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Cover: The relatives of the victims of suspected police extrajudicial executions protest the killings outside the offices of the prime minister in October 2001.

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# Jamaica

## The killing of the Braeton Seven – A justice system on trial

### Introduction

On 14 March 2001, just before dawn, police officers from the Crime Management Unit (CMU) and the St. Catherine South Division approached a small house at 1088 Fifth Seal Way, Braeton. A short time later, seven youths had been shot dead: Reagon Beckford, aged 15, Lancebert Clark, 19, Christopher Grant, 17, Curtis Smith, 20, Andre Virgo, 20, Dane Reynaldo Whyte, 19, and Tamayo Wilson, 20 – now commonly known as the “Braeton Seven”.

Their deaths were a continuation in the long line of extrajudicial killings of criminal suspects by the Jamaican security forces, including officers of the police, the Jamaican Constabulary Force (JCF). The killings followed shortly after the murders by unidentified gunmen of Police Constable Dwight Gibson and retired customs officer Dennis Betton on 1 March 2001; and of Braeton school principal Keith Morris on 13 March. In a statement made immediately after the shooting of the Braeton Seven, a senior police officer alleged that they had been responsible for these murders.

In April 2001, Amnesty International released a major report addressing extrajudicial executions and violence by members of the Jamaican security forces.<sup>1</sup> The report documented the impunity with which the Jamaican police have carried out killings and torture, and was accompanied by a worldwide campaign for the protection of human rights in Jamaica. Since then, approximately 280 further people -- an average of 12 per month -- have been killed by police officers, many of them in disputed circumstances. During the same period, Amnesty International is unaware of any conviction of a security officer on charges relating to the violation of human rights, and is only aware of two trials which both resulted in acquittals.

Although there has been some progress towards holding police officers accountable – such as a staffing increase for the severely under-resourced Police Public Complaints Authority – the human rights situation in Jamaica remains of grave concern.

Many of the killings committed by police and by army officers operating in support of the police are undoubtedly the result of justifiable use of lethal force. Jamaica suffers from a high level of crime and police officers face armed criminals on a daily basis, often leaving them with no alternative to the use of lethal force to protect their own lives and the safety of the public. Tragically, members of the JCF continue to be killed in the line of duty; 16 officers were murdered in 2002.

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<sup>1</sup> *Killings and violence by police: How many more victims?* Amnesty International, April 2001 (AI Index: AMR 38/003/2001), available at [www.amnesty.org](http://www.amnesty.org).

However, over recent years, Amnesty International has documented numerous cases where the evidence overwhelmingly indicates that those killed were the victims of extrajudicial executions<sup>2</sup> -- that is, killed in violation of international standards prohibiting the arbitrary deprivation of life and the excessive use of lethal force.

Despite such evidence, the Jamaican authorities have failed to hold the security forces to account; law enforcement officers are able to kill with impunity. Trials of officers on charges relating to human rights abuses are almost unheard of. The cases of Michael Gayle and Patrick Genius – in which the prosecuting authorities have refused to press charges despite the findings of a Coroner’s Court jury that security personnel were criminally responsible for their deaths – illustrate that even in high profile cases the authorities have shown reluctance to bring those responsible for human rights violations to justice.<sup>3</sup>

This report details and examines the flaws in the investigation into the deaths of the Braeton Seven and the evidence that their killings amounted to extrajudicial executions. This evidence has been assessed using international standards that relate to human rights protection and the investigation of alleged extrajudicial executions by police officers as its benchmark. The report has utilised the expertise of experts in the fields of close quarter exchanges of gunfire, forensics, ballistics, crime investigation and pathology in its examinations.

The report examines the police version of events through their statements to the media, the Coroner’s Court and statements to their fellow officers responsible for investigations into the seven deaths.

By presenting this information to the Jamaican authorities and public, Amnesty International seeks to ensure that the incident is adequately investigated and that appropriate charges are brought against those responsible.

In a wider context, the organization seeks to continue its campaign to end the impunity currently enjoyed by those law enforcement officers responsible of committing human rights violations.

