It cannot be qualified and an defendant person cannot waive his right to a fair trial, other than by a guilty plea in which event no trial is necessary.* ***There are however more than one ways and different methods used to secure a fair trial****. While the traditional way criminal cases are tried is for witnesses to attend in person at a trial to give evidence and be subject to cross-examination, the law has recognised that there are circumstances where witnesses may be unavailable or vulnerable and provisions have to be made to ensure that the trial can proceed in their absence, or with special accommodation made to manage their vulnerability. To ensure that trials conducted using these alternate methods are fair, safeguards have to be employed in terms of conditions precedent being met and appropriate judicial directions being given to the tribunal of fact, concerning how to assess evidence received in these non-traditional ways. (See for example section 31D of the Evidence Act, R v Steven Grant, [2006] 68 WIR 354 and the Evidence (Special Measures) Act, 2012)."*

32. In the context of these recommendations, the vulnerable person is the defendant and there is no discernible special measure which is available to him save the giving of evidence via live link.[91] We rely on the dictum in **R v Kimeo Green**[2018] JMSC Crim 3 , in which D. Fraser, J stated that: *The right to a fair hearing is absolute. However, it is well established that procedures apart from traditional approaches may be invoked in the course of a fair trial.* Accordingly, we recommend that the Evidence (Special Measures) Act and the Disabilities Act be amended to include special measures for the mentally disordered as defendants in criminal proceedings.

33. A defendant may need a support person in addition to counsel. The defendant may want to write notes, may need to lip read or read from notes in order to understand and/or follow the course of proceedings. These accommodations could also form part of rules of procedure or be the subject of a practice direction and subject to directions at trial in order to help the jury to understand that the court is granting the accommodation in the interests of justice.[92]

34. The defendant should be able to follow what is said by the prosecution witnesses and, if represented, to explain to his own lawyers his version of events, point out any statements with which he disagrees and make them aware of any facts which should be put forward in his defence. It is arguable that this is different than being able to follow the course of proceedings. Comprehension is distinct from articulation. A defendant who understands what is happening may be unable to express his viewpoint sufficiently to create a favourable impression on a jury. His inability to communicate effectively may leave the impression that he is unable to understand the proceedings. Whereas an inability to articulate himself effectively or communicate for understanding may be a factor related to a lack of education, learning disability, poor intellect, a stutter or a disability inter alia, which may or may not include mental illness.

[91] Evidence Special Measures Act, section 4(1)(a)(ii)
[92] See Appendix 11

35. The current test using the Pritchard criteria of whether or not the defendant has the ability to instruct his attorney and the ability to testify may lead to a defendant with the malady of a lack of effective communication skills being found unfit to plead with the possibility of being detained. We recommend that a requesting court order that the medical practitioner doing the evaluation indicate whether or not there is a speech impediment, learning disability not just whether or not there is mental illness.

36. Any test formulated should be applied in consideration of the context of the proceedings in which the defendant will be required to participate, taking into account all assistance available to the defendant. This will ensure that defendants are only diverted from the full trial process where absolutely necessary, so that full and fair trial is achieved wherever possible in the interests of justice. Such an approach will enhance public protection through criminal prosecution and increase confidence in the criminal justice system on the part of the public and victims of the offence.

The Parish Courts

37. The psychiatrists at the regional level all express a difficulty with referrals from the court. They indicated that they are not given the reason for the referral and inadequate information with which to begin their assessment. We recommend the creation of a mental health file with the police officer's screening from[93], a standard referral form[94] which states the defendant's biographical information from the court file, the nearest relative or guardian's contact information, the charges, the reason for the referral (observations noted by the court), the purpose of the referral (whether fitness to plead assessment or forensic psychiatric evaluation), any concerns noted by the court. The court is to refer to the guidelines set out in Appendix 5.

[93] Appendix 11
[94] Appendix 10

38. The fitness to plead hearing in section 25(5) of the CJAA requires the evidence of two or more duly qualified medical practitioners, at least one of whom is an approved medical practitioner. In the Parish court there is no need to call the psychiatrist unless the report is unsatisfactory to the court and the doctor need actually give evidence on oath. The Parish Courts are busy and so are the medical practitioners. Psychiatrists should not be asked to spend time waiting in court when their time could be better spent in their practices seeing the long list of defendants referred to them. We recommend that the time of expert witnesses best be managed by receiving the medical evidence pursuant to section 31CB of the Evidence Act. In the alternative, any evidence if it has to be taken orally can be received via live link.

39. Training of all Judges, counsel on both sides of the bar, court staff, mental health officers, psychiatrists and police officers is highly recommended. All stakeholders will need training, however, we recommend that the leadership should come from the court.

Towards a mental health court

40. We highly recommend the creation of a mental health court. This model will allow for the stakeholders and the family members of a defendant before it to obtain the information needed for the community mental health services to function efficiently. There are always limited hospital resources, particularly now with the advent of COVID-19, isolation units have had to be created out of the existing resources. The family or guardian of a defendant who intends to receive him must both be willing and able to do so. They have to function as the historian, ensure co-operation, ensure that appointments are kept, that medication is administered and court dates met.

41. There is a necessary collaboration which has to take place between mental health workers in the community and the Probation office who prepare SER's for mentally disordered defendants. Psychiatrists in the community have indicated a need for the history of a defendant, any previous diagnosis, medication prescribed, medication administered, witness statements or

depositions, and any available SER. We recommended that the referral form at Appendix 10 be sent out to the Clerk of Courts in each parish. This form should indicate the reason for the referral and any specific concerns noted by the Court.

42. The defendant who is offered bail in the parish court should be referred to community services with a copy of police standard screening form, the last fitness certificate attached to the standard referral form. These records should be kept in triplicate by the court, one for the court file, one to the community services team and the other kept by the defendant's family member or guardian.

43. We recommend the training of police officers from the public safety branch of the JCF to deal with the mentally disordered. Sensitization is necessary in dealing with those who are patients within section 15(1) of the Mental Health Act and to act as well as those classified as defendants pursuant to section 15(2) of the Mental Health Act. This officer is to act as a liaison officer with the court, community services, medical practitioners and family members of the defendant.

44. Defendants who are detained in police lock-ups should have their medication as prescribed by the psychiatrist, administered to the defendant as prescribed. When referrals are made to medical practitioners by the court, a copy of the referral form should be made available to the investigating officer for police records. Any subsequent fitness to plead certificates obtained by the court should also comprise a part of a mental health record of the defendant and a copy of the records should be kept by the police with a copy sent to the DCS with each defendant who is detained for the records of the correctional facility.

45. Defendants who are remanded to DCS should have their medication administered as prescribed, and copies of the standard screening form, referral form and fitness to plead certificates form part of their records held by the various correctional institutions.

Assessing the defendant:

46. A judge sitting alone or with a jury applies the current Pritchard test to decide whether a defendant is unfit to plead. The court has to find by evidence, as a matter of law, that the defendant suffers from a mental disorder as set out in the CJAA at section 25A(5). This section requires the evidence of at least two duly qualified medical practitioners at least one of whom is an approved medical practitioner within section 7 of the Mental Health Act. The determination of fitness to plead is by way of a hearing pursuant to section 25 of the Criminal Justice Administration Act.

47. An analysis of the current law suggests that there is an unduly restrictive evidential requirement built into section 25 of the CJAA. Expert evidence from an "approved medical practitioner" pursuant to the definition section in section 25 when read together with section 25E(3)(a) means that the evidence of a forensic psychiatrist approved by the Chief Medical Officer has to be adduced. This is distinct from the evidence of a psychiatrist as denoted by the Mental Health Act.[95] There is no provision in the CJAA for evidence from a clinical psychologist which may become necessary in order for the court to be able to determine questions of intellectual capacity which impacts a defendant's fitness to plead.

48. Psychologists have a doctoral degree in an area of psychology, the study of the mind and human behaviour. A psychologist may have a PhD in philosophy or a PsyD in clinical or counselling psychology. They are not medical practitioners. Therefore, an expert report from a psychologist cannot be one of the two reports required for the court to proceed with its determination. Those affected by learning disabilities and/or intellectual disabilities who do

[95] Section 7(c) "where two separate certificates are submitted, one of the certificates shall be given by a medical practitioner approved for shall be given by a medical practitioner approved for the purposes of this section by the Chief Medical Officer as having special experience in the diagnosis or treatment or mental disorder; …"

not a have mental illness are often not assessed for these afflictions at all as these aspects are referred by psychiatrists to psychologists.

49. Our experts have indicated that a defendant with no literacy skills will advance through the school system and when asked to read and write on a test to see whether this is so, they give the common refrain: “ I can help myself”, it tends to turn out that they cannot help themselves at all. Based on these observations psychiatrists have classified the illiterate into two general groups:

1. Illiterate: This group can’t write and read, but are quite intelligent, they understand the charge, can explain themselves as well defend themselves. This group appears that to have a normal IQ but circumstances have prevented them from academic achievement, typically related to impecuniosity.
2. Illiterate: This group can’t write and may read with an IQ which may be below average or so low so that their cognitive ability and understanding is impaired to varying degrees. This group cannot stand trial as they don't satisfy the criteria used to declare fitness to plead.
3. Time must be spent with each group before an assessment of fitness to plead can be made. Most of these defendants have been disadvantaged and are from circumstances of real poverty. Both groups of defendants typically cannot afford to retain counsel, requiring legal aid assignments at an early stage.

50. The borderline cases or in fact an illiterate defendant who shows impairment in cognitive skills should be referred to a clinical psychologist for an IQ assessment. This borderline group may have intellectual or developmental disabilities. There are no clinical psychologists available to those in custody and the law does not permit a report from a psychologist to be used as it does not fall within the definition of duly qualified medical practitioner in section 25A(5) of the CJAA. This is a deficiency in the law which may give rise to the possibility of a defendant who is not suffering from a mental illness being

found unfit to plead based on socio-economic factors rather than a mental disorder. We recommend the creation of a list of experts instead of limiting the power of the court to evidence from only approved medical practitioners.

Delays

51. The prosecution may wish to challenge the expert evidence relied upon by the defence, and to instruct their own experts when required. In some cases, the service of defence reports is delayed until the defence are in possession of two expert reports indicating unfitness, it may be only at that point that the prosecution may consider, and embark on, a decision to challenge the issue of fitness to plead whereupon they will require time to instruct their own expert. This inevitably leads to further delays. We recommend that the defence effect disclosure of the first report as soon as practicable on the prosecution with a copy made available to the court in order to expedite the disposal of the matter.

52. Current court procedures do not **encourage** the court to consider postponing the determination of fitness to plead to allow for the recovery, or achievement of fitness by the defendant, even where that is realistic within a reasonable timeframe. Additionally, medical experts are not routinely required to comment on the prospect of recovery when they provide a report on unfitness to plead. This results in courts being unable to make decisions about the defendant in a uniform manner, as different courts are applying different standards. We recommend that there be a standard requirement for all courts to request an indication as to the prospects of recovery of the defendant on the referral form. A failure to make this request makes it likely that the planning and forecasting of trials will be affected. We further recommend that there has to be good record-keeping in order to bring cases before the court for review.

53. We also recommend that there be a requirement to disclose, as soon as is reasonably practicable, an expert report obtained by a party raising the issue of fitness to plead. This is coupled with a recommendation that the court be required to enquire whether there can be agreement between prosecution and

defence of the reports of any experts, unless that is not in the interests of justice. This will result in fewer adjournments occasioned by delayed disclosure and the late obtaining of reports.

Law reform

54. We recommend that the CJAA be amended to state that the court should rely on the reports of two experts only where it proposes to order diversion or review. This is because of the gravity of the consequences that flow from the finding of lack of fitness to plead and the protection provided by the scrutiny of two experts.

55. We recommend that there could be a relaxing of the evidential requirement, so that expert evidence from one approved medical practitioner pursuant to section 25 of the CJAA, could be agreed by both sides and relied upon by the court as comprising the medical evidence required for a finding of unfitness to plead before a jury. We do not recommend the use of one report in a bench trial for reasons of transparency.

56. We recommend that the evidential requirement could be further relaxed by legislative amendment to allow for one of the two required experts to be a registered clinical psychologist or an individual with the designated qualification appearing on a list of appropriate disciplines and levels of qualification, approved by the Senior Medical Officer, Bellevue, Ministry of Health. This will encompass psychologists, educational professionals, the Childrens' Advocate, social workers and mental health officials and so increase the available pool of experts which can be relied on by the court. This will encompass more defendants, such as those defendants who fall within the Disabilities Act. This will not only reduce costs but also alleviate the distress occasioned by extended delays in such cases.

57. Forensic psychology is the application of psychological theories and methods to legal issues. It is the interaction of psychology with the law. A forensic

psychological evaluation considers the cognitive functioning, memory capacity and reasoning ability of the defendant. There is no mention of a psychologist in the CJAA or Mental Health Act, however the court may make an order and receive the evidence of a psychologist as expert evidence pursuant to Evidence Amendment Act, 2015, however, the same evidence could not be used to arrive at a verdict on the issue of fitness to plead pursuant to section 25(5) of the CJAA which specifically **excludes** it. This is a statutory anomaly which requires reform.

58. We also recommend that, prior to a hearing to determine whether a defendant lacks the capacity to participate effectively in the trial, there should be a requirement for the court to consider whether it is appropriate to postpone proceedings for the defendant to achieve the capacity for trial. This, we consider, should be subject to an interests of justice test, taking into account, amongst other factors, whether there is a real prospect of recovery and whether delaying the determination is reasonable in all the circumstances. We recommend that such a postponement should be limited to a maximum term of 3 months, save in exceptional circumstances. These recommendations aim to ensure that all efforts are made to allow for the defendant to recover capacity and be tried in full, before a determination of lack of capacity is formally considered. Postponement should also prevent, in some cases, the need for prosecution to be resumed where a defendant subsequently recovers capacity for trial.

59. Remand to a psychiatric hospital for treatment under section 9 of the Mental Health Act and 25C(2)(b) of the CJAA are made subject to such directions as the court may think fit. These directions should impose a limit of 3 months on the remand to hospital for treatment for defendants facing proceedings in the Supreme Court, with a review each court term by a mental health court.

Forensic psychiatric cases

60. Murder is provided for in section 5 of the Offences Against the Person Act. This section provides for mental impairment to be considered. Mental

impairment is defined in the Disabilities Act and section 5 may contemplate defendants suffering from a disability as well as those suffering from mental disorder.

61. We recommend that partial defences to murder such as diminished responsibility should not be available at the diversion stage. We take this approach as these verdicts do not result in full acquittal but in a conviction for manslaughter. Therefore, even were a partial defence to succeed at trial, the defendant would still be subject to a disposal.

62. There will inevitably, however, be some defendants who lack capacity at the time of trial but who were also suffering from the same condition, or some other substantial disorder or condition, at the time of the alleged offence. At full trial a fit defendant in that situation might be entitled to a special verdict of guilty but insane. The jury would return a special verdict if satisfied that at the time of the offence the defendant was suffering from a "disease of the mind" which resulted in him being unable to understand the nature and quality of what he did, where, as a result of that condition, the defendant did not understand that that act was legally wrong. This is a qualified acquittal which, in order to provide protection to the public where that is necessary, results in the same disposal options as would be available following fitness to plead procedures. After a special verdict of guilty but insane, the court recognizes the need for public protection, as well as treatment and supervision. A court not being possessed of these skills of necessity must refer this individual to experts who can offer treatment. The detention order made by a court under the existing law does not allow for treatment as contemplated by the Mental Health Act.

63. The court has the same powers at a fitness to plead hearing as at a full trial. Where to place such a defendant remains a decision for the executive as he is afforded no appropriate release within the current law. Such verdicts are complex and gives rise to difficulties which the current formulation does not address.

64. We recommend that there are substantial advantages in a judge alone fitness to plead procedure. In particular, the expense and time consuming empanelling of a jury which often is not sufficient in number. We recommend that the proceedings be by way of a mental health court in which the judge would indicate his or her findings. We conclude that for some defendants, a judge alone hearing in a mental health court setting would be beneficial, and we therefore recommend that the defendant should be entitled to elect a judge alone hearing.

Children

65. Child defendants require a multi-faceted approach. The existing methodology does not detect mental illness in children swiftly and there is no designated psychiatric facility which deals exclusively with children for example, neither the Bustamante Hospital for Children nor the Metcalfe Street Juvenile Detention Centre have psychiatric facilities for children in conflict with the law. There are no community health centres or clinics which have been designated as public psychiatric facilities for the treatment of adults or children in the community.

66. There are no child forensic mental health services for those children with mental health disorders, substance abuse problems and/or intellectual disabilities. These issues in children often manifest as attention deficit disorders, depression, conduct and emotional disorders and substance abuse. These children have been left to the educational system for correction which when it inevitably fails, then casts them out of the educational system. There is currently only limited child and adolescent mental health services available regionally, however, the same number of staff serves these offenders as the adults. This service is in dire need of expansion.

67. The existing resources of the Children and Family Protection Services does not appear to be adequate to manage children with mental illness who run afoul of the law, there are limited placements for these children.

68. We therefore recommend that, for those under 18 years of age, the court focus on rehabilitation of the offender. Mental health intervention of children

means that they should be placed in the community with an emphasis on supervision, the child should be kept at home or as close to home as is possible if suitable, with the employment of community resources to effect treatment. The child should be supervised by a case worker, whom we recommend should be someone trained in the mental health needs of children and selected either from the available children's services or made available to aid in the services being utilised for children.

69. We recommend that the court employ a focus on effective treatment and control while recognizing the potential for growth and change into adulthood and emphasizing an understanding that with treatment, many child offenders can recover from their mental disorders and regain their place in the community, becoming positive contributors to society. There may also have to be orders for parental counselling to improve the care of these defendants and to equip them with the skills needed to supervise their children in the home.

70. Children in state care are also at risk and when they come into conflict with the law they are not afforded community resources. A child in a children's home who is mentally disordered and commits an offence will no longer be a suitable candidate to remain among those in need of care and protection. Such a child will be sent into a secure facility with no option for care. There is no in-between. We recommend that these cases be diverted by the court. There should be expeditious handling of these cases with an emphasis on treatment and rehabilitation by case workers trained in the mental health needs of children at the Child and Adolescent mental health services in the region which needs adequate staffing to function effectively.

71. The Childcare and Protection Act does not provide for children in conflict in with the law who are mentally disordered. The powers of a court relating to orders for children are limited by that Act, yet no procedure has been established for mentally disordered child offenders. Is the court to deal with children pursuant to section 25 of the CJAA? There should be a practice direction, perhaps along the lines of Appendix 11.

72. We recommend the immediate statutory formulation of orders specific to mentally disordered children. The court recognizes the need to ensure compliance with diversion or supervision and in particular: (1) That a court review the orders and receive reports on the supervised child's engagement and progress, (2) That a reviewing court have the power to make a finding that the supervised child is in breach of the order. (3) That, following this finding, the court have the power to impose more restrictive elements as part of the order (such as curfew), (4) That on breach, the court have the power, exercisable in exceptional cases, to impose, on a supervised child, a correctional order.

73. Where a child or young person has been found to be in breach of a supervision order, the court should have the power to impose a youth rehabilitation order with intensive supervision and surveillance. Such a sanction would only be available where the original offence charged was punishable by imprisonment. We make this recommendation in consideration of the more serious cases which may be retained by the mental health court, but taking the view that a custodial term would not be appropriate in these cases.

74. To support accurate identification and provision of suitable assistance for young defendants with participation difficulties, we recommend that there should be mandatory specialist training on issues relevant to trying children. This training should be mandatory for all legal practitioners and members of the judiciary engaged in cases involving young defendants in any court. In particular, this should involve awareness training in relation to participation and communication issues arising out of learning disability, mental health difficulties, developmental immaturity and developmental disorders.

75. We recommend that a practice direction similar to that which obtains in the Crown Court, UK be developed in relation to mentally disordered children in conflict with the law.[96]

76. Finally, we recommend the creation of a position to be known as a Mental Health Advocate. This individual should be appointed to the post pursuant to the Criminal Justice Administration Act ("CJAA"). This appointee will be known to the criminal law and will safeguard the rights of this vulnerable group who suffer from mental disorders. The Mental Health Advocate will also represent children in conflict with the law.

RECOMMENDATIONS

Psychiatrists' recommendations for improving the current system

77. We do not recommend the return to Bellevue hospital. This proposal has been reviewed and rejected as the way forward by Ministry of Health & Wellness. There is an urgent need for a forensic psychiatric facility/hospital. Bellevue is to be reduced in size and any return to Bellevue that would likely lead to expansion of current population of social cases is not feasible. While this is the desire of many from different quarters based on the provisions of Section 9 of Mental Health Act, currently, Bellevue Hospital is not in a position to receive those defendants from the prisons and those who may be admitted there in the future will be brought in to a system of challenges of human resources, inadequate infrastructure, training, security and budget.

78. It is recommended by Dr. Goulbourne that as a start, an Online Certificate Risk Assessment training (endorsed by Dr. Sewell, Forensic Psychiatrist at University Hospital of West Indies) be employed to begin to build capacity. Improved collaboration in courts across the island would lead to more mentally disordered defendants being better managed in the health regions

[96] Appendix 10

which in turn will decrease the need for referrals to DCS and the expected outcome will be a reduction of mentally disordered defendants in the court.

79. Currently, in the health regions mental health officers (specially trained nurses) are contacted if an identified mentally disordered person has been arrested. This system needs to be strengthened, to add training for officers from the Public Safety Traffic Enforcement Branch of the JCF who can liaise with mental health officers. There are more mental health officers than there are psychiatrists so it will be more practical to have mental health officers consult with psychiatrists. Psychiatrists are available to police at point of arrest on call and this currently exists.

80. Psychiatrists being subpoenaed to physically attend court should be carefully considered for those special cases where a comprehensive report has not been sufficient. Currently, psychiatrists are frustrated when having waited for an inordinate time to give evidence they are told that report was sufficient and that their evidence is no longer required. It must be borne in mind that attendance at court means the provision of regular clinic services is diminished.

Dr. Kevin Goulbourne
Director
Mental Health and Substance Abuse Services
Health Services Planning and Integration
Ministry of Health & Wellness

Preventing the Mentally disordered from entering the criminal justice system

Primary Care Mental Health Services

Recommendations

I. Expansion of the community central health services across the four health regions (South East Regional Health Authority, Southern

Regional Health Authority, Western Regional Health Authority and North East Regional Health Authority) is urgently needed.

II. Regional psychiatrists in the public service have been stretched to cover both secondary care hospitals and primary care community settings. They have been covering a wide geographical area within the regions. The current cadre of psychiatrists is inadequate to meet the demand made by the courts for efficient service delivery. This results in delay and lengthy wait times for assessments and hinders the timely submission of reports to the courts.

III. Human Resources – establishment and expansion of posts and recruitment of Psychiatrists (General, Child & Adolescent, Addiction, Forensic), as well as clinical Psychologists, Counselling Psychologists, Social Workers, Occupational Therapists, Community Mental Health Officers, Psychiatric Nurses, Psychiatric Aides, Speech Therapist, Behaviour Therapists are sorely needed.

IV. Infrastructure – Short term stay and medium term stay drop-in and crisis centres, community group homes, forensic community group homes, halfway houses, mental health infirmaries, and rehabilitation centres are needed for a diversion programme which will assist to obviate the need for detention in correctional facilities and lock-ups.

V. A computerized data and digital record-keeping system is needed in the mental health system.

VI. Mental Health and Forensic Mental Health Crisis Intervention Response Teams should be established in the Ministry of Health & Wellness, supported by well-equipped ambulances for home visits and jail visits for prompt and efficient intervention where necessary, removing the responsibility from family members who are unskilled and police officers who are untrained.

VII. Budgetary Allocation – There is a clear and present need for a significant review of the current expenditure in the community mental health budget and with an allocation for capital expenditure on building of public psychiatric facilities and maintenance of these structures.

Secondary Care Mental Health Admission

81. Some psychiatric patients who are not settled or recovered with the intervention of the community mental health services will need admission to a secondary care hospital for stabilization.

Recommendations

I. There should be a sufficient supply of admission beds at designated Psychiatric units in the parish public hospital or at the regional level.

II. Human Resources – There needs to be a rapid establishment and expansion of posts and recruitment for Psychiatrists (General, Child & Adolescent, Addiction, Forensic), clinical Psychologists, Counselling Psychologists, Social Workers, Occupational Therapists, Community Mental Health Officers, Psychiatric Nurses, Psychiatric Aides, Speech Therapist, Behaviour Therapists and supporting staff.

III. Infrastructure – The addition of special designated Psychiatric Units in Parish/Regional Hospital with rehabilitative centres or programmes upon release is sorely needed.

IV. Hospitals should be equipped with computerized data and digital record-keeping systems.

V. Budgetary Allocation – There is a clear and present need for a significant review of the current expenditure for parish and regional Hospitals with an allocation for capital expenditure on building of public psychiatric facilities and maintenance of these structures.

VI. The expected outcome of improvements in the implementation of these recommendations in Primary and Secondary Care Mental Health Service Delivery should be minimal numbers of psychiatric patients coming into conflict with the law and resulting in a significant decrease in numbers of cases being added to the courts lists.

Preventing detention of the Mentally disordered in Jails and Prisons, towards a Forensic Psychiatric Hospital

Diversion at Point of Arrest & Courts

82. Diversion programmes are currently available in Drug Courts and Family Courts. There is no established diversion programme in place for the mentally disordered defendant. Designated court days for mentally disordered defendants ought to be established

83. or the design and implementation of a Mental Health Court with the approach used in a Problem Solving court. The expected outcome of Diversion by the court and Diversion at Point of Arrest should be minimal numbers of mentally disordered defendants in jails and correctional facilities.

Recommendations

I. Screening (before arrest & after arrest) and screening (after arrest- Jail based & Court Based.) A diversion Programme aiming at prompt assessment to offer alternatives to incarceration should be established with the co-operation and co-ordination of the various stake holders such as a mental health team from the Ministry of Health & Wellness, Ministry of Justice, Ministry of National Security, the Jamaica Constabulary Force, various NGOs who support the mentally disordered, registered charities, family members and wider community all being consulted.

II. Human Resources- Specially trained and dedicated staff and varying professionals assigned to diversion programme in courts, JCF and on mental health teams

III. Infrastructure - Short term stay and medium term stay drop-in and crisis centres, community group homes, forensic community group homes, halfway houses, mental health infirmaries, and rehabilitation centres are needed for a diversion programme which will assist to obviate the need for detention in correctional facilities and lock-ups. Specially designated Psychiatric Units in parish and/or regional hospitals with rehabilitation centres or programmes, Computerized data and Digital record system are needed.

IV. A computerized data and digital record-keeping system is needed in the mental health system.

Forensic psychiatric defendants- (ineligible for a diversion programme, with serious charges):

Forensic Psychiatric Hospital & Forensic Community Group Homes

84. Offenders with mental illnesses with a finding of Diminished Responsibility after trial, mentally disordered defendants who pose a significant risk and danger to themselves and the community require a special therapeutic forensic psychiatric setting under the management of mental health professionals with special training in forensic psychiatry.

Recommendations

I. The imminent construction of a Forensic Psychiatric Hospital with varying levels of security units should be the long term plan. The construction of a forensic community group home would serve as transitional accommodations before mentally disordered offenders are finally allowed to re-intergrade into their community and family having satisfied all the criteria set out in any risk assessment within a graded secured housing setting.

II. The necessary human resources, infrastructure, budgetary allocations and legislative support is needed to provide services to this group.

III. The expected outcome should be minimal numbers of mentally disordered offenders admitted to prisons save for those defendants who manifest psychiatric illnesses due to adjustment problems and stressors during their detention.

Forensic psychiatric defendants currently in Custody

85. The existing psychiatric services in the Department of Corrections is undoubtedly and woefully inadequate. No full time Psychiatrist is currently employed to Department of Corrections except four sessional Psychiatrists of whom, only two do assessments and provide reports to the courts. One provides reports for children and the other for adults. Both struggle to meet the persistent and ongoing demand from the courts.

86. The decision of the Ministry of Health & Wellness is for a smaller Bellevue Hospital. As a result of the discontinuation of the admission of chronic patients and with the establishment of an Adult Care Facility for discharged and abandoned former chronic patients of the Bellevue Hospital being the current policy, defendants are being remanded to the DCS. There are no suitable buildings to house these inmates nor is the requisite staffing provided, the DCS continues to clutch at straws with regards to offering the specialized care needed for this vulnerable group.

87. Recommendations

I. The immediate employment of the required number of full time Psychiatrists, Forensic Psychiatrists and sessional Psychiatrists.

II. Training for court staff as to what type of assessment is required. Psychiatrists should be provided with depositions and statements in order provide comprehensive forensic reports. Letter of request from the court should include telephone contact numbers of family

members, relatives, friends and significant others so that a Psychiatrist is able to interview family members for past history and treatment of the mental illness of the defendant.

III. Cross training is needed between Psychiatrists and Judges, defence and prosecution attorneys and Clerks of the Courts to appreciate the gaps and generate more understanding.

IV. Designated administrative staff should be assigned at each lock-up and correctional facility with special responsibility for record-keeping of the mentally disordered in custody, using a computerized record keeping system. This will assist to generate the submission of monthly reports to the courts.

V. The existing Psychiatric section of the prisons should be swiftly renovated to operate as a fully functional therapeutic psychiatric hospital which would promote faster recovery and stabilization of symptoms thereby reducing risk so that the trial of the defendant's matter would be more easily reached.

VI. The employment of professional medical and psychiatric staff to manage mentally disordered defendants. Currently, correctional officers perform duties which should be performed by mental health professionals. The training and assignment of correctional officers as medical orderly is not supported as it gives rise to a conflict of interest and the perspective of the correctional officer is not the defendant as patient but as offender. Also, the existing practice of assigning inmates as orderlies who handle confidential medical records of patients should be discontinued.

VII. A wide range of rehabilitation programmes and activities should be made available to the forensic psychiatric defendants in prisons.

VIII. The pharmacy in the prisons should be operated by certified Pharmacists. The procurement, storage, dispensation, record keeping and maintenance of pharmaceutical items and sundries should be improved to ensure that each defendant's medical records reflects the pharmacy's records.

IX. Designated Social workers or Case Managers should be assigned to each defendant to ensure family/relatives are able to access information about the defendant's progress. When these important family connections are often lost, the defendant faces abandonment due to loss of family contact during the entire period of admission. These Case managers would be required to ensure the continuity of treatment process when they are transferred to a lock-up for court attendance and to refer the defendant to Community Mental Health Services upon release.

X. A substance abuse prevention and counselling programme should be established in correctional centres and lock-ups. The majority of defendants both mentally disordered and otherwise reported a history of ganja use before the incident and they continue to use while they remain at the correctional facilities. The security of these facilities needs to be tightened to prevent ganja use while in custody. The use and abuse of ganja hinders the process of recovery and delays the ability to be assessed as fit to plead.

XI. Laboratory and investigative services should be made available to the forensic psychiatric defendant on designated days of the week with an accountable system for the collection, and transport of samples, testing, distribution of results and filing.

XII. Regular audits of the existing prison psychiatric hospitals by the Department of Corrections and Ministry of Health and Wellness should be conducted. Regular Inspections by Health Department of Ministry of Health and Wellness for safety and healthy practices for adherence to the regulations made pursuant to the Corrections Act. Visits by Mental Health Review Board of the region is recommended.

88. The expected outcome of the implementation of these recommendations is that the therapeutic hospital concept setting with rehabilitation programmes would accelerate the recovery process of almost all of the patients admitted.

These defendants would achieve a better level of competency to stand trial with a shorter length of stay.

To achieve stakeholder coordination and promote understanding of stakeholder challenges

The Courts

89. At present, courts request psychiatric evaluations for both mentally disordered offenders and non-mentally disordered offenders. The Department of Corrections receives numerous requests from the criminal courts each day.

90. Letters from the courts requesting psychiatric evaluation tend to be in standard form with only names and dates changed. These letters lack clear instructions to the psychiatrist as to the reason for the assessment. Courts often request a "detailed report", a "comprehensive psychiatric report" or a "comprehensive forensic report." There is a demonstrated lack of understanding on the part of judges and court staff as to the distinctions between the following: (1) Assessment for fitness to plea; (2) Assessment for a comprehensive psychiatric report and (3) A comprehensive forensic psychiatric report.

91. A comprehensive psychiatric report is composed of information on the defendant, with a life-long history, including pre-natal history. In this report only a psychiatric diagnosis, with treatment and a recommendation is stated. A comprehensive forensic psychiatric report is composed of information on the defendant, with a life-long history, to include a pre-natal history and in addition, an expert opinion on the defendant's mental status at the time of the offence and an opinion on the likelihood of there being Diminished Responsibility, which assists the Court to arrive at decision in respect of a verdict where this defence has arisen.

92. A considerable amount of time is needed to review the relevant documents before serial interviews begin with a defendant. A report takes time to prepare and there may be the need for many reviews of a defendant.

93. The assessment of fitness to plead is easily performed in cases where the defendant clearly exhibits active psychotic symptoms. This can be done in one interview in most of the cases and rarely needs serial interviews without a need for a history from the family of the defendant to verify the veracity of the defendants answers to the psychiatrist during the interview. Courts have been making requests for comprehensive reports on short notice and some have issued subpoenas to psychiatrists.

94. The psychiatrists have indicated that this demonstrates a failure to appreciate the current state of under-resourcing and under-staffing in the Ministry of Health & Wellness and the current state of the DCS. There has to be mutual respect and dialogue between the courts and the medical professionals who are stakeholders in the justice system. There should be understanding and appreciation of challenges for all stakeholders.

95. Some defendants who are declared FIT to attend Court do not return to the prisons. Their status become unknown to Psychiatrists who provided treatment in prisons. Some later return, charged with another offence. While they remain in lock-ups awaiting court attendance, most do not receive their medications. It is evident that they received no continuity of treatment while they were in the community or in police custody. If these defendants are acquitted or given probation or guardianship orders, the Court should ensure they receive continuity of treatment to prevent recidivism.

Recommendations

I. A clear understanding is needed of the distinction between "Comprehensive Psychiatric Report" or "detailed report" and "Comprehensive Forensic Psychiatric Report" and "Assessment of Risks".

II. "Risk Assessment" is based on the combination of the works of the Forensic Psychiatrist, Forensic Psychologist and Forensic Social

Worker. It needs commercially available specialised instruments like HCR-20 (Historical, Clinical, Risk 20 items) and SVR-20 (Sexual Violence Risk 20 items) to avoid subjective bias in assessing the defendant. The application of these instruments requires a lengthy time frame in order to perform a valid, reliable and accurate assessment. These instruments have not been made available to our local Psychiatrists so far.

III. Psychiatrists needs information from many sources to include screening and referral information, depositions, witness statements, family history, medication prescribed, treatment, previous diagnosis to produce a comprehensive psychiatric report and a comprehensive forensic report.

IV. There should be cross training between court staff, attorneys and Mental Health Professionals particularly those trained in Psychiatry. Psychologists are needed in the system to increase the knowledge and provide expertise.

V. Team building and networking with regional Mental Health officials, the creation of Crisis Intervention Teams, members of the JCF, Courts and local Parish Council, NGOs, public interest groups is needed in each Parish or Region. This team should establish consensus and build a diversion programmes and various graded shelters and housing facilities.

VI. As it relates to Supervision or guardianship orders, the Court should ensure that the mentally disordered defendants receive continuity of treatment to prevent recidivism.

Role of the Future Bellevue Hospital in Forensic Psychiatry

96. The Bellevue Hospital remains Jamaica's only gazetted public psychiatric hospital built in 1861. The hospital ceased admissions of mentally disordered offenders after its Forensic ward was destroyed by a fire in 1975 and a ***policy decision*** was made to transfer all mentally disordered offenders to the General Penitentiary now known as the Tower Street Correctional Centre. The hospital is currently managed by its Management Board and supported

by a legislative management scheme under Part III of the Mental Health Act (1997).

97. The hospital is managed as a: (1) New Neuro-Psychiatric Hospital of 200-300 beds for Acute, Sub-acute psychiatric patients with rehabilitative programmes aiming to have short length of stay and re-integrate into the society at the shortest possible time and (2) Adult Care Facility for its discharged, abandoned, former chronic patients, with a plan to be handed over to Ministry of Local Government in the future. A policy decision is needed for provisions of Forensic Psychiatric in-patient units in the future. Currently the hospital has no capacity to provide in-patient services due to capacity issues regarding infrastructure and human resources.

98. Five Psychiatrists from the hospital assist with requests for both criminal and civil matters for fitness and comprehensive reports from all the courts and private attorneys.

Recommendations

I. The Senior Medical Officer has been a member of the Drug Treatment Court Team since 2001. Potentially, the implementation of a diversion programme for mentally disordered offenders with substance abuse issues (dual diagnosis cases) who are found to be ineligible to participate Drug Court Treatment Programme should be diverted to the mental health court.

II. Bellevue Hospital could be utilized as a training and research centre for forensic psychiatry and for varying types of forensic psychiatric service delivery and training for the various nursing schools and the UWI, as well as to provide training opportunities for Forensic Psychiatrists, Forensic Psychologists, Forensic Social Workers and Nurses.

Jamaica Constabulary Force (JCF)

99. As section 15 of the Mental Health Act grants power to the Constable to assist the mentally disordered individual, it is therefore prudent that they adopt therapeutic jurisprudence principles in policing.

100. Mentally disordered offenders at times missed their court attendance as police officers reported transportation issues with their service vehicles. At times, defendants have their matters adjourned because police officers have failed to attend court. There should be an accountability system of communication and instruction between the two parties. Persistent leadership, a committed political will and agreement at the level of the high command of the police force is needed to change the attitude of officers towards mentally disordered offenders and to help to establish a successful diversion programme.

Recommendations

I. Cross training is required members of the JCF with accountability regarding arrest, for remanding and managing mentally disordered offenders and training for Diversion Programmes.

II. Crisis Intervention Teams with officers specially trained to interact with mentally disordered individuals in the community when police assistance is required.

III. A vision and long term plan is needed for the discontinuation of the use of lock-ups. We look forward to the construction of modern remand centres under the responsibility of the Department of Corrections with full medical and psychiatric staff employed the various in police areas.

IV. An intake/arrest screening form should be used by the JCF for all defendants who are arrested as having been in conflict with the law.

101. Expected Outcome – Generally, the attitude of officers towards mentally disordered defendants would be greatly improved. With police involvement in a diversion programme less of the mentally disordered would

be detained. The general image of police as regards public trust would be improved when they engage a therapeutic approach towards the mentally disordered. There would be a reduction in liability faced by the JCF due to incidents with detained or remanded mentally disordered defendants in their lock ups.

Criminal Justice Administration Act

102. Section 25 needs revision in that it provides for "two qualified medical practitioners." Strictly speaking, an assessment of fitness to plead is the task of a qualified Forensic Psychiatrist. There is only one Forensic Psychiatrist in Jamaica, General Psychiatrists receive limited training during their postgraduate period at University of West Indies and they could undertake this assessment.

103. However, "Qualified Medical Practitioner" means any medical doctor who was not trained to conduct a fitness assessment. The terminology, could be interpreted to mean that the Court could instruct any medical doctor who does not possess the necessary training to do the assessment.

104. This term should be amended to read "two qualified Psychiatrists" as "two qualified medical practitioners with training in fitness to plea assessment" would not be appropriate because there will be no one with the requisite skills.

General Recommendations in short term

I. Establishment of Forensic Psychiatric Hospital with graded levels of security and forensic community groups homes, special forensic community mental health teams are ideal and the long term plan. The economic climate and budgetary constraints make the most reasonable approach one in which there is more involvement of community mental health services and regional psychiatrists with special days and times allocated to this population in a coordinated manner in collaboration with JCF, courts and the local mental health team.

II. The reality is that even in first world countries where Forensic Psychiatric Hospitals and medical and psychiatric services are available at jails and prisons, the arrest of mentally disordered people occur. The most achievable goal is to employ additional medical and psychiatric personnel who are able to visit JCF jails and prisons to quickly identify, assess and refer for prompt diversion those eligible defendants, to reduce the prison population.

III. Current psychiatric wings of correctional facilities must be transformed into therapeutic hospitals equipped with qualified dedicated staff trained in forensic psychiatry.

IV. A system of admissions, discharge and transfer and release processes at JCF jails, prisons, courts and community mental health services to ensure continuity of treatment of mentally disordered.

V. A coordinated digital computerized system of record keeping with specially trained liaison staff is required for use by the JCF, prisons and courts.