## **The killing of the Braeton Seven**

### **Police: “fired in self-defence”**

According to the police, officers went to arrest Christopher Grant in connection with a murder. They identified themselves as police officers, called for the door to be opened and only fired on the house after coming under heavy fire from those inside. Police say that others in the house escaped and that, after the firing subsided, they discovered the bodies of the seven young men and took them immediately to Spanish Town Public Hospital

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<sup>2</sup> Ibid. See also *Jamaica: Police killings: Appeals against impunity*, Amnesty International, August 2001 (AI Index: AMR 38/012/2001), available at [www.amnesty.org](http://www.amnesty.org).

<sup>3</sup> For further information on this case, see page 25.

**Photo Caption: The house at Braeton where the seven young men were killed on 14 March 2001. Police claim to have entered the building through the back door (not in view but opposite the open door).**

Initially the police did not say that they had entered the house. Reneto Adams, Senior Superintendent of Police and head of the CMU, a special anti-crime unit established in September 2000, said on 15 March 2001:

*“...we waited for about two minutes [after identifying themselves as police officers]. We heard shuffling in the house and so on. And then all of a sudden, right, guns started blazing from the house through the windows... We took cover...and again that was about two minutes... Again, I told the people to surrender. We are now satisfied that they had weapons and they are to lay them down and come out of the house and to our surprise, again they started firing. The police returned the fire and...after a lull we went inside the home and unfortunately, we saw some seven persons suffering from injuries.”<sup>4</sup>*

It is difficult to accept that all seven youths were killed by shots fired from outside the building. Six were shot in the head. In total, 46 gunshot wounds were found on the bodies and only 22 bullet holes in the metal window covers and doors through which the officers fired. The government ballistics expert found only three bullet holes in the metal window covers indicative of shots fired from inside the house, and one of these was made by a 5.56mm round that did not correspond to the weapons the police said were found in the house.

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<sup>4</sup> Interviewed on the “Perkins On Line” radio show, 15 March 2001.

In statements made later to investigators, four officers who carried out the shootings said that they entered the house through the back door and started firing in self-defence (see the Appendix for excerpts from their statements). The police said that they recovered four firearms – one homemade gun and three .38 Colt revolvers – and ammunition from inside the house.

Immediately after the shooting, the police said that those killed had been part of a 20-member criminal gang. The police said that they had found in the house the .38 revolver used to kill Constable Dwight Gibson – subsequently confirmed by forensic examination – and another gun stolen from him. On the day of the shootings, the Commissioner of Police told the media that, once they came under fire, his officers had “little choice” other than to use lethal force because of the physical limitations of the location, and that attempting to capture the men would have placed his officers’ lives in danger. The Commissioner also stated that members of the local community had described those killed as “problem kids”.<sup>5</sup> Subsequently, the police also said that the seven youths had been implicated in the murder of Keith Morris.

*“You cannot have seven gangsters as we have living here. You don’t see them going to work, you see them eating and drinking, going in and out. They are responsible, based on our investigation and intelligence, for many of the crimes happening in South Saint Catherine.”*

Statement made by Reneto Adams, Senior Superintendent of Police and Head of the CMU, to a television journalist shortly after the killing of the seven. None of those killed had criminal records.

*“The police, up until today, has no record of him...and they have no notation of him being involved in any wrong. He was not suspected of doing any wrong. So they couldn’t have come for my kid, they couldn’t have come for my child as a hardened gun-slinging criminal.”*

Leonard Wilson, father of Tamayo Wilson, one of the Braeton Seven.

### **Witnesses: “executions without mercy”**

Immediately after the deaths of the Braeton Seven, the local community challenged the police version of events. Numerous witnesses came forward, to the media and to human rights organizations, to say that the seven had been captured by the police and were begging for their lives when they were killed.

Claude Mills, a local journalist with *The Gleaner* newspaper, lived three houses away. His account was typical of many:

*“I woke up at 5.10am to a single loud noise. It sounded like a car backfiring. Then there were two more reports. I believed they were gunshots. There wasn’t any other sound for maybe two minutes or so. Then I heard the noises coming from the dark outside and the*

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<sup>5</sup> Quoted in “Little choice but to use deadly force”, *Jamaican Gleaner*, 16 March 2001.