Dr. Myo Kyaw Oo
Senior Medical Officer
Bellevue Hospital

Chapter 3 was authored by:

Chair: Justice S. Wint-Blair, Puisne Judge, Supreme Court of Judicature of Jamaica

Participants: Dr. Kevin Goulbourne, Director, Mental Health and Substance Abuse Services Unit, Health Services Planning and Integration Branch,
Ministry of Health & Wellness

Dr. Myo Kyaw Oo, Senior Medical Officer, Bellevue Hospital, Ministry of Health & Wellness

Appendix 1

MEMORANDUM

TO: ALL JUDGES OF SUPREME COURT
SENIOR RESIDENT MAGISTRATES
RESIDENT MAGISTRATES

PRACTICE NOTE

RE: MENTALLY ILL PERSONS

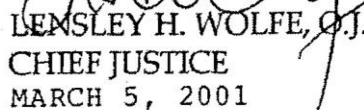
With immediate effect whenever a mentally ill person is adjudged unfit to plead and is remanded in custody, pending his or her being adjudged fit to plead, an order must be made by the Court requiring the Director of Correctional Services to furnish the Court with a report of the condition of such person at intervals not exceeding one month.

The Regisfrar of the Supreme Court or the Court Administrator of the Resident Magistrates Court will cause a register to be opened in which the name of each person remanded on the basis of being unfit to plead will be entered and a note made of each report received*

Each report received must forthwith placed Ikfore a Judge of the Supreme Court or a Resident Magistrate, in the case of the Resident Magistrates

Court, who shall give such direcfons as he or she sees fit based upon the said report

The Registrar or the Court Adminisfrator must bring to the Cour€s attention any breach of the order, within 7 days of the said breach.



LENSLEY H. WOLFE, C.J.
CHIEF JUSTICE
MARCH 5, 2001

Appendix 2A

Form C

Section 25D Criminal Justice Administration Act (Fourth Schedule)

Report on condition of defendant found unfit to stand trial. This Form is to be filled out by the Registrar or Court Administrator in respect of each defendant who is not fit to stand trial. Parish:

Name of Court:

Judge: The Hon. Mr./Miss/Mrs. Justice

____

1. **Surname of accused**: 2. **Christian name**:

____

____

3. **Alias**: 4. **Information Number**:

____

____

5. **Offence for which accused is charged**: 6. **Name and badge number of arresting officer**:

____

____

7. **Date of first appearance**: 8. **Next of Kin**:

____

____

9**. Address of next of Kin**: 10. **Court's ruling**:

____

____

11. **Place of remand/admission/residence**: 12. **Date of next appearance**:

____

____

13. **Reports received: (include date and summary or report, and any other relevant information).**

____

___

Appendix 2B

Form D

Section 25E Criminal Justice Administration Act (Fourth Schedule)

Report on condition of Defendant in case of Special Verdict

Parish:

Institution/Hospital/Medical Facility:

1. **Surname of accused**: ________________________ ____________________________

2. **Christian name**:

3. **Alias**: _______________________________ ____________________________

4. **Information Number**:

5. **Offence for which accused is charged**: __________________________________ ___________________________

6. **Name of Court**:

7. **Date of first admission**: __________________________________ ____________________________

8. **Next of Kin**:

9. **Address of next of Kin**: ___________________________________ ____________________________

10. **Medical Practitioner's assessment**:

11. **Medical Practitioner's directions**: ____________________________________ ____________________________

12. **Name of Medical Practitioner**:

13. **Signature:** ____________________________________

Appendix 3A

KINGSTON AND ST ANDREW PARISH COURT

MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
Junior Blackwood	Assault O.G.B Harm	N/A	N/A	June 8, 2020	N/A	N/A	July 13, 2020	Tower Street Adult Correctional Centre	
Monique Kelly	Malicious Destruction of Property	N/A	N/A	June 11, 2020	Unfit to Plea	March 21, 2020	June 25, 2020	South Camp Road Remand Centre	
Glendon Chen	Unlawful Wounding	N/A	N/A	June 11, 2020	Unfit to Plea	N/A	July 7, 2020	Tower Street Adult Correctional Centre	
Seayon Watkis	Murder	N/A	N/A	June 11, 2020	N/A	N/A	July 9, 2020	Half Way Tree Police Station	
Oliver Blake	Unlawful Wounding	N/A	N/A	June 12, 2020	N/A	N/A	June 16, 2020	Horizon Adult Correctional Centre	
Kerion Vernon	Murder	N/A	N/A	June 18, 2020	Fit to Plea	May 8, 2020	July 28, 2020	Tower Street Adult Correctional Centre	
Patrick Westmoreland o/c Patrick West	Unlawful Wounding	N/A	N/A	June 19, 2020	Fit to Plea	March 24, 2020	July 2, 2020	Tower Street Adult Correctional Centre	
Aamir Harvey	House Breaking & Larceny	N/A	N/A	June 19, 2020	N/A	N/A	October 2, 2020	Tower Street Adult Correctional Centre	
Jevaugh James	Robbery with Aggravation	N/A	N/A	June 19, 2020	Fit to Plea	June 2, 2020	July 20, 2020	Tower Street Adult Correctional Centre	
Alton Stewart	Grievous Sexual Assault	N/A	N/A	June 22, 2020	N/A	N/A	July 6, 2020	Tower Street Adult Correctional Centre	
Mark Barrett	Wounding with Intent	N/A	N/A	June 23, 2020	N/A	N/A	July 9, 2020	Tower Street Adult Correctional Centre	
Michael Taylor	Assault O.B Harm	N/A	N/A	June 23, 2020	Fit to Plea	May 26, 2020	July 28, 2020	Tower Street Adult Correctional Centre	
Robert Williams	Indecent Assault	N/A	N/A	June 24, 2020	N/A	N/A	July 1, 2020	Tower Street Adult Correctional Centre	
Carl Wright	Simple Larceny	N/A	N/A	June 24, 2020	N/A	N/A	July 2, 2020	Tamrind Farm Correctional Centre	
Ryan Fearon	Unlawful Wounding	N/A	N/A	June 26, 2020	N/A	N/A	July 8, 2020	Tower Street Adult Correctional Centre	
Burton McGareth	Simple Larceny	N/A	N/A	June 26, 2020	N/A	N/A	July 3, 2020	Tower Street Adult Correctional Centre	

Mentally Ill Accused in Custody - St.Thomas Parish Court										
Name	**Age**	**Offence**	**Date Arrested**	**1st Crt Date**	**Last Crt Date**	**Next Crt Date**	**Court**	**Location of Detention**	**Unfit/Unfit to Plead**	**Remarks**
William Riley	67	S.I.W.P.U	18.06.2019	28.06.2019	22.05.2020	no date is set	**Circuit Court**	Bath Police Station	Committed	
Adrian Campbell	34	Unlawful Wounding	21.08.2019	06.09.2019	12.06.2020	Discharged	Yallahs Court	Bath Police Station	Disposed	
Kevin Sterling	40	Wounding With Intent	10.07.2019		12.05.2020		**Circuit Court**	Bath Police Station	No new date set	
Douglas Bignal	35	Unlawful Wounding	16.04.2020	25.03.2020	24.06.2020	22.07.2020	M/ Bay Court	Bath Police Station	Fit to Plea -sentencing	
Deron Harding	37	Unlawful Wounding	24.02.2020	06.03.2020	08.05.2020	10.07.2020	Yallahs Court	Yallahs Police Station	Adsent on last date	
Tevaughn Forbes	20	Simple Larceny	21.10.2019			23.07.2020	**Circuit Court**	Yallahs Police Station	Not fit to Plea	
Dwayne Picart	38	Murder	24.12.2019	10.01.2020	19.06.2020	10.07.2020	Yallahs Court	Morant Bay Police Station	Awaiting Forensics	
Denzil James	29	Simple Larceny	09.02.2020	19.02.2010	24.06.2020	26.10.2020	Yallahs Court	Morant Bay Police Station	Fit to Plea -sentencing	
Donovan German	52	Assault O.B Harm	30.03.2020	08.04.2020	10.06.2020	08.07.2020	M/Bay Court	Morant Bay Police Station	Fit to Plea but incoherent	
Odean Palmer	25	Grievous Sexual Assault	17.05.2020	03.06.2020	01.07.2020	13.07.2020	M/Bay Court	Morant Bay Police Station	Further psych. Evaluation court accepts jurisdiction	
Richard Garell	29	Buggery	17.11.2019	04.12.2019	14.05.2020	no date is set	Circuit Court	Morant Bay Police Station	No new date set	

REPORT ON MENTALLY ILL ACCUSED PERSONS IN CUSTODY AT THE PORTLAND PARISH AND CIRCUIT COURTS

NAME	OFFENCE	DATE OF ARREST	DATE OF FIRST COURT APPEARANCE	REPORT STATUS	DATE OF LAST REPORT	LAST COURT DATE	NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
(1) Steven Cooke	(1) Shop Breaking and Larceny	May 2, 2008	May 7, 2008	Unfit to Plead	March 20, 2020	July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	Mr. Cooke was granted bail and released in the care of his mother (date not available). The matter was mentioned on a number of dates however, he sub-sequently absconded on June 27, 2017. On the said date a Bench Warrant was ordered for him. The said Bench Warrant was executed on Mr. Cooke on September 27, 2019 and he was brought before the Court on the said day where he was remanded for psy-chiatric evaluation and has been in
(2) Steven Cooke	(1) Assault at Common Law (2) Being armed with an Offensive Weapon (3) Resisting Arrest	March 31, 2010	April 13,2010	Unfit to Plead	March 20, 2020	July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	
(3) Steven Cooke	(1) Assault at Common Law	February 28, 2014	March 28, 2014	Unfit to Plead	March 20, 2020	July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	

									custody since. On July 3, 2020 no updated report was produced to the Court. The matter is for mention. For updated report as to mental status.

REPORT ON MENTALLY ILL ACCUSED PERSONS IN CUSTODY AT THE PORTLAND PARISH AND CIRCUIT COURTS

NAME	OFFENCE	DATE OF ARREST	DATE OF FIRST COURT APPEARANCE	REPORT STATUS	DATE OF LAST REPORT	LAST COURT DATE	NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
(4) Norman Cato	(1) Unlawful Wounding	October 3, 2019	October 4, 2019	Unfit to Plead	June 12, 2020	July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	For further report as to mental status.
(5) Romaine Stewart	(1) Murder	October 12, 2019	October 22, 2020	Unfit to Plead	February 10, 2020	June 26, 2020	September 4, 2020	Tower Street Adult Correctional Centre	For further report as to mental status.
(6) Romaine Stewart	(2) Wounding with Intent	October 14, 2020	October 29, 2020	Unfit to Plead	February 10, 2020	June 26, 2020	September 4, 2020		
(7) Ricardo Hall	(1) Malicious Destruction of Property	December 10, 2019	December 11, 2019	Unfit to Plead	March 20, 2020	July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	No updated report was produced on July 3, 2020. For further report as to mental status.
(8) Wayne Fuller	(1) Assault Occasioning Grievous Bodily Harm	January 21, 2020	January 29, 2020	Unfit to Plead	March 6, 2020	June 30, 2020	September 4, 2020	Tower Street Adult Correctional Centre	No updated report was produced on July 3, 2020. For further report as to mental status.

REPORT ON MENTALLY ILL ACCUSED PERSONS IN CUSTODY AT THE PORTLAND PARISH AND CIRCUIT COURTS

NAME	OFFENCE	DATE OF ARREST	DATE OF FIRST COURT APPEARANCE	REPORT STATUS	DATE OF LAST REPORT	LAST COURT DATE	NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
(9) Leighton Whyte	(1) Indecent Assault	February 19, 2020	February 25,2020	Unfit to Plead	March 27, 2020	June 30, 2020	September 4, 2020	Tower Street Adult Correctional Centre	No updated report was produced on June 30, 2020. For Court to make assessment of updated report and determine how to proceed.
(10) Christopher Pusey	(1) Murder	March 28,2020	March 30,2020	Unfit to Plead	June 12, 2020	June 23, 2020	September 4, 2020	Tower Street Adult Correctional Centre	For further report as to mental status
(11) Jean-Pierre Blake	(1) Arson	March 26, 2020	March 27,2020	**NO REPORT PRODUCED**		July 3, 2020	September 4, 2020	Tower Street Adult Correctional Centre	Awaiting report as to mental status.
(12) Joseph Gordon (Circuit Court matter)	(1) Murder	July 3, 2015	July 7, 2015	Fit to Plead		June 29 2020	October 28, 2020	Tower Street Adult Correctional Centre	Court awaiting Additional report from a second doctor for Fitness to Plea Hearing.

REPORT ON MENTALLY ILL ACCUSED PERSONS IN CUSTODY AT THE PORTLAND PARISH AND CIRCUIT COURTS

NAME	OFFENCE	DATE OF ARREST	DATE OF FIRST COURT APPEARANCE	REPORT STATUS	DATE OF LAST REPORT	LAST COURT DATE	NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
(13) Paul Leslie	(1) Threat	January 31, 2020	January 31, 2020	Fit to Plead	June 12, 2020	July 14, 2020	July 28, 2020	On June 23, 2020 Bail offered on the offence of Threat. Transferred to Lay Magistrate's Court for complainant to attend.	
(14) Paul Leslie	(1) Assault at Common Law	January 11, 2020	January 21, 2020	Fit to Plead	June 12, 2020	June 23, 2020	Guilty- for Assault at Common Law. Admonished and Discharged. Accused Discharged.		
(15) Emanuel Willis	(1) Simple Larceny	February 3, 2020	February 6, 2020	Fit to Plead	March 27, 2020	June 23, 2020	Not Guilty- No Evidence Offered at the Request of the Complainant. Accused Discharged.		
(16) Ackeem Higgins	(1) Malicious Destruction of Property	October 22, 2019	November 12, 2020	Fit to Plead	March 20, 2020	July 1, 2020	Not Guilty- No Evidence Offered. Accused Discharged in mother's care.		
(17) Jonoi Duncan	(1) Malicious Destruction of Property	June 30, 2020	July 3, 2020	Fit to Plead	July 13, 2020	July 14, 2020	Not Guilty- No Evidence Offered at the Request of the Complainant. Accused Discharged.		

ST. MARY PARISH COURT

REPORT - UNFIT TO PLEA CASES

AS AT: JULY 15, 2020

NAME OF ACCUSED	OFFENCE	DATE OF ARREST	DATE OF 1ST APPEARANCE	DATE OF LAST APPEARANCE	FIT/UNFIT TO PLEA (Based on last Report)	DATE OF LAST REPORT	DATE OF NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
Leroy Rohan Campbell	Assault at Common law	3/06/98	10/06/98	9/07/2020	Unfit to Plea	21/05/2020	30/07/2020	St. Catherine Adult Correctional Psychiatric Wing	
Horace Fagon	Attempt Murder	10/08/19	5/09/19	20/04/2020	Unfit to Plea	26/12/19	Mention 8/09/2020	Richmond Police Station	
Carlton Ewars	Attempt Murder	20/04/2020	30/04/2020	On 30/04/2020 - Remanded in Custody for Psychiatric Evaluation	-	-	Mention 1/09/2020	St. Catherine Adult Correctional Psychiatric Wing	

ST. ANN PARISH COURT
MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
Rohan Martin	Malicious Destruction of Property	24.10.2019	31.10.2019	2.06.2020	Unfit	27.1.2020	1-Sep-20	St Catherine Adult Correctional Facility	
Leroy Tomlinson	Wounding with Intent	27.02.2019	7.3.2019	12.06.2020	Unfit	16.05.2020	17-Jul-20	St. Catherine Adult Correctional Facility	
Inel Ellis	Unlawful Wounding	7.11.2018	23.11.2018	2.04.2020	Unfit	26.12.2019	3-Sep-20	St. Catherine Adult Correctional Facility	
Ackeem Walford	Threat and Assault at Common Law	1.04.2020	7.04.2020	19.06.2020	Fit	18.05.2020	12-Nov-20	St. Ann's Bay Police Station	
Carlos Parkes	Murder and Wounding	18.04.2020	1.05.2020	23.06.2020	Unfit	18.05.2020	28-Jul-20	St. Ann's Bay Police Station	
		.							
Tevin Foreman	Murder	24.02.2018	13.03.2018	21.11.2019	Fit	18.5.2020	5-Oct-20	St. Ann's Bay Police Station	
Holy Williams	Illegal Possession of Firearm	1.01.2019	18.01.2019	19.05.2020	Fit	17.02.2020	6-Oct-20	St. Ann's Bay Police Station	
Everald Johnson	Malicious Destruction of Property	24.04.2020	29.04.20	24.06.2020	Fit	18.05.2020	4-Sep-20	Brown's Town Police Station	
Prince Blake	Burglary	11.01.2020	3.02.2020	24.06.2020	Unfit	18.05.2020	15-Jul-20	Brown's Town Police Station	
Shakair Douglas	Murder	22.01.2020	4.02.2020	2.07.2020	Fit	31.03.2020	16.07.2020	Ocho Rios Police Station	
Daniel Brown	Unlawful Wounding	9.12.2019	17.12.2019	21.04.2020	Unfit	20.1.2020	21.07.2020	St. Ann's Bay Police Station	

TRELAWNY PARISH COURT

		LIST OF MENTALLY ILL ACCUSED								
NAME	***ARREST DATE***	***FIRST BEFORE THE COURT***	***LAST COURT DATE***	***OFFENCE***	***COURT***	***NEXT COURT DATE***	***LOCATION OF DETENTION***	***DATE OF LAST REPORT***	***FIT OR UNFIT***	***REMARKS***
MORRIS SMALL	03.12.2002	11.12.2002	15.06.2020	MALICIOUS DESTRUCTION OF PROPERTY	FALMOUTH		ST CATHERINE	03.10.2019	UNFIT TO PLEA	PSYCHIATRIC EVALUATION & REPORT REQUESTED 15TH OF JUNE 2020. LETTER SENT TO SUNDAY CONTACT AND CAD TO TRY AND LOCATE RELATIVES OF THE ACCUSED.
KERON STEWART	22.12.2015	16.12.2015	05.05.2020	UNLAWFUL WOUNDING	CLARKS TOWN	06.10.2020	TOWER STREET, KINGSTON	29.11.2018	UNFIT TO PLEA	PSYCHIATRIC EVALUATION & REPORT REQUESTED. DR.OO WAS OUT OF OFFICE
NIJO THOMAS	01.05.2020	10.06.2020	10.06.2020	WOUNDING WITH INTENT	CLARKS TOWN	07.07.2020	FALMOUTH, TRELAWNY	01.07.2020	UNFIT TO PLEA	PSYCHIATRIC EVALUATION & REPORT ON FILE.
JERMAINE SMITH	18.12.2018	12.01.2017	23.04.2020	MURDER	ULSTER SPRING	24.09.2020	TOWER STREET, KINGSTON	07.07.2020	UNFIT TO PLEA	PSYCHIATRIC EVALUATION & REPORT ON FILE.
ORLANDO PALMER	28.01.2020	07.02.2020	1.05.2020	INCEST ET AL	DUNCANS	02.10.2020	TOWER STREET, KINGSTON	PENDING	PENDING	PSYCHIATRIC EVALUATION & REPORT REQUESTED JUNE 18TH 2020
TREVANO MCGREGOR	11.04.2020	02.07.2018	08.05.2020	SHOP BREAKING AND LARCENY	FALMOUTH	09.10.2020	FALMOUTH, TRELAWNY	04.03.2020	FIT TO PLEA	FOR ATTORNEY TO TAKE INSTRUCTION. IO TO BE INFORMED
NAME	***ARREST DATE***	***FIRST BEFORE THE COURT***	***LAST COURT DATE***	***OFFENCE***	***COURT***	***FUTURE COURT DATE***	***LOCATION OF DETENTION***	***DATE OF LAST REPORT***	***FIT OR UNFIT***	***REMARKS***
TREVANO MCGREGOR	25.06.2018	27.05.2020	28.05.2020	SHOP BREAKING AND LARCENY	FALMOUTH	17.08.2020	FALMOUTH, TRELAWNY	04.03.2020	FIT TO PLEA	ACCUSED REMANDED PSYCHIATRIC EVALUATION ON FILE.
ZAIRE SMITH	12.11.2019	04.12.2019	18.05.2020	ASSAULT AT COMMON LAW ET AL	CLARKS TOWN	20.10.2020	FALMOUTH, TRELAWNY	PENDING	PENDING	PSYCHIATRIC EVALUATION & REPORT REQUESTED JUNE 16, 2020
MIGUEL JAMES	21.09.2018	19.10.2018	05.06.2020	MURDER	FALMOUTH	23.07.2020	TOWER STREET, KINGSTON	7.06.2019	UNFIT TO PLEA	ACCUSED REMANDED PSYCHIATRIC EVALUATION ON FILE

ST. JAMES PARISH COURT

MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
Delmar Lindsay	Indecent Assault	16-Apr-14	24-Apr-14	28-Feb-20	Unfit	17-Oct-19	17-Jul-20	St Catherine Adult Correctional Facility	Accused was scheduled to be in court on 3/4/2020 but was not brought due to COVID-19
Shawn Gordon	Assault at Common Law	23-Jan-14	3-Feb-14	28-Feb-20	Unfit	09-Sep-18	17-Jul-20	St Catherine Adult Correctional Facility	Accused was scheduled to be in court on 3/4/2020

									but was not brought due to COVID-19
Tion Brown	Housebreaking and Larceny (2 Counts)	18-Apr-20	17-Jun-20	1-Jul-20	Not yet ready	none	27-Jul-20	Montego Bay Police Station	
Ken Warren	Unlawful Wounding	21-Oct-19	15-Nov-19	3-Jul-20	Unfit	20-May-20	17-Jul-20	Montego Bay Police Station	
Enricko Pope	Simple Larceny	12-Nov-18	30-Nov-18	13-Jul-20	Not yet ready	none	4-Sep-20	Montego Bay Police Station	Bail was revoked on 14/11/ 2019 because of sexual offence matter
Enricko Pope	Rape, Burglary, Unlawful Wounding	19-Oct-19	6-Nov-19	1-Jan-20	Not yet ready	none	16-Jul-20	Montego Bay Police Station	Accused was scheduled to be in court on 2/4/2020 but was not brought due

									to COVID-19
Dwayne Blake	Assault at Common Law [3 counts]	21-Apr-20	13-May-20	02-Jun-20	Not yet ready	none	24-Jul-20	Montego Bay Police Station	
Easton Davis	Attempted Murder	12-Jun-20	8-Jul-20	8-Jul-20	Not yet ready	none	17-Sep-20	Montego Bay Police Station	
Damaine Taylor	Malicious Destruction of Property	26-Jun-20	8-Jul-20	8-Jul-20	Not yet ready	none	29-Oct-20	Montego Bay Police Station	

HANOVER PARISH COURT
MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
Demar Bookal	Assault at common Law		July 17, 2020	June 26, 2020	Unfit to plea		25-Sep-20	Tower Street Adult Correctional Centre	Mr Bookal has a history with the court, and was remanded at Tower Street for six (6) years from 2012 because he was boisterous and found unfit to plea. The charge was 'Being Armed with an Offensive Weapon'. His mother attended court on almost every court date, but was not willing to accept him in the condition then seen. In November 2018 when he was sufficiently improved, he was released into her custody. Since July 2019 when Mr Bookal returned to court, no Psychiatric Report has been sent to the court. A Treatment Summary from the Department of Correctional Services dated December 4, 2019 was sent to the court, relating to an injury inflicted while in custody
Shawn Smith	Arson		June 16, 2020	June 30, 2020	Unfit to plea		September 25, 2020	Tower Street Adult Correctional Centre	Mr Smith has a history with the court. On a previous occasion his family arranged private care at Chance Rehabilitation Centre in Montego Bay. He was before the court on June 26, 2020 and his mother was present. She said she was in no position to assist with private care at this time and would not be offering any further assistance to him, as he is now accused of burning down the house she gave him to occupy. The case was set for June 30 to ascertain if any other family member would assist with private care. None was forthcoming and he was then remanded to Tower Street

WESTMORELAND PARISH COURT
MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
Clive Blair	Assault Occasioning Actual Bodily Harm	Unknown	Feb-92	Unknown	Unfit	21-Feb-04	Unknown	Unknown	Report dated February 21, 2004 from Dr. Leveridge states- 'accused may never be fit to plea
Simon Clayton	Unknown	Unknown	1987	Unknown	Unknown	25-Oct-91	Unknown	St Catherine's Adult correctional Centre	Case file cannot be located
Orlando Greenfield	Murder	Unknown	Unknown	Unknown	Unfit	31-Mar-07	Unknown	Tower Street Adult Correctional Centre	The accused pleaded not guilty. The court found that the Accused was under a disability, so he could not be tried on the indictment for murder. His Lordship Mr. M. Gayle ordered that the Accused be remanded at the Courts pleasure and that the Correctional Officer submit a monthly report to the Registrar of the Supreme Court.
Lascelles McPherson	Assault Occasioning Actual Bodily Harm	Unknown	19-May-92	18-Jun-92	Unfit	19-Sep-06	Unknown	St Catherine's District Prison	An order was made for the Accused to be committed to Psychiatric wing of the General Penitentiary until he is fit to plea. On May 19, 1992 the file notes are that defendant was taken to the General Penitentiary and they refused him. On June 18, 1992 he was committed to the St Catherine's District Prison.
Septimus Williams	Malicious Destruction of Property	Unknown	Unknown	Unknown	Unfit	4-Mar-04	Unknown	Tower Street Adult Correctional Centre	Certificate from Dr. G A. Leveridge states, "that this patient may never be fit to stand trial and that arrangement needs to be made for his disposal from prison.
Ofniel Essor	Rape	Unknown	Unknown	14-Mar-19	Unknown	Unknown	Unknown	Unknown	Matter transferred to the Home Circuit Court for April 10, 2019 and an updated psychiatric report was requested.
Anthony Mendez		Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Case file cannot be located
Glen Samuels		Unknown	1989	Unknown	Unknown	Unknown	Unknown	Unknown	Case file cannot be located

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS
1. DARIEN ANDERSON	SEXUAL TOUCHING OF A CHILD	31/10/2019	13/11/2020	19/6/2020	UNFIT	15/5/2019	9/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	No known relatives of accused. Attempts being made to locate relatives.
2. ANDEE FARQUHARSON	WOUNDING WITH INTENT	22/12/2019	3/1/2020	19/6/2020	No report to date	N/A	9/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Mother of Accused present in court on 19/6/2020. Awaiting psych report.
3. DOMAR JONES	UNLAWFUL WOUNDING	25/10/2019	12/11/2019	10/6/2020	FIT (Awaiting Postmortem report for complainant to determine if charge will be upgraded to Murder)	21/5/2020	27/7/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	No known relatives of accused. Attempts being made to locate relatives.
4. RODRICK DIXON	ASSAULT AT COMMON LAW	31/12/2019	3/1/2020	10/6/2020	UNFIT	16/1/2020	27/7/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	No known relatives of accused. Attempts being made to locate relatives.
5. SANJAY ROCHESTER	ASSAULT OB HARM (2 COUNTS)	9/2/2020	12/2/2020	10/6/2020	No Report to date	N/A	9/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Awaiting report to determine if suitable for release. Attempts being made to locate relative.

NAME OF ACCUSED	**OFFENCE**	**ARREST DATE**	**FIRST COURT APP.**	**LAST COURT APP.**	**FIT/UNFIT TO PLEA (Based on last report)**	**DATE OF REPORT**	**NEXT COURT DATE**	**LOCATION OF DETENTION/ BAIL OFFERED**	**STATUS OF RELATIVES**
6. DUSHANE NICHOLSON	WOUNDING WITH INTENT	11/11/2018	21/11/2018	2/6/2020	UNFIT	N/A	1/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Father has attended court as known relative but accused indicated that he does not wish to go with father.
7. RICK ANDI WINT	MURDER	22/2/2019	23/2/2019	10/2/2020	UNFIT	13/9/2019	22/7/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Mother indicates that she is unable to care for accused. Allegations are that the Accused killed his father while she was present.
8. ROHAN EVANS	UNLAWFUL WOUNDING	23/5/2014	13/6/2014	9/9/2020	UNFIT	15/10/2019	1/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Mother indicates she is unable to care for accused. Complainant is her son and brother of accused
9. JANOI BENT	ASSAULT OB HARM MAL. DEST. PROP	8/2019	3/9/2019	2/6/2020	UNFIT	3/10/2019	1/9/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Accused was released to the care of his family, however, reoffended as family was not able to care and exercise proper control over him.

NAME OF ACCUSED	**OFFENCE**	**ARREST DATE**	**FIRST COURT APP.**	**LAST COURT APP.**	**FIT/UNFIT TO PLEA (Based on last report)**	**DATE OF REPORT**	**NEXT COURT DATE**	**LOCATION OF DETENTION/ BAIL OFFERED**	**STATUS OF RELATIVES**
10. DAVID HALL	SIMPLE LARCENY	21/2/2020	25/2/2020	23/3/2020 (COVID)	No report to date	N/A	13/7/2020	**St. Catherine Adult Correctional Facility – Psychiatric Wing**	Awaiting report to determine if suitable for release. Attempts being made to locate relative.
11. STEVE ALLEN	SIMPLE LARCENY	17/1/2020	SUMMONED	2/7/2020 (Accused came in on warrant on 24/6/2020)	No report to date	N/A	16/7/2020	**Santa Cruz Lock Up**	Awaiting report to determine if suitable for release. Attempts being made to locate relative.

RECENTLY RELEASED FROM CUSTODY

NAME OF ACCUSED	OFFENCE CHARGED	ARREST DATE	FIRST COURT APP.	LAST COURT DATE	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	BAIL OFFERED/DISPOSAL	STATUS OF RELATIVES
SHERMAN JOHNSON	ASSAULT AT COMMON LAW	9/2/2020	12/2/2020	19/6/2020	FIT	19/3/2020	27/7/2020	Released on bail to his cousin.	Cousin came forward on 19/6/2020 and indicated willingness to take care of accused
ABRAHAM LAWRENCE	MALICIOUS DESTRUCTION OF PROPERTY	12/1/1999	13/1/1999	10/7/2020	UNFIT	9/7/2020	Discharged	No order for indictment made. Accused discharged	Accused released into care of brother.

MANCHESTER PARISH COURT
FITNESS TO PLEA REPORT
JUNE 2020

RECORD #	INFORMATION NUMBER	NAME OF ACCUSED	OFFENCE(S)	PLACE OF CUSTODY	DATE OF FIRST APPEARANCE	STATUS	INVESTIGATING OFFICER	FIRST DATE OF REFERRAL	LAST DATE OF REFERRAL
1	MN2019CR01665	Andre Alexis	Unlawful Wounding	Mandeville	30-Oct-19	Custody	W/Cons. Juanecia Gordon Chambers	30-Oct-19	17-Mar-20
2	MN2020CR00283-1-3	Mayceo Allen	House Breaking and Larceny etal	St. Catherine Adult Correctional Centre	04-Mar-20	Custody	Cons. Alex Hammond	04-Mar-20	
3	MN2018CR00924	Winston Ashman	Unlawful Wounding	St. Catherine Adult Correctional Centre	19-Dec-19	Custody	Cons. Rameish Uter	17-Oct-19	19-Nov-19
4	MN2020CR00161	Theodore Banner	Assault Occasioning Actual Bodily Harm	Mandeville	12-Feb-20	Custody	Cons. R. Malcolm	12-Feb-20	19-Mar-20
5	MN2020CR00463	Fabian Bernard	Burglary and Larceny	Mandeville	26-Mar-20	Custody	Cons. Camoy Stewart	26-Mar-20	26-Mar-20
6	MN2019CR07370	Leroy Blake	Indecent Assault	St. Catherine Adult Correctional Centre	4-Sept-19	Custody	W/Cons. Cobrena Crawford	4-Sept-19	06-May-20
7	MN2019CR01329	Dave Campbell	Malicious Destruction of Property	Christiana	31-Jul-19	Custody	Det. Cpl. Gerald Miller	31-Jul-19	21-Feb-20
8	MN2019CR01347	Javon Campbell	Assault Occasioning Actual Bodily Harm	St. Catherine Adult Correctional Centre	04-Sep-19	Custody	W/Cons. Charmaine Chambers-Bertram	10-Mar-20	13-Mar-20
9	MN2019CR01743	Gregory Hamilton	Malicious Destruction of Property	St. Catherine Adult Correctional Centre	28-Nov-19	Custody	Cons. Othneil Dunstan	29-Jan-20	19-Mar-20
10	MN2019CR01334	Nickoy Hamilton	Murder	St. Catherine Adult Correctional Centre	29-Apr-19	Custody	Det. Cpl. Rohan Parker	29-Aug-19	
11	MN2020CR00143	Omar Johnson	Wounding with Intent	Mandeville	15-Jan-20	Custody	W/Cpl. Leisha Rose	15-Jan-20	
12	MN2020CR00028	Jayon Leon	Murder	St. Catherine Adult Correctional Centre	08-Jan-20	Custody	Det. Cpl. George Walters	08-Jan-20	08-Jan-20
13	MN2020CR00141-1-4	Ramone Lloyd	Shooting with Intent Malicious destruction of Property Illegal Possession of Firearm Illegal Possession of Ammunition	Mandeville	05-Feb-20	Custody	Det. Cons. Andre Rowe	05-Feb-20	05-Feb-20

MANCHESTER PARISH COURT
FITNESS TO PLEA REPORT
JUNE 2020

RECORD #	INFORMATION NUMBER	NAME OF ACCUSED	OFFENCE(S)	PLACE OF CUSTODY	DATE OF FIRST APPEARANCE	STATUS	INVESTIGATING OFFICER	FIRST DATE OF REFERRAL	LAST DATE OF REFERRAL
14	MN2020CR00360	Ian McDonald	Wounding with Intent	Mandeville	29-Apr-20	Custody	W/Cons. Judith Miller	08-Jun-20	06-Aug-20
15	MN2020CR00419	Racquel McGregor Orayne Edwards	Murder	Porus Christiana	13-May-20	Custody	Det. Sgt. Lincoln Blackstock	9-June-20 10-June-20	
16	MN2019CR01814	Ragar McLeod	Unlawful Wounding	St. Catherine Adult Correctional Centre	26-Nov-19	Custody	Cons. A. Beckford	28-Jan-20	28-Jan-20
17	MN2019CR01056	Donovan Mead	Unlawful Wounding	St. Catherine Adult Correctional Centre	10-Jul-19	Custody	Cpl. George Robinson	17-Nov-19	04-Mar-20
18	MN2020CR00463	Vinroy Morris	Wounding with Intent	Mandeville	10-Jun-20	Custody	Det. Cons. Dwane Paisley	10-Jun-20	10-Jun-20
19	MN2017CR01454 MN2017CR00434	David Pearce	House Breaking with Intent Unlawful Wounding	Mandeville	28-Jul-17 28-Feb-17	Custody	Cons. Kemar DeSouza Cons. Cashmere Farquharson	8-Aug-17 28-Feb-17	22-Mar-17
20	MN2020CR00495	David Simms	Murder	Mandeville	17-Jun-20	Custody	Det. Sgt. Beech	17-Jun-20	17-Jun-20
21	MN2019CR01690	Joseph Spencer	Wounding with Intent	St. Catherine Adult Correctional Centre	06-Nov-19	Custody	Det. Sgt. Pat Wallace	06-Nov-19	05-Feb-20
22	MN2020CR00224	Albert Thompson	Murder	St. Catherine Adult Correctional Centre	19-Feb-20	Custody	Det. W/Sgt. Jennifer Green	04-Mar-20	13-May-20
23	MN2020CR00057	Cedric Williams	Malicious Destruction of Property	St. Catherine Adult Correctional Centre	20-Jan-20	Custody	W/Cons. Rashell Morgan	20-Jan-20	17-Feb-20
24	MN2020CR00445	Dennis Wright	Malicious Destruction of Property	Mandeville	03-Jun-20	Custody	Cons. R. Malcolm	03-Jun-20	
25	53/15	Ricardo Young	Inflicting Grievous Bodily Harm	St. Catherine Adult Correctional Centre	07-Jan-15	Custody	Cons. Daniel Watt	07-Jan-15	19-Dec-19
26	MN2019CR00751-1-3	Andre Young	Assault at Common Law et al	St. Catherine Adult Correctional Centre	16-May-19	Custody	Det. Sgt. Lincoln Blackstock	16-May-19	12-Sep-19

MANCHESTER PARISH COURT
FITNESS TO PLEA REPORT
JUNE 2020

RECORD	LAST COURT DATE	NEXT COURT DATE	CURRENT COURT	PRESIDING JUDGE	PSYCHIATRIC	RESULTS OF	DATE OF FOLLOW-UP PSYCHIATRIC VISIT	CASE
1	13-May-20	02-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	Psychiatric	Unfit to Plea		Court to
2	13-May-20	9-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
3	16-Apr-20	17-Sep-20	Christiana	Her Hon. Mrs. Desiree	Psychiatric	Fit to Plea		Matter set for
4	11-May-20	2-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
5	22-Apr-20	09-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	No Report or	Pending		Awaiting
6	06-May-20	2-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
7	12-May	12-Oct-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	Psychiatric	Fit to Plea		Matter set for
8	27-May-20	16-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	No Report or	Pending		Accused
9	06-May-20	2-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
10	23-Apr-20	7-Sept-20	Mandeville - Crt 3	His Hon. Mr. Stephen	Psychiatric	Pending		A Psychiatric
11	19-Jun-20	02-Sep-20	Mandeville - Crt 1	His Hon. Mr. John Tyme	Psychiatric	Fit to Plea		Matter set for
12	06-May-20	2-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	Psychiatric	Unfit to Plea	19-Feb-20	Matter set for
13	20-May-20	09-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	No Report or	Pending		Accused

MANCHESTER PARISH COURT
FITNESS TO PLEA REPORT
JUNE 2020

RECORD #	LAST COURT DATE	NEXT COURT DATE	CURRENT COURT	PRESIDING JUDGE	PSYCHIATRIC EVALUATION REPORT/COPY OF MEDICAL JOURNAL RECEIVED	RESULTS OF REPORT	DATE OF FOLLOW-UP PSYCHIATRIC VISIT	CASE RESULTS /COMMENTS
14	29-Apr-20	09-Sep-20	Mandeville - Crt 1	His Hon. Mr. John Tyme	Psychiatric	Pending		A Psychiatric
15	9-June-20	08-Jul-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
16	24-Mar-20	28-Jul-20	Spalding	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
17	13-May-20	9-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	Psychiatric	Pending		A Psychiatric
18	10-Jun-20	08-Jul-20	Mandeville - Crt 1	His Hon. Mr. John Tyme	No Report or	Pending		Accused
19	31-Mar-20	29-Jul-20	Mandeville - Crt 3	His Hon. Mr. Stephen	Psychiatric	Fit to Plea		Matters set for
20	17-Jun-20	16-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
21	20-Apr-20	02-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	No Report or	Pending		Awaiting
22	13-May-20	9-Sept-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
23	28-Apr-20	21-Sep-20	Porus	Her Hon. Mrs. Desiree	Psychiatric	Unfit to Plea		Court to
24	03-Jun-20	01-Jul-20	Mandeville - Crt 2	His Hon. Mr. John Tyme	No Report or	Pending		Matter set for
25	30-Apr-20	02-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	Psychiatric	Unfit to Plea		Court to
26	08-May-20	02-Sep-20	Mandeville - Crt 1	Her Hon. Mrs. Desiree	Psychiatric	Unfit to Plea		Court to