*muffled sound of men shouting frantic orders. A few seconds later, the silence of the morning was shattered with a barrage of explosions.*

*“After a while the explosions stopped. Then at 5.28am there was a high-pitched sound as a man was heard begging for his life. The voice was full of despair and desperation. A man was begging for mercy. ‘Officer, mi no know! Officer, Officer! No, Officer. Duh officer...nuh kill me,’ the man cried. Gunshots followed his desperate plea. Then a stony silence. It was still dark.*

*“It was now 5.39am... Then another voice came. ‘Help me nuh Bredda Corpie! No mek dem kill me. Help me no Bredda Corpie! Whoi,’ a man bawled out. There was a pause, and then there were three evenly spaced explosions followed by more screams...*

*“Soon a crowd began to gather...stony-faced police officers kept the crowd at bay... They stood grim-faced but expectant as the policemen took bodies from the house on Fifth Seal Way, one by one, and packed them like kindling in the back of the police jeeps...*

*“Then a few minutes before am I heard a voice crying out from inside the house on Fifth Seal Way. ‘Whoi, no kill me. Mama, dem a go kill me [they are going to kill me]. Mama, dem a go a go kill, dem a go kill,’ screamed the man before being cut short by more explosions. A woman screamed ‘murder’.*

*“Later, Senior Superintendent Reneto Adams, who is in charge of the Crime Management Unit, came to address the crowd, assuring them that justice had been delivered on Fifth Seal Way because the killers of principal Keith Morris a few hours ago, and of Constable Dwight Morris and another male in Above Rocks Police Station on 1 March, had been found and dealt with.”<sup>6</sup>*

Gregory Marriot, who also lived close by, in a statement to the police on 22 March 2001, stated:

*“...A number of policemen, dressed in blue, walked past me down the pathway. I heard one of them say ‘Is seven of dem in deh’ [There are seven of them in there]... In less than a minute I heard a number of explosions for a short while, then it stopped. I then heard a cry of ‘Murder! Help!’ coming from down the pathway. After this I heard a voice say, ‘Corpie help! Dem a go kill me!’ and after that I heard a voice say, ‘Shut yu mouth and lie down.’ I heard another set of explosions...The last set of explosions was about something to seven o’clock that morning. Another jeep reversed in the pathway and drove out with one body...”*

Close neighbour Dalford Thompson, known to the young men as “Corpie”, said in his statement to the police:

*“Sometime after 6.30am...I heard about three to four explosions over the house...[S]omeone say ‘Carry a vehicle come.’ Immediately another jeep reversed down*

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<sup>6</sup> “Reliving the horror in Braeton Phase III”, *The Gleaner*, 18 March 2001.

*the pathway... I saw when they carried out the man who was shot and placed him in the jeep.”*

### **Relatives beaten and threatened**

There has been no known investigation of alleged assaults and threats against relatives of two of the Braeton Seven, Christopher Grant and Reagon Beckford.

In the early hours of 14 March 2001, before the shootings at the house in Braeton, the police had visited several other addresses and taken into custody Aruga Lamonth, aged 17, Conroy Robinson, 18 – both cousins of Christopher Grant. In a statement to police, Aruga Lamonth alleged that, at about 3.00am on 14 March 2001, the police entered his home and beat him, asked him where “the guns” were and where Christopher Grant was, and threatened him:

*“...the policeman put the M16 [rifle] over his shoulder and... told me to run but I did not. He took me through the gate to a dark spot and put me to kneel down. He took out a hand gun from his holster. He said, ‘Yuh know how fe seh our father’ [‘You know how to say the Lord’s Prayer’] but I did not answer him. He said ‘Yuh, Chris and Conroy a guh dead’ [‘You, Chris and Conroy are going to die’].”*

Aruga Lamonth was taken to Braeton and held in the police vehicle while the killings took place. He was detained overnight at a nearby police station and released without charge the following morning.