MENTALLY ILL REPORT ST. CATHERINE									
ACCUSED NAME	OFFENCE	ARREST DATE	FIRST COURT APP	LAST COURT DATE	FIT/ UNFIT	LAST DATE OF PSYCH EVALUATION REPORT	NEXT COURT DATE	LOCATION OF DETENTION	REMARKS
Drysdale, Ky-Mani Danovan [o.c. Danovan]	*Malicious destruction of property*	*12/20/2019*	*07-Jan*	*25-Feb-2020*	*Unfit*	*In Med Journal*	*27-Oct-2020*	*herine District*	
						In Med Journal			
						In Med Journal	*27-Oct-2020*	*herine District*	
Smith, Johnoy	*Stone Throwing*		*01/28/2020*		*Unfit*	*In Med Journal*			
Lee, Ramone [o.c.]	*Unlawful possession of property*	*01/22/2020*	*02/05/2020*	*19-Feb-2020*	*Unfit*	*10-Mar-2020*	*22-Jul-2020*	*Linstead*	
Humes, David Ricardo	*Unlawful wounding*	*02/07/2020*	*02/19/2020*	*18-Mar-2020*	*Unfit*	*17-Mar-2020*	*02-Sep-2020*	*Linstead*	Bail Offered
Clarke, O'Neil Omar	*Buggery*	*02/14/2020*	*02/21/2020*	*19-Jun-2020*	*Unfit*	*15-Feb-2020*	*14-Jul-2020*	*Linstead*	
						In Med Journal			
Scarlett, Jerome Kempton	*Assault occasioning bodily harm*	*02/21/2020*	*03/03/2020*	*03-Mar-2020*	*Unfit*		*01-Sep-2020*	*Tamrind Farm*	
Bish, Jorashin	*Assault occasioning grievous bodily harm*	*05/08/2020*	*05/15/2020*	*05-Jun-2020*	*Unfit*	*09-Jun-2020*	*17-Jul-2020*	*Linstead*	
Edwards, Kemar	*Wounding with intent*	*04/22/2020*	*05/29/2020*	*12-Jun-2020*	*Unfit*	*N/A*	*07-Jul-2020*	*Linstead*	
Edwards, Kemar	*Wounding with intent*	*04/22/2020*	*05/29/2020*	*12-Jun-2020*	*Unfit*	*N/A*	*07-Jul-2020*	*Listead*	
Edwards, Kemar	*Assault occasioning bodily harm*	*04/22/2020*	*05/29/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Linstead*	
Barnett, Jermaine Junior	*Grievous sexual assault*	*05/30/2020*	*06/05/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*08-Jul-2020*	*entral Village*	
Waugh, Leonard Antonio	*Malicious destruction of property*	*06/06/2020*	*06/12/2020*	*12-Jun-2020*	*Fit*	*N/A*	*08-Jul-2020*	*Linstead*	Matter reffered to Restorative Justice Center
Waugh, Leonard Antonio	*Assaulting a female*	*06/06/2020*	*06/12/2020*	*12-Jun-2020*	*Fit*	*N/A*	*08-Jul-2020*	*Linstead*	Matter reffered to Restorative Justice Center
Kelly, Kevon Sheldon [o.c. Sheldon]	*Murder*	*06/05/2020*	*12-Jun*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Portmore*	
Kelly, Kevon Sheldon [o.c. Sheldon]	*Wounding with intent*	*06/05/2020*	*06/12/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Portmore*	
Kelly, Kevon Sheldon [o.c. Sheldon]	*Unlawful wounding*	*06/05/2020*	*06/12/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Portmore*	

Kelly, Kevon Sheldon [o.c. Sheldon]	*Assault occasioning bodily harm*	*06/05/2020*	*06/12/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Portmore*	
Kelly, Kevon Sheldon [o.c. Sheldon]	*Malicious destruction of property*	*06/05/2020*	*06/12/2020*	*12-Jun-2020*	*Unfit*	*In Med Journal*	*07-Jul-2020*	*Portmre*	
Clarke, Ricardo [o.c.]	*Assault occasioning bodily harm*	*06/09/2020*	*06/16/2020*	*22-Jun-2020*	*Unfit*	*N/A*	*21-Jul-2020*	*Linstead*	Bail Offered
Clarke, Ricardo [o.c.]	*Unlawful wounding*	*06/09/2020*	*06/16/2020*	*22-Jun-2020*	*Unfit*	*N/A*	*21-Jul-2020*	*Linstead*	Bail Offered
Ramsay, Trevon Okhino	*Malicious destruction of property*	*06/04/2020*	*06/17/2020*	*17-Jun-2020*	*Fit*	*In Med Journal*	*08-Jul-2020*		On 8.7.2020 No evidence offered matter disposed
Ramsay, Trevon Okhino	*Unlawful wounding*	*06/04/2020*	*06/17/2020*	*17-Jun-2020*	*Fit*	*In Med Journal*	*08-Jul-2020*		On 8.7.2020 No evidence offered matter disposed
Mccurdy, Andre Anthony	*Assault occasioning bodily harm*	*01/06/2019*	*02/01/2019*	*25-Feb-2020*	*Unfit*	*In Med Journal*	*27-Oct-2020*	*Tower Street*	
Carter, Keino	*Unlawful Wounding*	*07/03/2019*	*07/23/2019*	*11-Feb-2020*	*Unfit*	*In Med Journal*	*03-Sep-2020*	*Portmore*	
Jefferson, Sashagaye	*Robbery with aggravation*	*10/28/2019*	*11/01/2019*	*23-Jun-2020*	*Unfit*	*In Med Journal*	*31-Jul-2020*	*Camp Juvenile*	
Green, Daniel	*Murder*	*10/23/2019*	*11/08/2019*	*19-Jun-2020*	*Unfit*	*In Med Journal*	*14-Jul-2020*	*Portmore*	
Fillington, Travis Omar	*Robbery with aggravation*	*11/01/2019*	*11/08/2019*	*29-Jun-2020*	*Unfit*	*In Med Journal*	*01-Jul-2020*	*Tamrind Farm*	
Windeth, Timar	*Unlawful Wounding*	*11/23/2019*	*12/06/2019*	*13-Mar-2020*	*Unfit*	*In Med Journal*	*22-Oct-2020*	*e Adult Centre*	
Bloomfield, Arlando	*Assault occasioning bodily harm*	*04/29/2018*	*05/11/2018*	*19-Jun-2020*	*Unfit*	*In Med Journal*	*14-Jul-2020*	*Tower Street*	
Bloomfield, Arlando	*malicious destruction of property*	*04/29/2018*	*05/11/2018*	*19-Jun-2020*	*Unfit*	*In Med Journal*	*14-Jul-2020*	*Tower Street*	
Lynch, Jermaine Charles	*Assault at common law*	*06/04/2017*	*07/04/2017*	*19-Jun-2020*	*Unfit*	*In Med Journal*	*14-Jul-2020*	*Tower Street*	

N/B- Dates of the last of the last psych evaluation report are held in the in the respective medical journals at each holding facility.

The facilities only send the journals to Court on the days that prisoners are brought.

Appendix 3B

FOR THE PARISH OF

MENTAL HEALTH REPORT FOR ACCUSED PERSONS IN CUSTODY

NAME OF ACCUSED	OFFENCE	ARREST DATE	FIRST COURT APP.	LAST COURT APP.	FIT/UNFIT TO PLEA (Based on last report)	DATE OF REPORT	NEXT COURT DATE	LOCATION OF DETENTION/ BAIL OFFERED	REMARKS

Appendix 4

2192

WRIT OF HABEAS CORPUS AD RESPONDEDUM

JAMAICA SS.ELIZABETH 11, By the Grace ofG0d of
IN THE SUPREME COURT OFJamaica and of Her Other Realms and
JUDICATURE OF JAMAICATerritories Queen, Head of the
Commonwealth, Defender of
the Faith. In the Home Circuit Court, Kingston.

To the Commissioner of Corrections,

GREETINGS: -

WE command You, that you have the body of ______________________________

now in our Home Circuit Court under your Custody detained under safe and secure conduct before

the Honourable Mr/Mrs/Ms Justice ______________________________ at

the ______________________________ to be held in the City of Kingston, at

10 0'clock, in the morning of the __________ day of ____________________ ,2020

to answer a certain Bill of Indictment against him for ____________________ and then and

there to undergo and receive all and singular such things as our said Court shall then and there direct and

consider of him in that behalf.

WITNESS - The Honourable Mr. Justice Bryan Sykes O.J. C.J.

this __________ day of ____________________ 2020

____

Deputy Registrar
Criminal Division

Appendix 5

The table below reflects the disaggregation of three (3) categories of mentally challenged offenders across the three (3) reception institution for the month June 1-30, 2020.

Mentally Challenged Offenders within Institutions

CATEGORIES	INSTITUTIONS			Grand Total
	T.S.A.C.C. (Male)	ST.C.A.C.C. (Male)	S.C.A.C.C. (Female)	
Awaiting Trial (Unfit to Plead)	43	75	3	**121**
Governor General's Pleasure	14	3	0	**17**
Court's Pleasure	6	4	0	**10**
Total	**63**	**82**	**3**	**148**

Age cohort of Mentally Challenged Offenders

Category	**Age Range**
Court's Pleasure	28 – 76 years
Governor General's Pleasure	41 – 75 years
Awaiting Trial (Unfit to Plead)	19 – 79 years

NB. 9% or 14 of these offenders have been classified as Fit to Plead.

Key

T.S.A.C.C. - Tower Street Adult Correctional Centre
ST.C.A.C.C. - St. Catherine Adult Correctional Centre

S.C.A.C.C. - South Camp Adult Correctional Centre
A.T – Awaiting Trial

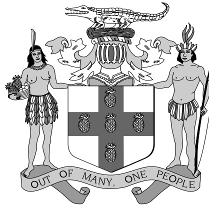
GG's – Governor General's Pleasure

Age

Years Incarcerated

Years since Last Court Date

Appendix 6



TEL NO.: 967 – 7317

922 – 9412

FAX NO.: 967 – 7317

Email: medicalservices@dcs.gov.jm

DEPARTMENT OF CORRECTIONAL SERVICES
PROBATION AFTERCARE
OFFICE
MEDICAL UNIT/STORES

12 – 14 LOCKETT AVENUE

KINGSTON 4

DEPARTMENT OF CORRECTIONS

GUIDELINES FOR REQUESTING PSYCHIATRIC ASSESSMENT for COURTS and Attorney-at-laws

RATIONALE

In an effort to assist the legal proceedings in a timely and professional manner, the Department of Correctional Services (DCS) has developed guidelines for requesting Psychiatric assessments.

Generally, all forensic psychiatric cases referred to the Department of Correctional Services for assessment can be divided into three categories.

1. **Fitness to plead for Offenders with Minor Offences**

2. **Fitness to plead for Offenders with Major Offences**

3. **Forensic psychiatric report for Offenders with Major Offences (Capital & Non capital) and mentally unfit Offenders**

AUTHORITY

The Corrections Act, 1985, the Correctional Institution (Adult Correctional Centre) Rules, 1991, the Mental Health Act, 1999.

PROCEDURE (Where the letter of request be sent to)

ALL REQUESTS for Psychiatric Evaluations shall be sent to the Director of Medical Services, the Department of Correctional Services (DCS).

1. Fitness to lead for Offenders with Minor Offences

1.1 Who shall do the assessment?

1.1.1 Assessment will be done by consultant psychiatrist (sessional) at Correctional Institutions during operating hours for particular psychiatrists on his/her designated days.

1.2 How is Request to be Made?

1.2.1 A formal request shall be made by the Judicial Court or Attorney-at-law

1.2.2 The request shall clearly state clearly what is needed;

(a) Report on a Fitness to Plead or

(b) A Comprehensive Psychiatric Report.

1.2.3 Letter of request must include the following relevant information;

(a) Name of person making the request.

(b) Title of post held by person making the request.

(c) Name of court.

(d) Address of court.

(e) Contact number/email of person making the request.

(f) Date report is required.

1.2.4 The request shall state the next court date.

1.3 Process of Assessment for Fitness to Plead for Offenders with Minor Offences

1.3.1 Consultant psychiatrist (sessional) shall conclude his/her opinion for fitness to plead after;

1.3.2 A single interview and assessment (most cases) or

1.3.3 A series of interviews and assessments (some complicated cases)

1.4 **Issuing of Report on Fitness to Plead**

1.4.1 A report of fitness to plead shall be issued in the prescribed form to to requesting Court or Attorney-at-law

1.4.2 A report of fitness to plead shall be signed by the Consultant Psychiatrist along with the recommendation(s).

1.5 **Copy of the Report of Fitness to plead**

1.5.1 A copy of the report on fitness to plead shall be kept on the inmate's medical Record at the institution where he/she is being held.

2. **Fitness to Plead for Offenders with Major Offences (capital/non-capital) Offences (capital/non-capital)**

2.1 Assessment and the issuing of the report of fitness to plead is the same process for offenders with minor offences.

3. **Request for Forensic Psychiatric Evaluation Report for Offenders With Major Offences (Capital/Non-Capital) and mentally Unfit Offenders**

3.1 **Who shall conduct the assessment and how will it be done?**

3.1.1 A comprehensive forensic psychiatric assessment should be done by the Consultant Psychiatrist (Sessional)

3.1.2 A series of interviews shall be done to ascertain a comprehensive history of the offender (please note that family members and reliable informers may not available for interviews)

3.2 **What letter is to be sent and where is it to be sent?**

3.2.1 A formal letter of request by the Court or Attorney-at-law requesting a Comprehensive Forensic Psychiatric Evaluation Report shall be sent to the Director of Medical Services, Department of Corrections

3.2.2 The letter shall indicate the reason for requesting a Comprehensive Forensic Psychiatric Report

3.3 **<u>Documents to be Provided By Court</u>**

3.3.1 Deposition
3.3.2 Police statement (s)
3.3.3 Witness statement (s)
3.3.4 Social Enquiry Report (Probation Department)
3.3.5 All relevant document (s) relating to any History of Past Psychiatric Illness.

3.4 **<u>What Psychiatrist will do with documents provided</u>**

3.4.1 All documents relating to the offence shall be reviewed by the Consultant Psychiatrist prior to assessment.

3.4.2 Review of documents provided shall assist the Consultant Psychiatrist how to Structure the comprehensive interview(s). (Offenders are often psychotic and therefore their stories may not be credible)

3.4.3 Consultant Psychiatrist shall conduct the interview(s)/ assessment(s) based on Information gathered.

3.4.4 The court or Attorney-at-law requesting the Evaluation Report shall be contacted if any other documents becomes necessary.

3.5 **<u>Single Assessment/ Interview vs. Series of Assessment/ Interviews.</u>**

3.5.1 More than one interview shall be conducted based on the complex nature of the Individual case

3.6 **<u>Preparation/ Writing of a Comprehensive Forensic Psychiatric Report.</u>**

3.6.1 Consultant Psychiatrist shall prepare a Comprehensive Forensic Psychiatric Report based on the relevant findings from the interview (s) and assessment. **(A designated time frame is required to produce a quality report).**

3.7 **Issuing a Comprehensive Forensic Psychiatric Report**

3.7.1 Consultant Psychiatrist shall submit a comprehensive Forensic Psychiatric Report to the Medical Unit of the Department of Corrections.

3.7.2 The Unit shall be responsible to deliver the Report to the relevant court.

3.8 **Organization of Information of a Comprehensive Forensic Psychiatric Report.**

The components of the report are as follows:

3.8.1 Cover Letter addressed to the court (Parish Court, High Court or Special Court)

3.8.2 Name, Date of Birth of the offender and index charge.

3.8.3 List of documents provided/ reviewed

3.8.4 Qualifications of the duly certified Psychiatrist.

3.8.5 Place of interview and time of interview.

3.8.6 Reason for assessment.

3.8.7 Comprehensive psychiatric history and mental status examination.

3.8.8 Findings and Opinions.

3.8.9 Recommendations.

3.9 **Interviewer (Consultant Psychiatrist)**

3.9.1 All pages will bear the initial of the interviewer and the date. The last page will bear the printed name, position of the interviewer and date of report.

3.10 **Copy of the Comprehensive Forensic Psychiatric Report**

3.10.1 A copy of the Comprehensive Forensic Psychiatric Report shall be kept at the office of the Director of Medical Services in the Department for future reference.

3.11 **Processing Time**

The processing time shall be six to eight (6-8) week of receipt of the request. (The processing time may be longer, depending on the case basis that is, single or multiple interviews of client, informants and extent of document reviews.)

3.12 **Chief and Cross Examination (Expert's Testimony)**

3.12.1 Expert testimonial: It is the duty of the Consultant Psychiatrist to work along with the court in setting the dates for the hearing coordinated through the Medical Unit of the Department of Corrections.
Mutual agreement of Court dates is a preferred way of communications than a Subpoena.

3.13 **Transportation and Fees for Court Attendance.**

3.13.1 The Department of Correctional Services shall provide transportation to the courts and pay fees for court attendance.

…………………………………………

Gary Rowe (Lt. Col. Retd.)
Commissioner of Corrections

Dated: June 10, 2019

Appendix 7

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020 AWAITING TRIAL (UNFIT TO PLEAD)																	
#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
1	Alcock, Orlando	171-2019	Murder	21/2/1990	30	24/10/2019	8 Months	Unfit	AT	Hanover PC	14/2/2020	4 months	Ryland Alcock (Uncle) Negril, Westmoreland	Schizophrenia	25/10/2019	T.S.A.C.C	
2	Allen, Mayceo	AT 33-20	House Breaking & Larceny Receiving Stolen Property	3/10/1987	32	23/3/2020	3 Months	Unfit	AT	Manchester PC	9/3/2020	3 months	Suzan Campbell (Mother) 869 Allenby Crescent Cumberland, St. Catherine	Schizophrenia	26/3/2020	ST.C.A.C.C	
3	Baxter, Andre	197-2018	Illegal Possession of Firearm	16/2/1985	35	12/12/2019	6 Months	Unfit	AT	Home Circuit	13/3/2020	3 months	Maire Baxter (Mother) Lot A 52 Cedar Cres., Bridgeview, St. Catherine	Bipolar	16/03/2020	T.S.A.C.C	
4	Beckford, Machel	106-17	Larceny from Dwelling	20/9/1977	42	22/8/2017	2 Years, 10 Months	Unfit	AT	Kingston & St. Andrew PC	19/6/2020	11 days	Carmen Reid (Mother)	Psychotic Disorder	8/10/2019	T.S.A.C.C	
5	Bennett, Lynburgh	125-16	Murder	18/9/1965	54	9/12/2016	3 Years, 6 Months	Unfit	AT	Kingston & St. Andrew PC	3/6/2020	27 days	Cicda Bennett (Wife) 23 Allison Road, Bridgeport, St. Catherine	Schizophrenia	22/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
6	Bent, Janoi	AT 37-18	Assault OB Harm	8/5/1996	24	6/9/2018	1 Year, 9 Months	Unfit	AT	St. Elizabeth PC	15/10/2019	8 months	Clayville Bent (Father) Flagman, St. Elizabeth	Schizophrenia	19/3/2020	ST.C.A.C.C	
7	Blake, Jean Peirre	32-2020	Arson	17/1/1994	26	4/3/2020	3 Months	Unfit	AT	Pt Antonio PC	27/3/2020	3 months	Julio Blake (Brother) Fellowship District, Portland	Schizophrenia	24/4/2020	T.S.A.C.C	
8	Blake, Leroy	AT 09-20	Indecent Assault	9/4/1969	51	30/1/2020	5 Months	Unfit	AT	Manchester PC	20/2/2020	4 months	Dennis Blake (Father) Granville District, Montego Bay, St. James	No Psychosis	5/3/2020	ST.C.A.C.C	
9	Bloomfield , Orlando	147-2019	Malicious Destruction of Property	13/4/1986	34	14/5/2018	2 Years, 1 Month	Unfit	AT	St. Catherine PC	14/1/2020	5 months	Larner Mitton (Sister) Sandy Bay, Clarendon	Schizophrenia	12/5/2020	T.S.A.C.C	
10	Boulcher, Nadine	87-2019	Murder	7/4/1977	43	4/7/2019	11 Months	Fit	AT	St. Catherine PC	3/6/2020	27 days	Natalie Brown (Daughter) Magazine Lane, Bog Walk, St. Catherine	Adjustment Reaction with Depressed Mood	27/6/2020	S.C.A.C.C	
11	Broomfield , Horace	147-2018	Murder	11/12/1994	25	11/10/2018	1 Years, 8 Months	Unfit	AT	Home Circuit	1/6/2020	1 month	Caren Green (Cousin) 40 Georges Lane, Kingston CSO	Psychotic Disorder	27/6/2020	T.S.A.C.C	

12	Brown, Jubulani	AT 25-20	Illegal Possession of Firearm	27/1/2001	19	15/2/2020	4 Months	Unfit	AT	St. James PC	1/5/2020	2 months	Robert Brown (Father) Sunderland District, John's Hall P.O., St. James	No Psychosis	12/3/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
13	Bryan, Boysie	AT 46-15	Murder	6/6/1981	39	18/12/2015	4 Years, 6 Months	Unfit	AT	Mandeville RM	6/3/2020	3 months	Mayfield District St. Paul P.O., Manchester	Psychotic Disorder, Intellectual Disability	21/5/2020	ST.C.A.C.C	
14	Burke, Ricardo	AT 08-19	Assaulting Female	11/4/1989	31	9/1/2019	1 Year, 5 Months	Unfit	AT	St. Thomas PC	24/6/2020	6 days	110 Garden Boulevard, St. Catherine	Schizophrenia	4/6/2020	ST.C.A.C.C	
15	Burton, McGarrett	28-2018	Simple Larceny	25/10/1974	45	6/3/2020	3 Months	Unfit	AT	St. Andrew PC	27/2/2020	4 months	Pauline Blake (Mother) Gold Street, Kingston	Schizophrenia	24/3/2020	T.S.A.C.C	

16	Cain, Tyrone	AT 23-19	Sexual Touching & Grievous Sexual Assault	27/4/1988	32	28/8/2019	10 Months	Unfit	AT	St. Catherine PC	3/10/2019	8 months	Norma Allen (Mother) Colbeck District, St. Catherine	Schizophrenia	2/4/2020	ST.C.A.C.C	
17	Cameron, Oshain	AT 11-20	Murder	14/3/1987	33	31/1/2020	5 Months	Unfit	AT	St. Catherine PC	6/3/2020	3 months	Sonia Henry (Mother) 15 Dover Avenue, Greendale, Spanish Town, St. Catherine	Schizophrenia	5/3/2020	ST.C.A.C.C	
18	Campbell, Carlos	AT 1682019	Malicious Destruction of Property	21/1/1992	28	18/10/2019	8 Months	Unfit	AT	Half Way Tree PC	23/3/2020	3 months	Veronica Ricketts (Mother) 22 East Queen Street, Kingston	Psychotic Disorder	18/10/2019	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
19	Campbell, Jerome	AT 49-19	Arson	19/3/1994	26	20/12/2019	6 Months	Unfit	AT	St. Ann PC	6/4/2020	2 months	Dian Johnson (Mother) Rose Heights, St. James	Schizophrenia	2/4/2020	ST.C.A.C.C	

20	Campbell, Lamour	202-2019	Murder	15/9/1993	26	23/12/2019	6 Months	Unfit	AT	Half Way Tree PC	11/6/2020	19 days	Hubert Campbell (Father) 1B Upper Elletson Road, Kingston 16	Schizophrenia	27/12/2019	T.S.A.C.C	
21	Campbell, Leroy	AT 202-98	Assault at Common Law	17/9/1978	41	26/6/1998	22 Years	Unfit	AT	Port Maria RM	5/5/2006	14 Years, 1 month	Violet Sterling (Mother) 2 Lyndhurst Road, Kgn. 5	Schizophrenia	21/5/2020	ST.C.A.C.C	
22	Campbell, Phillip	AT 27-20	Sexual Intercourse with Person Under 16 years	29/12/1973	46	17/2/2020	4 Months	Fit	AT	St. Catherine Circuit	14/2/2020	4 months	Lucea Campbell (Mother) Tredegar Park, Spanish Town	No Psychosis **Fit**	12/3/2020	ST.C.A.C.C	
23	Campbell, Samuel	AT 36-17	Murder	20/6/1941	79	10/8/2017	2 Years, 10 Months	Unfit	AT	Manchester Parish	24/10/2019	8 months	Sharon Whyte Campbell (Wife) Patrick Road, Mandeville, Manchester	Psychosis	28/5/2020	ST.C.A.C.C	
24	Cato, Norman	162-2019	Unlawful Wounding	7/1/1959	61	12/3/2011	9 Years, 3 Months	Unfit	AT	Portland Circuit	3/3/2020	3 months	Dennis Roper (Brother) Folly Road, Portland	Schizophrenia	12/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks

25	Chantilope, Orette	AT 82-18	Murder	23/8/1993	26	28/9/2018	1 Year, 9 Months	Unfit	AT	St. Catherine PC	31/10/2019	8 months	Unknown	Cannabis Use Disorder	21/5/2020	ST.C.A.C.C	
26	Chen, Glendon	136-16	Unlawful Wounding	6/7/1971	48	19/12/2016	3 Years, 6 Months	Unfit	AT	Kingston & St. Andrew PC	11/6/2020	19 days	Lorna Monroe (Sister) 1 Martin Place, Kingston 10	Schizophrenia	27/06/2020	T.S.A.C.C	
27	Cooke, Steven	159-2019	Assault at Common Law	16/6/1981	39	30/9/2019	9 Months	Unfit	AT	Portland PC	6/3/2020	3 months	Allison Cooke (Sister) Snow Hill District, Portland	Schizophrenia	20/12/2019	ST.C.A.C.C.	
28	Coote, Paul	106-2018	Murder	Unknown	N/A	1/9/2018	1 Year, 9 Months	Unfit	AT	Hanover PC	11/3/2020	3 months	Iness Coote (Mother) Green Island, Hanover	Schizophrenia	14/5/2019	T.S.A.C.C	
29	Dawson, Nigel	110-87	Murder	Unknown	N/A	1/1/1987	33 Years, 5 Months	Unfit	AT	Spanish Town PC	29/6/1987	33 years	Daizy Campbell (Mother) 37 Nugent Street, Spanish Town, St Catherine	Schizophrenia	16/03/2020	T.S.A.C.C	
30	Deidrick, Damion	AT 29-19	Murder	28/6/1985	34	31/1/2019	1 Year, 5 Months	Fit	AT	Half Way Tree PC	13/1/2020	5 months	Beryl Thompson (Mother) 9 Riverside Drive, Havendale, Kingston 19	Bipolar **Fit to Plead**	2/4/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
31	Dixon, Roderick	AT 07-20	Assault at Common Law	4/3/1988	32	27/1/2020	5 Months	Unfit	AT	St. Elizabeth PC	27/1/2020	5 months	Suzie Spencer (Mother) Buena Vista District, Myers Wood P.O., St. Catherine	Schizophrenia	30/4/2020	ST.C.A.C.C	
32	Douglas, Mike	AT 18-20	Simple Larceny	26/12/1978	41	31/1/2020	5 Months	Fit	AT	St. Catherine PC	17/3/2020	3 months	Yvonne Binns (Mother) Barbary Hall District, St. Elizabeth	No Psychosis **Fit**	12/3/2020	ST.C.A.C.C	
33	Drysdale, Ky-Mani	AT 04-20	Malicious Destruction of Property	24/2/2000	20	15/1/2020	5 Months	Unfit	AT	St. Catherine PC	28/2/2020	4 months	Simone Henry (Mother) 14 Windsor Heights, Central Village	Drug Induced Psychosis	19/3/2020	ST.C.A.C.C	
34	Edwards, Herman	AT 28-2018	Murder	5/7/1971	48	10/2/2017	3 Years, 4 Months	Unfit	AT	Montego Bay RM	30/4/2020	2 months	Steadman Edwards (Brother)	Schizophrenia	29/11/2019	ST.C.A.C.C	
35	Ellis, Inell	AT 183-18	Wounding with Intent	8/11/1998	21	30/11/2018	1 Year, 7 Months	Unfit	AT	St. Ann's Bay PC	6/2/2020	4 months	Viviene Williamson (Mother) Islington, St. Mary	Schizophrenia	2/4/2020	ST.C.A.C.C	
36	Ewers, Carlton	AT 35-20	Attempted Murder	23/10/1977	42	5/5/2020	8 Weeks	Unfit	AT	St. Mary PC	4/5/2020	8 weeks	Elaine Byfield (Mother) Gibbs Hill, Providence, St. Mary	Schizophrenia	21/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
37	Fearon, Ryan	27-2020	Unlawful Wounding/Poss. of Offensive Weapon	12/2/1993	27	6/3/2020	3 Months	Unfit	AT	St. Andrew PC	27/2/2020	4 months	Shanagay Fearon (Sister) 20 Stephen Street, Allman Town, Kgn. 4	Psychosis	27/03/2020	T.S.A.C.C	
38	Flowers, Kenneth	AT 24-20	Illegal Possession of Firearm	23/12/1984	35	12/2/2020	4 Months	Unfit	AT	St. James Circuit	30/1/2020	5 months	Carmen Hylton (Mother) Bethel Town, Westmoreland	No Psychosis	12/3/2020	ST.C.A.C.C	
39	Francis, Emoses	AT 22-20	Malicious Destruction of Property	27/9/1989	30	7/2/2020	4 Months	Unfit	AT	St. Ann's Bay PC	5/2/2020	4 months	Maria Davis (Mother) Red Hills, St. Andrew	No Psychosis	7/5/2020	ST.C.A.C.C	
40	Fuller, Wayne	11-2020	Assault OB Harm	Unknown	N/A	30/1/2020	5 Months	Unfit	AT	Port Antonio PC	10/3/2020	3 months	Marcia Gibson (Mother) Zion Hill District, Port Antonio P.O. Portland	Schizophrenia	3/6/2020	T.S.A.C.C	
41	Gordon, Shaun	AT 05-2014	Assault with Intent to Rape	6/8/1979	40	8/2/2014	6 Years, 4 Months	Unfit	AT	Montego Bay RM	3/4/2020	2 months	Pamela Gordon (Sister) Deeside P.O., Trelawny	Schizophrenia	23/4/2020	ST.C.A.C.C	
42	Graham, Shamar	33-2019	Murder	9/8/1999	20	4/2/2019	1 Year, 4 Months	Unfit	AT	Home Circuit Court	24/6/2020	6 days	Jennifer Williams (Grandmother) McDonald Lane, Kgn. 13	Schizophrenia	21/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020 AWAITING TRIAL (UNFIT TO PLEAD)																	
#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
43	Grant, Orlando	24-2020	Simple Larceny	9/5/1989	31	3/3/2020	3 Months	Unfit	AT	St. Ann PC	12/3/2020	3 months	Alphanso Grant (Father) 58 A Penwood Rd., Waterhouse	Schizophrenia Affected Disorder	10/3/2020	T.S.A.C.C	
44	Green, Daniel	AT 47-19	Attempted Murder	2/9/1996	23	12/12/2019	6 Months	Unfit	AT	St. Catherine PC	7/1/2020	5 months	Derrick Green (Father) Lot 727 22nd Ave., West Cumberland	Schizophrenia	7/5/2020	ST.C.A.C.C	
45	Hall, Jeffery	AT 66-18	Murder	9/10/1991	28	29/6/2018	2 Years	Unfit	AT	St. Catherine PC	10/1/2020	5 months	Doretta Fleckleton (Mother) Christian Pen, Gregory Park P.O., St. Catherine	Schizophrenia	2/4/2020	ST.C.A.C.C	
46	Hall, Ricardo	203-2019	Destruction of Property	8/8/1976	43	27/12/19	6 Months	Unfit	AT	Portland PC	6/3/2020	3 months	Carmen Everette (Mother) Janga Gully Dist., Port Antonio, Portland	Possessive Schizophrenia	12/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020 AWAITING TRIAL (UNFIT TO PLEAD)																	
#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
47	Hamilton, Gregory	AT 08-20	Malicious Destruction of Property	25/1/1986	34	30/1/2020	5 Months	Unfit	AT	Manchester PC	19/3/2020	3 months	Beverly Moyston-Henry (Mother) Belfield District, St. Mary	Schizophrenia	12/3/2020	ST.C.A.C.C	
48	Hamilton, Michael	AT 16-20	Assault OB Harm	13/11/1968	51	31/1/2020	5 Months	Unfit	AT	St. Catherine PC	31/1/2020	5 months	Gladola Gayle (Mother)	Schizoaffective Disorder	19/3/2020	ST.C.A.C.C	
49	Hamilton, Nicoy	AT 30-19	Murder	13/3/1991	29	24/9/2019	9 Months	Unfit	AT	Manchester PC	11/2/2020	4 months	Wendy Forbes (Cousin) Top Lincoln District, Grange Hill PO, Westmoreland	Psychosis Ganja Abuse	7/5/2020	ST.C.A.C.C	
50	Haye, Tyrone	AT 17-20	Robbery with Aggravation	24/6/1995	24	31/1/2020	5 Months	Unfit	AT	St. Catherine PC	31/1/2020	5 months	Joy Morris (Mother) York Street, Linstead P.O., St. Catherine	Schizophrenia	12/3/2020	ST.C.A.C.C	

51	Henry, Andrew	AT 19-18	Assaulting a Female	15/1/1983	37	16/3/2018	2 Years, 3 Months	Unfit	AT	St. Catherine PC	10/4/2018	2 years, 2 months	Veronica Henry (Mother) Lot 524 East Greater Portmore, St. Catherine	Schizophrenia	4/6/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
52	Henry, Dennis	255-87	Assault OB Harm	Unknown	N/A	10/12/1987	32 Years, 6 Months	Unfit	AT	Savanna-la-mar PC	25/10/1991	28 years, 8 months	June Henry (Mother) Bamboo District, Westmoreland	Schizophrenia	6/12/2019	T.S.A.C.C	
53	Henry, Patrick	17-2020	Indecent Assault	15/11/1962	57	14/02/2020	4 Months	Unfit	AT	Trelawny PC	29/1/2020	5 months	Angelee Brown (Niece) Duanvale, Granville, Trelawny	Schizophrenia	13/03/2020	T.S.A.C.C	
54	Howell, Durmaine	AT 88-18	Murder	13/10/1989	30	24/10/2018	1 Year, 8 Months	Unfit	AT	St. Catherine PC	25/11/2019	7 months	Shenet Deslandez (Mother)	Schizophrenia	30/4/2020	ST.C.A.C.C	
55	Huggins, Dwayne	AT 86-17	Murder	5/2/1985	35	7/7/2017	2 Years, 11 Months	Unfit	AT	St. Catherine Circuit	9/10/2019	8 months	Andean Duff (Sister) Charlie Mount, St. Catherine	Schizophrenia	2/4/2020	ST.C.A.C.C	

56	James, Miguel	168-2018	Murder	6/9/1997	22	10/11/2018	1 Year, 7 Months	Unfit	AT	Trelawny PC	8/2/2020	4 months	Ann-Marie Lynch (Mother) Deans District, Duncans P.O, Trelawny	Paranoid Schizophrenia	27/12/2019	T.S.A.C.C	
57	Johnson, Barrington	AT 387-98	Malicious Destruction of Property	3/11/1965	54	12/12/1998	21 Years, 6 Months	Unfit	AT	Ulster Spring RM	12/10/1998	21 years, 8 months	Icilda Hyman (Cousin) Chudleigh Troy P.O., Manchester	Schizophrenia	23/4/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
58	Johnson, Courtney	39-17	Murder	25/11/1979	40	7/3/2017	3 Years, 3 Months	Unfit	AT	Home Circuit Court	16/3/2020	3 months	Joyce Bauxter (Mother) 26 Alexander Road, Kingston 13	Schizophrenia	1/11/2019	ST.C.A.C.C	
59	Kelly, Dane	73-13	Murder Felonious Wounding	12/2/1984	36	9/1/2013	7 Years, 5 Months	Unfit	AT	St. Andrew PC	17/7/2019	11 months	Miriam Houslin (Mother) 27 Allamanda Avenue, Kingston 11	Schizophrenia	27/5/2020	T.S.A.C.C	

60	Kelly, Monique	123-2019	Malicious Destruction of Property	11/1/1990	30	4/10/2018	1 Year, 8 Months	Unfit	AT	Kingston & St. Andrew PC	25/6/2020	5 days	Pauline Brown (Mother) Fort William Glade Westmoreland	Schizophrenia	20/6/2020	S.C.A.C.C	
61	Lawrence, Abraham	AT 10-99	Malicious Destruction of Property	7/6/1974	46	16/1/1999	21 Years, 5 Months	Unfit	AT	Black River RM	15/1/1999	21 years, 5 months	Wilfred Lawrence (Father) Huntley Castle, Pisgah P.A., St. Elizabeth	Schizophrenia	23/4/2020	ST.C.A.C.C	
62	Lindsay, Delmar	AT 05-17	Sexual Touching of a Child	2/10/1967	52	21/1/2017	3 Years, 5 Months	Unfit	AT	Montego Bay RM	3/4/2020	2 months	Audley Scott (Brother) Montego Hills, St. James	Schizophrenia	21/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
63	Lynch, Jermaine	137-17	Assault at Common Law	30/9/1998	21	30/1/2017	3 Years, 5 Months	Unfit	AT	St. Catherine PC	7/5/2019	1 year, 1 month	Oraine Williams (Cousin) 12 Passley Road, Kingston	Schizophrenia	20/3/2020	ST.C.A.C.C	

64	Malcolm, Derrick	31-2020	Wounding With Intent	25/7/1962	57	16/3/2020	3 Months	Unfit	AT	Sandy Bay PC	13/3/2020	3 months	McKoy McLaughlin (Cousin) Bamboo, Hopewell District, Hanover	Schizophrenia	7/4/2020	T.S.A.C.C	
65	Martin, Rohan	AT 43-19	Attempt House Breaking, Simple Larceny, Malicious Destruction of Property	24/8/1990	29	7/12/2019	6 Months	Unfit	AT	St. Ann PC	24/1/2020	5 months	Errol & Elaine Martin Priory District, St. Ann	Schizophrenia	7/5/2020	ST.C.A.C.C	
66	McCurdey, Andre	46-2019	Assault O.B Harm	18/8/1987	32	25/2/2019	1 Year, 4 Months	Unfit	AT	Spanish Town PC	25/2/2020	4 months	Janet Walsh Taylor Land, 9 Miles Bull Bay, St. Thomas	Schizophrenia	24/4/2020	T.S.A.C.C	
67	McLeod, Phillip	AT 27-15	Murder/Arson	17/4/1988	32	9/3/2015	5 Years, 3 Months	Unfit	AT	Half Way Tree RM	5/6/2020	25 days	Joycelyn Petgrave (Mother) Arnett Gardens, St. Andrew	Schizophrenia, Cannabis Use Disorder	28/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks

68	McLeod, Ragar	AT 23-20	Unlawful Wounding	1/1/1980	40	10/2/2020	4 Months	Unfit	AT	Manchester PC	29/1/2020	5 months	Dian McLeod (Sister) Treadlight, May Pen P.O., Clarendon	Psychosis	28/5/2020	ST.C.A.C.C	
69	Mead, Donovan	AT 02-20	Unlawful Wounding	2/8/1981	38	2/1/2020	5 Months	Unfit	AT	Manchester PC	31/1/2020	5 months	Nada Green (Sister) Chudleigh P.O., Manchester	Paranoid Psychosis	19/3/2020	ST.C.A.C.C	
70	Melford, Tremaine	AT 05-20	Wounding with Intent	12/7/1989	30	15/1/2020	5 Months	Unfit	AT	St. Catherine PC	12/2/2020	4 months	Tanisha Stewart (Sister) 70 Grassquit Lane, Kgn. 11	No Psychosis	8/2/2020	ST.C.A.C.C	
71	Montaque, Frank	AT 23-13	Murder	11/1/1972	48	23/5/2015	5 Years, 1 Month	Unfit	AT	Home Circuit	10/6/2020	20 days	Leroy Ruddock (Friend), 1 Queen St, Montego Bay St. James	Schizophrenia	21/5/2020	ST.C.A.C.C	
72	Morgan, Adrian	AT 22-14	Assault OB Harm	22/10/1988	31	9/8/2014	5 Years, 10 Months	Unfit	AT	Montego Bay RM	25/3/2020	3 months	Althea Anderson (Mother) Broughton Little London Westmoreland	Psychosis Seizure Disorder	23/4/2020	ST.C.A.C.C	
73	Morgan, Shamari	12-2019	Murder	20/1/2001	19	1/12/2019	7 Months	Unfit	AT	St. James PC	15/4/2020	2 months	Jalida Morgan (Mother) Rose Hall, Lilliput, St. James	Schizophrenia	27/5/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020 AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
74	Murray, Winston	AT 37-02	Assault OB Harm	12/3/1971	49	12/10/2002	17 Years, 8 Months	Unfit	AT	Richmond RM	6/6/2006	14 years, 2 weeks	Megrata Miller (Mother), Barracks River, Richmond, St. Mary	Seizure Disorder Speech Impediment	23/4/2020	ST.C.A.C.C	
75	Nelson, Leslie	23-2016	Murder	29/9/1941	78	22/2/2016	4 Years, 4 Months	Unfit	AT	St. Catherine PC	9/7/2019	11 months	Unknown	Schizophrenia	13/3/2020	T.S.A.C.C	
76	Orr, Marvin	97-2014	Murder	15/3/1979	41	18/10/2014	5 Years, 8 Months	Unfit	AT	St. James PC	26/3/2020	3 months	Douglas Orr (Brother) Leaders Ave., Montego Bay, St. James	Schizophrenia	20/03/2020	T.S.A.C.C	
77	Palmer, Miquel	32-2018	Malicious Destruction of Property	14/12/1984	35	3/10/2019	8 Months	Unfit	AT	Half Way Tree PC	3/10/2019	8 months	Daveen Palmer (Mother) 4 East Ave, Kingston Garden	Bipolar	4/10/2019	ST.C.A.C.C	
78	Phang, Richard	710-1992	Murder	8/10/1963	56	31/10/1992	27 Years, 8 Months	Unfit	AT	St. Ann Circuit	1/2/1993	27 years 4 months	Inez Grant (Mother) Bamboo P.O., St. Ann	Schizophrenia	14/9/2019	ST.C.A.C.C.	
79	Powell, Carlton	AT 11-18	Illegal Possession of Firearm	7/2/1994	26	26/2/2018	2 Years, 4 Months	Unfit	AT	Gun Court	5/3/2020	3 months	Charmaine McLeod Content, Dover, St. Catherine	Schizophrenia	2/4/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
80	Pusey, Christopher	38-2020	Murder	1/3/1996	24	1/5/2020	2 Months	Unfit	AT	Portland PC	23/6/2020	1 week	Shelly-Ann Shaw (Mother) Spring Bank Road, Port Antonio, Portland	Schizophrenia	12/6/2020	T.S.A.C.C	
81	Pusey, Orlando	79-2019	Unlawful Wounding	29/12/1996	23	13/4/2019	1 Year, 2 Months	Unfit	AT	Kingston & St. Andrew PC	20/7/2019	11 months	Patricia Clarke (Mother) Amsterdam Road, Kgn. 20	Schizophrenia	25/5/2019	ST.C.A.C.C	
82	Rennie, Michael	19-2020	Assault O.B. Harm	26/10/1974	45	17/02/2020	4 Months	Unfit	AT	St. Thomas Circuit	12/6/2020	18 days	Gloria Cameron (Mother) Lights Ville District, Yallahs P.A., St. Thomas	Schizophrenia	10/3/2020	T.S.A.C.C	
83	Richards, Everald	AT 22-2006	Arson	22/4/1970	50	1/9/2006	13 Years, 9 Months	Unfit	AT	Mandeville RM	25/2/2014	6 years, 4 months	Unknown	Schizophrenia	4/6/2020	ST.C.A.C.C	
84	Richardson , Gregory	199-2018	Forcible Abduction, Grievous Sexual Assault	Unknown	N/A	13/12/2018	1 Year, 6 Months	Unfit	AT	St. Catherine PC	12/3/2020	3 months	Rivoli, Spanish Town, St. Catherine	Schizophrenia	10/3/2020	T.S.A.C.C	