Conroy Robinson also alleged in his statement to have been beaten by police: “Some of the policemen took me out of the car that I was in and beat me with hand guns and their hands and said I was telling them lie. I got injury to the left jaw, left elbow and left knee...” After being taken to Braeton, he was taken to Spanish Town Police Station where he was beaten again, he said:

*“Three policemen and a woman who I saw at the CIB (Criminal Investigation Bureau) Office beat me up. One used a baton, one kicked me up, another used a big book to hit me in my head and the other kicked me off the chair...I was told that I was charged for Murder and Illegal Possession of Firearm and Robbery and Attempted Murder and taken to Court. The judge dropped those charges and now I am charged with conspiracy.”*

In his testimony to the Coroner’s Court, he also alleged that two policeman attempted to remove him from the police vehicle near the house in Braeton but that the driver stopped them, pointing out: “Put him back inna de car. When oonu tek [we take] him from West Cumberland from him parents and carry him here and kill him, how that will look?” Conroy Robinson is currently charged with the murder of Dwight Gibson and Dennis Bretton, and is held in custody awaiting trial.



In July 2002 Dave Beckford, the brother of Reagon Beckford, alleged that he was threatened and beaten by members of the CMU. He told Families Against State Terrorism, the human rights organization:

*“I was in my house on Tuesday July 23 [2002] at about 6pm... I heard a knock on the door and looked through the window to see the police... The police came in and started to ask my name and my brother's name. I heard a policeman say, among other things, ‘I hear you and your brother (that is Carter),*

*have guns to kill police.’ The police elbowed on my chest, boxed [hit] me in my face, thumped me in my head, kicked me in my testicles, and one of them choked me. I recognized that policeman as being attached to Hundred Man police station. The police made me kneel down in my bedroom; they cocked a gun and put it to my head.*

*“When SSP Adams came in...[h]e then said, ‘Is not your brother was around at that house and got killed?’ I said ‘Yes.’ I said my brother Reagon was not a wrong doer, and Adams said Reagon got kicked out of school...*

*“The police say I must report to the police station at 8 o'clock, but they have not given any reason. Last week I was on the corner when police kicked me up. I don't feel safe in my own house.”*

No response has been received to Amnesty International's request for investigation of these allegations.

### **A nation divided over the human rights issues**

Human rights concerns about the police shootings were raised by national and international human rights groups and other civil society organizations. The Jamaican Bar Association called for an independent inquiry, stating: “The circumstances under which these persons were killed are highly suspicious and even the account given by the police suggests the possibility of cold-blooded murder.” Other local groups – including the Private Sector Organization of Jamaica, Christians United for Love, Justice and Peace, and the Lawyers' Christian Fellowship – called for a full and independent investigation.

The incident dominated the media for many weeks and Jamaican society remains divided on the subject. The debate takes place against a backdrop of appalling levels of crime in Jamaica. In 2002, 1045 people were murdered, including 16 police officers, many of whom appear to have been targeted solely because they were officers of the law.

*“There is no [human] right unless there is order.”*

Dr Peter Phillips, Minister of National Security, quoted in “Phillips names national security priorities” *Jamaica Observer*, 9 December 2001.

The Minister of National Security appeared to share the prevalent view that human rights protection is a “luxury” that can be sacrificed in the face of high levels of crime. The binding international human rights treaties and standards which Jamaica has ratified are clear: the human rights of each individual is paramount and cannot be sacrificed for the alleged greater good of society, even when societies are plagued by problems such as crime or ethnic strife.

Much of the debate was acrimonious and accusatory. Those defending human rights were accused of being “anti-police” and of not caring about the victims of violent crime and the killing of police officers. Many of those who supported the police shootings acknowledged that they were extrajudicial executions but felt that they were acceptable since most of those killed had been implicated in serious crimes. In its responses to criticism of the investigation of the police shootings and to calls for the investigations to be thorough, the government accused Amnesty International of a “rush to judgment” and even of attempting to sabotage the Jamaican economy.

Those working for human rights in Jamaica continue to face an atmosphere of hostility and misperception. In a country that is clearly traumatised by the level of violent crime, many of the Jamaican public misunderstand those who seek to protect human rights. As the majority of human rights violations take place in the context of policing and are often committed against individuals accused by the police of being armed criminals, many fear that human rights protection equates to the protection of criminals at the expense of the rights and security of the rest of the population. Such anxieties are often shared and encouraged by the authorities.