85	Roberts, Verman	89-2016	Murder	Unknown	N/A	18/8/2016	3 Years, 10 Months	Unfit	AT	St. Thomas PC	5/2/2020	4 months	Theresa Roberts (Mother) East Prospect, Neasberry Hill, St. Thomas	Schizophrenia	31/03/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
86	Robinson, David	121-83	Unlawful Wounding	20/7/1960	59	9/11/1983	36 Years, 7 Months	Unfit	AT	Santa Cruz PC	Unknown	N/A	Janice Brooks (Sister) 55 Thaut Crescent, Bridgeport, St. Catherine	Schizophrenia	18/5/2020	ST.C.A.C.C	
87	Rowe, Clasia o/c Carlisa Rowe	15-2020	Wounding with Intent	29/12/1990	29	24/1/2020	5 Months	Fit	AT	St. Catherine PC	17/6/2020	13 days	Kadian Burgher (Brother) 40 Friendship Pen, St. Thomas	Substance Abuse	30/5/2020	S.C.A.C.C	
88	Samuels, Eaton	AT 30-07	Threat	Unknown	N/A	29/11/2007	12 Years, 7 Months	Unfit	AT	Lucea RM	17/4/2008	12 years, 2 months	Bernice Graham (Aunt), Crowder District, Grange Hill, Westmoreland	Schizophrenia	23/4/2020	ST.C.A.C.C	

89	Scott, Tyrik	AT 03-20	Having Sexual Intercourse with a Person Under 16 years	28/8/1998	21	15/1/2020	5 Months	Unfit	AT	St. Catherine PC	3/6/2020	27 days	Donna Marie Newell (Mother) 3030 Riley Close, Waterford, St. Catherine	No Psychosis	19/3/2020	ST.C.A.C.C	
90	Sicard, Andrew	AT 1782018	Simple Larceny Attempted Murder	1/6/1982	38	26/11/2018	1 year 7 months	Unfit	AT	Home Circuit	1/6/2020	29 days	Doris Nelson (Grandmother) Lot 28 Payne Avenue, Kingston 11	Schizophrenia	26/4/2019	ST.C.A.C.C.	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
91	Silvera, Demar	39-2019	Rape	3/9/1994	25	13/2/2019	1 Year, 4 Months	Unfit	AT	Half Way Tree PC	9/3/2020	3 months	Ann-Marie Wilson (Sister) Waterhouse, St. Andrew	Schizophrenia	10/3/2020	T.S.A.C.C	
92	Simpson, Franz	132-2019	Murder	22/9/1991	28	19/1/2016	4 Years, 5 Months	Unfit	AT	Home Circuit	25/7/2019	11 months	Fiona Davidson (Sister) 1 Garfield Ave, Kingston 20	Schizophrenia	24/12/2019	T.S.A.C.C	

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
93	Small, Morris	AT 10-04	Malicious Destruction of Property	23/5/1952	68	5/6/2004	16 Years	Unfit	AT	Falmouth RM	15/6/2020	15 days	Louise Small (Mother) Wellington Street, Falmouth P.O, Trelawny	Chronic Schizophrenia	23/4/2020	ST.C.A.C.C	
94	Smith, Johnoy	AT 13-20	Throwing Stone	24/2/2001	19	31/1/2020	5 Months	Unfit	AT	St. Catherine PC	25/2/2020	4 months	Opal Hamilton (Mother)	No Psychosis	5/3/2020	ST.C.A.C.C	
95	Smith, Leon	AT 06-20	Indecent Assault	About 1963	57	15/1/2020	5 Months	Unfit	AT	St. Catherine PC	11/2/2020	4 months	Kerry-Ann Smith (Sister) Dunbeholden, Spanish Town	No Psychosis	5/3/2020	ST.C.A.C.C	
96	Spencer, Joseph	AT 31-20	Wounding with Intent	8/10/1989	30	5/3/2020	3 Months	Unfit	AT	Manchester PC	4/3/2020	3 months	Beverly McPherson (Mother) 6 East Ingleside, Mandeville	Psychosis	19/3/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
97	Stewart, Keron	19-2016	Unlawful Wounding	7/5/1983	37	13/2/2016	4 Years, 4 Months	Unfit	AT	Trelawny PC	21/2/2020	4 months	Florence Gordon (Mother) Compound, Falmouth Trelawny	Schizophrenia	28/4/2020	T.S.A.C.C	

98	Stewart, Romaine	178-2019	Wounding Murder	21/11/1989	30	2/11/2019	7 Months	Unfit	AT	Portland Parish Court	11/2/2020	4 months	Monique Grey (Mother) Barrett, Portland	Psychosis	12/6/2020	T.S.A.C.C	
99	Taylor, Michael	88-2019	Assault O.B Harm	18/8/1974	45	5/7/2019	11 Months	Unfit	AT	Half Way Tree PC	25/7/2019	11 months	Teckna Beason (Mother) Greater Portmore, St. Catherine	Schizoaffective Disorder	27/5/2020	T.S.A.C.C	
100	Thomas, Andre	167-2019	Unlawful Possession of Property	9/3/1992	28	17/10/2019	8 Months	Unfit	AT	Half Way Tree PC	16/10/2019	8 months	Hopeton Thomas (Father) West Prospect, Tredwest, St. Catherine	Schizophrenia	24/12/2019	T.S.A.C.C	
101	Thomas, Dwayne	AT 46-19	Murder Wounding	23/12/1983	36	12/12/2019	6 Months	Unfit	AT	St. Catherine PC	11/12/2019	6 months	FayAnn Clarke (Mother) 20 Marlin Way, Old Harbour, St. Catherine	Schizophrenia	7/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
102	Thompson, Albert	AT 34-20	Murder	22/4/1979	41	24/3/2020	3 Months	Unfit	AT	Manchester PC	9/3/2020	3 months	46 New Green Road, Mandeville, Manchester	Psychosis	26/3/2020	ST.C.A.C.C	

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
103	Thorpe, Travis	AT 34-19	Murder	5/2/1992	28	26/10/2019	8 Months	Unfit	AT	St. James Parish	24/3/2020	3 months	Merl Murray (Mother) Flankers District, St. James	Suicidal Homicidal	2/4/2020	ST.C.A.C.C	
104	Tomlinson, Leroy	AT 02-19	Wounding with Intent	31/8/1970	49	11/5/2019	1 Year, 1 Month	Unfit	AT	St. Ann's Bay PC	11/9/2019	9 months	Daphney Unis (Mother) Mt. Zion, Ocho Rios, St. Ann	Psychosis	23/2/2020	ST.C.A.C.C	
105	Topey, Winston	97-2019	Illegal Possession of Firearm, etc	29/4/1981	39	29/5/2019	1 Year, 1 Month	Unfit	AT	Gun Court, Kingston	11/7/2019	11 months	Joan Thompson (Aunt) Lot 6, Old Braeton	Drug Induced Psychosis	13/03/2020	T.S.A.C.C	
106	Vernon, Kerion	102-2019	Murder	24/10/1995	24	31/5/2019	1 Year, 1 Month	Unfit	AT	Kingston & St. Andrew PC	13/3/2020	3 months	Unknown	Paranoid Psychosis	8/5/2020	T.S.A.C.C	
107	Walker, Oral	AT 38-02	Shooting with Intent	27/4/1976	44	8/9/2001	18 Years, 9 Months	Unfit	AT	Mandeville RM	18/12/2002	17 years, 6 months	Jacqueline Walker (Sister) Byrons Pen District, Mandeville P.O., Manchester	Schizophrenia	23/4/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks

108	Whyte, Earnest	AT 14-20	Murder	17/2/1955	65	31/1/2020	5 Months	Unfit	AT	St. Catherine PC	31/1/2020	5 months	Dorrel Brown (Wife) 444 Seaview Gardens, Kingston 11	No Psychosis	5/3/2020	ST.C.A.C.C	
109	Whyte, Leighton	21-2020	Indecent Assault	25/09/1966	53	25/02/2020	4 Months	Unfit	AT	Port Antonio PC	6/3/2020	3 months	Robert Beale (Brother) 10 Ackee Road, Red Hazel Road, Port Antonio, Portland	Schizophrenia	12/6/2020	T.S.A.C.C	
110	Williams, Cedric	AT 29-20	Malicious Destruction of Property	1/4/1988	32	19/2/2020	4 Months	Unfit	AT	Manchester PC	17/2/2020	4 months	Mary Codner (Aunt) Coffee Grove, Porus P.O., Manchester	Schizophrenia	19/3/2020	ST.C.A.C.C	
111	Williams, Harvel	179-2019	Simple Larceny	18/10/1998	21	4/11/2019	7 months	Unfit	AT	Half Way Tree PC	31/1/2020	5 months	Cassandra Fearon (Mother) 7 Hilldene Ave, Mountain View, Kgn, 2	Psychotic Disorder	2/6/2020	T.S.A.C.C	
112	Williams, Nakeil	57-2019	Murder	16/1/1983	37	9/3/2019	1 Year, 3 Months	Unfit	AT	Kingston & St. Andrew PC	12/3/2020	3 months	Valen Williams (Father) 6 3/4 Ave, Anderson Road, Kgn. 5	Paranoid/ Psychosis	27/12/2019	T.S.A.C.C	
113	Williams, Robert	04-2020	Indecent Assault	14/5/1972	48	13/1/2020	5 Months	Unfit	AT	Half Way Tree PC	20/3/2020	3 months	Juan Reid (Mother) 7 Robert Street	Schizophrenia	27/5/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
114	Williams, Sanjay	AT 24-19	Murder	2/7/1995	24	28/8/2019	10 Months	Unfit	AT	St. Catherine PC	23/3/2020	3 months	Magnalene Smith (Aunt) John Hall, Mile Gully P.O., Manchester	Schizophrenia	2/4/2020	ST.C.A.C.C	
115	Williams, Shevei	AT 95-16	Murder	7/7/1991	28	9/9/2016	3 Years, 9 Months	Unfit	AT	Half Way Tree RM	4/6/2020	26 days	16 Mark Lane, Fletchers Land, Kingston	Suicidal/ Homicidal	21/5/2020	ST.C.A.C.C	
116	Wilson, Trestan	AT 30-18	Rape & Forcible Abduction	10/4/1995	25	15/2/2018	2 Years, 4 Months	Fit	AT	Kingston & St. Andrew PC	3/12/2019	6 months	Winston Graham (Mother) Tavares Gardens Blvd #22, Kingston	No Psychosis	21/5/2020	ST.C.A.C.C	
117	Windeth, Timar	AT 45-19	Unlawful Wounding	6/11/1984	35	9/12/2019	6 Months	Unfit	AT	St. Catherine PC	24/1/2020	5 months	Tashawn Bailey (Brother) 645 Viola Terrace, Old Harbour, St. Catherine	Schizophrenia	7/5/2020	ST.C.A.C.C	
118	Wint, RickAndi	68-2019	Murder	14/11/1993	26	23/3/2019	1 Year, 3 Months	Unfit	AT	Black River PC	10/2/2020	4 months	Jerdine Wint (Mother) Lititz, St. Elizabeth	Schizophrenia	12/5/2020	T.S.A.C.C	
119	Wright Jr., Carl	128-2019	Simple Larceny	23/1/1998	22	17/7/2019	11 Months	Unfit	AT	Half Way Tree PC	22/2/2020	4 months	Carl Wright (Father) New Castle, St. Andrew	Schizophrenia	1/11/2019	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

AWAITING TRIAL (UNFIT TO PLEAD)

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
120	Young, Andre	AT 03-19	Assault OB Harm	Unknown	N/A	22/5/2019	1 Year, 1 Month	Unfit	AT	Mandeville PC	4/10/2019	8 months	Leroy Young (Father) Yvonne Mullings (Mother) Manchester	Schizophrenia	2/4/2020	ST.C.A.C.C	
121	Young, Ricardo	AT 06-18	Grievous Bodily Harm	24/4/1986	34	26/1/2018	2 Years, 5 Months	Unfit	AT	Manchester PC	2/10/2019	8 months	Andrea Lennon (Mother) Cedar Grove Mandeville, Manchester	Schizophrenia	21/5/2020	ST.C.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

GOVERNOR GENERAL'S PLEASURE

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
1	Bailey, Leroy	90-1999	Murder	25/5/1964	56	24/2/1999	21 Years, 4 Months	Fit	GG's Pleasure	St Ann Circuit	12/2/1999	21 years, 4 months	Ruth Bailey Cascade District, St Ann	Schizophrenia	12/6/2020	T.S.A.C.C	
2	Brown, Michael	02-89-1629	Burglary with Intent	25/1/1955	65	22/7/1989	30 Years, 11 Months	Unfit	GG's Pleasure	May Pen Circuit	19/7/1989	30 years, 11 months	Rachael Brown (Mother), Rocky Point, Clarendon	Schizophrenia	9/6/2020	T.S.A.C.C	
3	Davey, Shirley	516-1982	Murder	3/9/1948	71	25/10/1982	37 Years, 8 Months	Unfit	GG's Pleasure	Manchester PC	13/10/1982	37 years, 8 months	Cylius Thompson (Aunt), Porus P.O Manchester	Schizophrenia	9/6/2020	T.S.A.C.C	

4	Douglas, Stanley	02-23-220	Murder	24/9/1946	73	13/5/1980	40 Years, 1 Month	Unfit	GG's Pleasure	Manchester Circuit	7/5/1980	40 years, 1 month	Cyslyn Reid Douglas (Sister) Marley Mount District, Manchester	Schizophrenia	9/6/2020	T.S.A.C.C	
5	Ellis, Edward	AT 31-2000	Murder	24/5/1966	54	15/8/2000	19 Years, 10 Months	Fit	GG's Pleasure	Black River RM	14/8/2000	19 years, 10 months	Unknown	No Psychotic Condition	11/6/2020	ST.C.A.C.C	
6	Fuller, Leopold	39-2001	House Breaking & Larceny Assault at C/Law	10/1/1962	58	31/1/2001	19 Years, 5 Months	Unfit	GG's Pleasure	May Pen R.M	23/1/2001	19 years, 5 months	Ida Bent Rocky Settlement, Clarendon	Schizophrenia	9/6/2020	T.S.A.C.C	
7	Henry, John	434-94	Murder	18/2/1967	53	22/10/1994	25 Years, 8 Months	Unfit	GG's Pleasure	St. Ann Circuit	2/2/1994	26 years, 4 months	Rupert Henry (Father) Philadelphia P.O., St. Ann	Schizophrenia	19/6/2020	T.S.A.C.C	
8	Melhado , Anthony	130-76	Murder	Unknown	N/A	6/11/1975	44 Years, 7 Months	Unfit	GG's Pleasure	May Pen Circuit	6/11/1975	44 years, 7 months	Spencer Lehong	Organic Brain Disorder	19/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

GOVERNOR GENERAL'S PLEASURE

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
9	Midgley, Norman	13-99	Murder	27/10/1971	48	30/3/1999	21 Years, 3 Months	Fit	GG's Pleasure	Home Circuit	11/1/1999	21 years, 5 months	Stanford Midgley 3 Sandringham Ave, Kingston 10	Schizophrenia	19/6/2020	T.S.A.C.C	
10	Miles, Michael	0-11-713	Murder	7/11/1958	61	17/5/1976	44 Years, 1 Month	Unfit	GG's Pleasure	Spanish Town RM	17/5/1976	44 years, 1 month	Unknown	Psychotic	11/6/2020	ST.C.A.C.C	

11	Miller, David	02-88-1100	Murder	5/1/1969	51	23/7/1997	22 Years, 11 Months	Fit	GG's Pleasure	Home Circuit	23/7/1997	22 years, 11 months	Dorothy Gayle (Mother), Third Street, Greenwich Town, Kingston	Schizophrenia	9/6/2020	T.S.A.C.C	
12	Minott, Beres	01-86-0112	Arson OGB Harm	12/4/1963	57	13/3/1986	34 Years, 3 Months	Fit	GG's Pleasure	St. Thomas Circuit	12/3/1986	34 years, 3 months	Louise Peart Norris P.O., St Thomas	Schizophrenia	19/6/2020	T.S.A.C.C	
13	Palmer, Isaiah	56-77-8	Murder	8/1/1951	69	4/5/1977	43 Years, 1 Month	Unfit	GG's Pleasure	Spanish Town Circuit	13/4/1977	43 years, 2 months	Deloris Palmer (Sister) Windsor Road, Spanish Town	Schizophrenia	9/6/2020	T.S.A.C.C	
14	Phillips, Andrade	01-07-0264	Wounding With Intent	8/5/1979	41	25/9/2007	12 Years, 9 Months	AT	GG's Pleasure	Home Circuit	19/9/2007	12 years, 9 months	Iverene Lindsay (Mother) 81 Tower Street, Kingston	Schizophrenia	11/6/2020	ST.C.A.C.C	
15	Porter, Arthur	0-36-371	Murder	8/1/1950	70	13/10/1983	36 Years, 8 Months	Unfit	GG's Pleasure	St. Ann Circuit	12/10/1983	36 years, 8 months	Petrona Porter (Grandmother) Priory, Seville Road, St Ann	Schizophrenia	19/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

GOVERNOR GENERAL'S PLEASURE

#	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
16	Reid, Alphanso	865-1986	Murder, Felonious Wounding	16/4/1970	50	5/9/1986	33 Years, 9 Months	Fit	GG's Pleasure	Portland PC	10/11/1986	33 years, 7 months	Robert Reid (Father) Plowden District, Manchester	Schizophrenia	19/6/2020	T.S.A.C.C	

17	Thompson, Keith	399-75-6	Shooting with Intent	About 1945	75	13/12/1975	44 Years, 6 Months	Unfit	GG's Pleasure	Montego Bay Circuit	13/12/1975	44 years, 6 months	Eulalee Franklin (Mother) Mountpelier, St James	Schizophrenia	9/6/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

COURT'S PLEASURE

	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
1	Burnside, Derrick	01-14-0074	Murder	6/9/1975	44	31/3/2014	6 Years, 3 Months	Unfit	Court's Pleasure	Home Circuit	14/3/2014	6 years, 3 months	Deserne Morrison (Spouse) Mount Hindmusk, Clarendon	Schizophrenia	11/6/2020	ST.C.A.C.C	
2	Campbell, Glen	01-18-0223	Murder	7/6/1971	49	4/7/2018	1 Years, 11 Months	Unfit	Court's Pleasure	Home Circuit	4/7/2018	1 year, 11 months	George Stanley (Father) Top Road, Brown's Town	Psychotic	11/6/2020	ST.C.A.C.C	
3	Campbell, Jason	58-2012	Murder	11/8/1991	28	13/10/2016	3 Years, 8 Months	Fit	Court's Pleasure	Lucea PC	1/6/2020	1 month	Marcia Nesbeth (Mother) Orange Bay, Hanover	Schizophrenia	26/5/2020	T.S.A.C.C	
4	Davis, Radcliffe	102-2016	Murder	29/4/1978	42	10/10/2016	3 Years, 8 Months	Unfit	Court's Pleasure	Spanish Town PC	24/6/2020	6 days	Unknown	Schizophrenia	1/5/2020	T.S.A.C.C	

DEPARTMENT OF CORRECTIONAL SERVICES MENTALLY CHALLENGED INMATES POPULATION - JUNE 1-30, 2020

COURT'S PLEASURE

	Name of Inmate	REG#	Offences	D.O.B. (dd/mm/yy)	Age	D.O.A. (dd/mm/yy)	# of Years Incarcerated	Psychiatric Condition	Determinate/ Indeterminate Sentence	Last Court Attended	Last Court Date (dd/mm/yy)	# of Years since Last Court Date	Name & Address of Next of Kin	Diagnosis	Last Assessment Date (dd/mm/yy)	Institution	Remarks
5	Dunchie, Kevin	46-15	Illegal Possession of Firearm, Shooting with Intent	27/12/1978	41	23/4/2015	5 Years, 2 Months	Unfit	Court's Pleasure	Home Circuit	30/1/2019	1 year, 5 months	Ruel Lindo (Friend) Crescent Road, Kingston 10	Schizophrenia	29/8/2019	T.S.A.C.C	
6	Greenfield, Orlando	22-2004	Murder	27/9/1981	38	7/8/2004	15 Years, 10 Months	Unfit	Court's Pleasure	Savanna-lamar RM	20/8/2008	11 years, 10 months	Dudley Danvers 26 Linbus Ave., Kingston	Mood Disorder Psychosis	29/8/2019	T.S.A.C.C	
7	Griffiths, Glover	01-15-0007	Murder	1/3/1944	76	1/2/2007	13 Years, 4 Months	Unfit	Court's Pleasure	Manchester Circuit	1/2/2007	13 years, 4 months	Devon District, Manchester	Schizophrenia	29/8/2019	T.S.A.C.C	
8	Johnson, David	71-2012	Murder	Unknown	N/A	9/6/2014	6 Years	Unfit	Court's Pleasure	Clarendon R.M	21/10/2014	5 years, 8 months	Unknown	Schizophrenia	30/9/2019	T.S.A.C.C	
9	Nelson, Dean	020001685	Murder	18/4/1981	39	21/7/2000	19 Years, 11 Months	Fit	Court's Pleasure	Spanish Town RM	8/7/2003	16 years, 11 months	Sylvia Smith (Mother) Tawes Pen Spanish Town	No Psychotic condition	11/6/2019	ST.C.A.C.C	
10	Senior, Andre	AT 08-11	Assault with Intent to Rape	31/1/1980	40	21/10/2011	8 Years, 8 Months	Unfit	Court's Pleasure	Spanish Town RM	11/9/2017	2 years, 9 months	Sadie Sims (Mother) 543 31st Northway Monza Greater Portmore St. Catherine	Chronic Schizophrenia	11/6/2020	ST.C.A.C.C	

Appendix 8

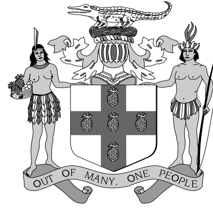
APPENDIX A

TEL NO.: 967 – 7317

922 – 9412

FAX NO.: 967 – 7317

Email: medical.dcsi@yahoo.com



DEPARTMENT OF CORRECTIONAL SERVICES
PROBATION AFTERCARE OFFICE
MEDICAL UNIT/STORES

12 – 14 LOCKETT AVENUE

FITNESS TO PLEAD REPORT

NAME…………………………………………………….D.O.B……………………AGE……..

MEDICAL DOCKET #..CRO #..

INSTITUTION……………………………………......DATE OF ADMISSION………………

OFFENCE ……………………………………………………………………………………...

…………………………………………………………………………………………………

COURT IN WHICH CASE WAS HEARD…………………………………………………...

PLACE, DATE AND TIME OF EVALUATION………………………………………............

Current Mental Status

General Appearance……………………………………………………………………………

Mood & Affect…………………………………………………………………………………..

General Behaviour……………………………………………………………………………...

Speech……………………………………………………………………………………………

Delusions………………………………………………………………………………………...

Hallucinations…………………………………………………………………………………...

Cognitive Function……………………………………………………………………………...

Current Testamentary Capacity & Competency

Understand the nature of the charge	**Yes**	**No**
Able to instruct the Attorney	**Yes**	**No**
Able to testify relevantly	**Yes**	**No**
Able to challenge witness and Juror	**Yes**	**No**
Able to understand Procedure of the Court	**Yes**	**No**
Able to understand the meaning of Guilty and Not Guilty	**Yes**	**No**

Is the subject FIT TO PLEAD **Yes** **No**

Unable to comment FIT TO PLEAD **Yes** **No**

Provisional Diagnosis **……………………………………………………………………..**

………………………………………………………………………..........

Current Treatment **……………………………………………………………………….**

…………………………………………………………………………………………....

…………………………………………………………………………………………….

Recommendations ………………………………………………………………………...

…………………………………………………………………………………………….

…………………………………………………………………………………………….

Signature & Name of Psychiatrist…………………………………………………..........................

Qualifications & Registration # ………………………………………………………………….

Date ……………………………

DCS Guideline to Courts and Attorney-at-laws

A. Guidelines to request Fitness to plead Report

1. All letters of request should be addressed to Director of Medical Services, DCS
2. Letter should bear date, name, and contact information of the staff that made the request, the next court date and state the reason for request and when the report is needed.
3. Fitness to plead can be done with single interview in most cases

B. Guidelines to request a Comprehensive Forensic Psychiatric Report

1. All letter of request should be addressed to Director of Medical Services, DCS
2. Letter should bear date, contact information of the staff who made the request, the next court date and state the reason for request and when the report is needed.
3. Letter should accompany with necessary documents such as depositions, statements, health records and previous psychiatric records and social enquiry reports to assist the Psychiatrist for a structured interview. More documents will be requested if needed before assessment.

4. Series of Interview and Interviews of Family/relatives/informants may be needed in most cases.
5. At least eight to twelve weeks (8-12) time frame is needed to produce a Comprehensive Forensic Psychiatric Report.
6. The report will be submitted to the Court via Medical Unit of DCS.
7. Request for Expert Testimonial in Courts should be sent to Medical Unit of DCS.
8. Medical Unit DCS will coordinate the Psychiatrist and the Court. Mutual agreement is always a preferred way of communication than a subpoena.
9. DCS will provide transportation and fees for Psychiatrist's Court visits.

Appendix 9

APPENDIX B

5.1 Protocol for Forensic Psychiatric Cases referred to Bellevue Hospital

All forensic psychiatric cases referred to Bellevue Hospital can be divided into generally three categories.

(1) Requesting **fitness to plea** for Offenders with Minor Offences

(2) Requesting **fitness to plea** for Offenders with Major Offences (Capital/non-Capital)

(3) Requesting a **forensic psychiatric report** for Offenders with Major Offences (Capital/Non Capital)

(4) Civil cases requesting a Comprehensive Psychiatric Assessment for litigation by Private Law Firms, Office of the Attorney General's Chamber, Ministry of Health

5.2 Request by Private Lawyers

- All Forensic cases requesting fitness to plea for both minor Offences and Major Offences (Capital/non-Capital), Forensic Psychiatric Report for Minor/Major Offences and Civil cases by **PRIVATE LAWYERS** must be referred to the Director of Patient's Services.

5.3 Requesting fitness to plea for Offenders with Minor Offences by Courts / Police

5.3.1 Assessment

- Assessment will be done by the Psychiatric Resident on Duty (2nd On Call , no less than Medical Officer Grade I,)/ ER Consultant Psychiatrist/ On Duty Consultant Psychiatrist/ at **Emergency Room of the Bellevue Hospital** within the operating hours of **8:30 AM to 02:00 PM, Monday to Friday** OR Consultant Psychiatrist at Specialist Psychiatric Clinic during the operating hours of 8:30 AM to 12:30 PM on designated days.

5.3.2 Letter of request

- A formal official letter of request by the Judicial Court or by the Police Station, requesting such must be presented to the Bellevue Hospital.

- Notes should be entered in the docket as evidence when police are unable to present a letter of request. Name, Rank, Registration Number and Police station and contact number of police officer(s) should be recorded in the docket.

5.3.3 Registration

- All offenders must follow formal registration process of the Bellevue Hospital. No cases will be seen without registration.

5.3.4 Appointment

- No prior appointment is necessary.

5.3.5 Issuing letter of fitness

- A letter or a certificate of fitness to plea will be issued, addressed to the Resident Magistrate of Judicial Court or to the Officer In Charge of the Police Station.

5.3.6 Copy of letter of fitness

- A copy of fitness to plea letter will be kept in the client's file for future reference.

5.4 Requesting fitness to plea for Offenders with Major Offences (Capital/Non-Capital) by Courts / Police

5.4.1 Assessment

- All cases of above category will be done by **duly certified Psychiatrist no less than Medical Officer Grade IV.**

5.4.2 Letter of request

- A formal official letter of request by the Judicial Court or by the Police Station requesting such must be presented to the office.

- Assessment will not be done without a letter of request.

5.4.3 Appointment

- Prior appointment is necessary.
- Requesting party will call Administrative Assistant of the Office of the Senior Medical Officer, Bellevue Hospital for appointment.

5.4.4 Registration

- All offenders must follow formal registration process of the Bellevue Hospital. No cases will be seen without registration.

5.4.5 Issuing letter of fitness

- A letter or a format of fitness to plea form will be issued, addressed to the Resident Magistrate of Judicial Court or to requesting party.
-

5.4.6 Copy of letter of fitness

- A copy of fitness to plea letter will be kept in the client's file for future reference.

5.4.7 Processing Time

- **Ten to fifteen working days** from the appointment date.

5.5 Requesting a forensic psychiatric report for Offenders with Major Offences (Capital/Non-Capital) by Courts / Police

5.5.1 Assessment of Offender and others

- A comprehensive psychiatric assessment will be done by duly certified Psychiatrist no less than Medical Officer Grade IV. If necessary, family members and reliable informant will be interviewed to get a comprehensive history of offender.

5.5.2 Letter of request

- A formal official letter of request by the Judicial Court or by the Police Station requesting such must be presented to the office.

5.5.3 Documents to be provided

- Deposition, police and witness statements and all other necessary documents relating to the case, to assist the Consultant Psychiatrist must be provided by the requesting party.

5.5.4 Document Review

- All documents relating to the offence will be reviewed by the duly certified Psychiatrist, Medical Officer Grade IV before assessment.

- Requesting party will be contacted if further documents are necessary.

5.5. 5 Appointment

- Prior appointment is necessary.

- Requesting party will call Administrative Assistant of the Office of the Senior Medical Officer, Bellevue Hospital for appointment process.

5.5.6 Registration

- All offenders must follow formal registration process of the Bellevue Hospital.

- No cases will be seen without registration.

5.5.7 Repeated Interviews

- More than one interview will be conducted based on the complex nature of the each individual case if needed.

5.5.8 Issuing comprehensive forensic report

- A comprehensive forensic report will be issued, addressed to the Resident Magistrate of Judicial Court or to requesting party.

5.5.9 Organization of a comprehensive forensic psychiatric report

The followings are components of the report;

- Covering letter addressed to the Resident Magistrate of Judicial Court
- Name and Date of Birth of the offender and Index Charge
- List of documents provided/reviewed
- Qualifications of the duly certified Psychiatrist
- Place of Interview & Informed consent
- Reason for assessment
- Comprehensive psychiatric history and mental status examination
- Finding and Opinion
- Recommendations

- All pages of report will bear the initial of the Interviewer and the last page will bear the printed name, position of the interviewer and date of report, place of issue.

5.5.10 Copy of the comprehensive forensic report

- A copy of fitness to plea letter will be kept in the client's file for future reference.

5.5.11 Processing Time

- Ten to fifteen working days from the appointment date. **(Please note that processing time will be longer than fifteen working days depending upon the case basis, single or multiple interviews of client and informants and documents review)**

5.6 Civil Litigation Cases requesting a Comprehensive Psychiatric Assessment by Private Law Firms, Office of the Attorney General's Chamber, Ministry of Health

5.6.1 Assessment

- A comprehensive psychiatric assessment will be done by duly certified Psychiatrist no less than Medical Officer Grade IV. If necessary, family members and reliable informant will be interviewed.

5.6.2 Letter of request

- A formal official letter of requesting party must be presented to the office of the Senior Medical Officer.

5.6.3 Documents to be provided

- Deposition, witness statements, medical and psychiatric reports and all other necessary documents relating to the case must be provided by the requesting party.

5.6.4 Document Review

- All documents relating to the case will be reviewed by the duly certified Psychiatrist, Medical Officer Grade IV before assessment.

- Requesting party will be contacted if further documents are necessary.

5.6.5 Appointment

- Prior appointment is necessary.

- Requesting party will call Administrative Assistant of the Office of the Senior Medical Officer, Bellevue Hospital for appointment process.

5.6.6 Registration

- All cases must follow formal registration process of the Bellevue Hospital.

- No cases will be seen without registration.

5.6.7 Repeated Interviews

- More than one interview will be conducted based on the complexity of the each individual case if needed.

5.6.8 Issuing comprehensive forensic report

- A comprehensive forensic report will be issued, addressed to the Resident Magistrate of Judicial Court or to requesting party.

5.6.9 Organization of a comprehensive forensic psychiatric report

The followings are components of the report;

- Covering letter addressed to the Resident Magistrate of Judicial Court
- Name and Date of Birth of the offender and Index Charge
- List of documents provided/reviewed
- Qualifications of the duly certified Psychiatrist
- Place of Interview & Informed consent
- Reason for assessment
- Comprehensive psychiatric history and mental status examination
- Results of any tests administered
- Finding and Opinion and Recommendations
- All pages of report will bear the initial of the Interviewer and the last page will bear the printed name, position of the interviewer and date of report, place of issue.

5.6.10 Copy of the comprehensive assessment report

- A copy of fitness to plea letter will be kept in the client’s file for future reference.

5.6.11 Processing Time

- The **processing time will be longer than fifteen working days depending upon the case basis, single or multiple interviews of client and informants and documents review.**

Appendix 10

APPENDIX C

REFERRAL FORM

NAME……………………………………………………………………………………………………….

D.O.B…………………….AGE……..

POLICE STATION……………………………………….DATE OF REFERRAL……………….

OFFENCE …………………………………………………………………………………..

…………………………………………………………………………………………………

COURT IN WHICH CASE WAS HEARD…………………………………………………..

Next of kin ……………………………………………………………………………

Relationship ……………………………………………………………………………

Contact Number ……………………………………………………………………………

OBSERVATIONS BY THE POLICE

……

……

……

……

HISTORY OF DEFENDANT'S MENTAL ILLNESS

……

……

……

……

OBSERVATIONS NOTED BY THE COURT

……

……

……

…….

Appendix 11

PRACTICE DIRECTION CONCERNING THE TRIAL OF CHILDREN IN THE SUPREME COURT

This practice direction concerns the trial of children and young persons in the Circuit Court, High Court Division of the Gun Court and Parish Courts:

1. This practice direction applies to trials of children and young persons in the aforementioned Courts. Effect should be given to it forthwith. In it children shall be given the meaning prescribed by any enactment which governs the offence and the Childcare and Protection Act. The singular includes the plural and the masculine includes the feminine.

2. The steps which should be taken to comply with this practice direction should be judged, in any given case, taking account of the age, maturity and development (intellectual and emotional) of the child defendant on trial and all other circumstances of the case.

The overriding principle

3. Some child defendants accused of committing serious crimes may be very young and very immature when standing trial in the Court. The purpose of such trial is to determine guilt (if that is an issue) and decide the appropriate sentence if the child defendant pleads guilty or is convicted. The trial process should not itself expose the child defendant to avoidable intimidation, humiliation or distress. All possible steps should be taken to assist the child defendant to understand and participate in the proceedings. The ordinary trial process should so far as necessary be adapted to meet those ends. Regard should be had to the welfare of the child defendant as required by the Childcare and Protection Act.

Before trial

4. If a child is indicted jointly with an adult defendant, the court should consider at the plea and case management hearing whether the child should be tried on his own and should ordinarily so order unless of the opinion that a joint trial would be in the interests of justice and would not be unduly prejudicial to the welfare of the child defendant. If a child defendant is tried jointly with an adult the ordinary procedures will apply subject to such modifications (if any) as the court may see fit to order.

5. At the plea and case management hearing before trial of a child defendant, the court should consider and so far as practicable give directions on the matters covered in paragraphs 9 to 15 below inclusive.

6. It may be appropriate to arrange that a child defendant should visit, out of court hours and before trial, the courtroom in which the trial is to be held so that he can familiarise himself with it.

7. If any case against a child defendant has attracted or may attract widespread public or media interest, the assistance of the police should be enlisted to try to ensure that a child defendant is not, when attending for the trial, exposed to intimidation, vilification or abuse. The court should be ready at this stage (if it has not already done so) to give directions in relation to publicity and fair treatment of the child defendant. Any such order, once made, should be reduced to writing and copies should on request be made available to anyone affected or potentially affected by it.

The trial

9. The trial should, if practicable, be held in a courtroom in which all the participants are on the same or almost the same level.

10. A child defendant should normally, if he wishes, be free to sit with members of his family or others in a like relationship and in a place which permits easy, informal communication with his legal representatives and others with whom he wants or needs communication.

11. The court should explain the course of proceedings to a child defendant in terms he can understand, should remind those representing a child defendant of their continuing duty to explain each step of the trial to him and should ensure, so far as practicable, that the trial is conducted in language which the child defendant can understand.

12. The trial should be conducted according to a timetable which takes full account of a child defendant's inability to concentrate for long periods. Frequent and regular breaks will often be appropriate.

13. Robes and legal paraphernalia should not be worn unless the child defendant asks that they should or the court for good reason orders that they should. Any person responsible for the security of a child defendant

who is in custody should not be in uniform. There should be no recognisable police presence in the courtroom save for good reason.

14. The court should be prepared to restrict attendance at the trial to a small number, perhaps limited to some of those with an immediate and direct interest in the outcome of the trial. The court should rule on any challenged claim to attend.

15. Facilities for reporting the trial shall be provided, however, the Judge may restrict the number of those attending in the courtroom to report the trial to such a number as is judged practicable and desirable. In ruling on any challenged claim to attend the courtroom for the purpose of reporting the trial the court should be mindful of the public's general right to be informed about the administration of justice in the Court. Where access to the courtroom by reporters is restricted, arrangements should be made for the proceedings to be relayed, audibly and, if possible, visually, to another room in the same court complex to which the media have free access if it appears that there will be a need for such additional facilities.

16. Where the court is called upon to exercise its discretion in relation to any procedural matter falling within the scope of this practice direction but not the subject of any specific reference, such discretion should be exercised having regard to the principles in paragraph 3 above.

Sentence

17. This practice direction applies to sentencing hearings, but regard should be paid to the effect of it if the arrangements for hearing any appeal or committal might otherwise be prejudicial to the welfare of a child defendant."

Appendix 12

Jamaica Constabulary Force

<u>Detainee General Health Screening Tool</u>

1. Name 1……………………………………………………………………..
   2…………………………………………………………………….
   3…………………………………………………………………….
2. Date of Birth (DD/MM/YYYY) ……………………………………………………
3. Age ………………………………………………………………………
4. Address ………………………………………………………………………
   ……………………………………………………………………….....
5. Next of kin ………………………………………………………………………
   Relationship ………………………………………………………………………
   Contact Number …………………………………………………………………………

   ==

6. History of Hypertension……………………………………………Yes No
7. History of Diabetes…………………………………………………Yes No
8. History of Seizures…………………………………………………Yes No
9. History of Asthma………………………………………………..Yes No
10. History of Heart trouble……………………………………………Yes No
11. History of Kidney trouble………………………………………..Yes No
12. History of Mental Illness……………………………………………Yes No
13. History of Alcohol Addiction………………………………………Yes No
14. History of Allergies…………………………………………………Yes No
15. Any Health issues reported ……………………………………………………...

Name/Rank/Reg.# of Officer ……………………………………………………………..

Date & Time…………………………………………………………………………

Station……………………………………………………………………………….