Senior Superintendent of Police Adams said on 4 July 2002:

*“...[Criminals] are able to have in their corners the best lawyers, it is happening in Jamaica. They are able to have in their corners the best pastors...church people. They are able to attract in their corners the best bankers...the best of what you call civil society, non-government organization...The criminal has become so powerful... And I'm not even talking Jamaica human rights alone. It's coming from Amnesty International, right from the United Nations. It is set up particularly to protect the criminals, not their rights...So you don't read or hear the programmes they put up all over the place to protect criminals as against victims?”<sup>7</sup>*

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<sup>7</sup> Interviewed on the radio program “The Breakfast Club”, 4 July 2002.

He went on to accuse the Jamaican human rights organization, Families Against State Terrorism (FAST), of “spying” on him and obstructing him in his duty. A few days later, interviewed on the radio program *Nationwide*, he said that a defendant’s right to the presumption of innocence was an “intellectual statement”, “a cosmetic statement” and a “diplomatic word”. Amnesty International received no response when it asked the Minister of National Security to clarify whether these statements represented official police policy.<sup>8</sup>

## Failure to preserve evidence

In this and many other cases, the authorities have failed to adequately preserve and investigate the scenes of police killings. In January 2001, the Jamaican government acknowledged concerns raised by an Amnesty International delegation that had found no police officers present at the scene of a police killing, less than three hours after the event, and valuable forensic and other evidence disturbed and destroyed by members of the public.<sup>9</sup>

*“The allegations contained in the report on the killing of William Richards are cause for grave concern and utter condemnation. The actions described are in total contravention of the procedure and regulations under which law enforcement officials are expected to carry out their duties.”<sup>10</sup>*

### Protecting human rights and supporting crime prevention and detection not mutually exclusive

Protecting the human rights of those accused of criminality, supporting the victims of crime, and the work of the police, are not mutually exclusive. Not all of those who suffer abuse at the hands of the police are criminals. There is no credible evidence of criminal behaviour against many of those who have been killed in suspected extrajudicial executions by the security forces; many were simply in the wrong place at the wrong time. Even when evidence of criminality exists, this does not excuse the abuse of the human rights of the individual concerned.

Amnesty International’s campaign to seek full and thorough investigation into all killings by police officers in Jamaica, and to hold to account those police officers who have violated human rights, is part of its wider campaign for the increased protection of all from abuses by both state and non-state actors. Providing the police with professional skills, appropriate equipment and adequate resources are among the most effective ways to tackle crime and, in turn, to respond to the needs of victims of crime. Lawbreaking by the police does not secure victims’ rights.

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<sup>8</sup> For further information see Amnesty International’s press release, “Right to defend human rights is legitimate and must be protected”, 5 July 2002, available at [www.amnesty.org](http://www.amnesty.org)

<sup>9</sup> For further information on the case of William Richards, alleged to have been extrajudicially executed by CMU officers in September 2000, see *Killing and violence by police: How many more victims?* Amnesty International, April 2001 (AI Index: AMR 38/003/2001), page 14, available at [www.amnesty.org](http://www.amnesty.org).

<sup>10</sup> Letter from the Minister of Foreign Affairs to Amnesty International, January 2001.

However, no improvements are known to have been made in police practice to ensure that crime scenes are protected from disturbance, including from members of the public, so as to allow a full investigation.

### **Disturbance of evidence at the scene of crime**

In the Braeton Seven case, television footage taken immediately after the killings showed police officers handling, without gloves, the four guns allegedly found in the house. This action would have destroyed much of the forensic evidence – the fingerprints of those alleged to have fired the guns at the police. Filmed before the arrival of officers from the police Scene of Crime Unit, Senior Superintendent of Police Adams can be heard telling his men to pick up spent shells. Such an order is in violation of the rules governing crime scene management and appears to indicate that an attempt was made to prevent investigation, since spent shells are vital in identifying from which position a weapon was fired. In November 2002, Amnesty International asked the Jamaican government whether there had been any investigation into evidence of tampering with spent shells; no reply was received.

**Photo caption: The inside of 1088 Seal Way. This view shows the back door through which four police officers claim to have entered the building and shot the young men in the dark. Police failed to preserve the scene and relatives of the seven and members of the public gained access within hours of the killings. The blood splatter on the right indicates that one of the seven was killed there, most likely Christopher Grant.**

Within hours of the killings, members of the public and relatives of the seven youths gained entry to the house. Evidence that should have been preserved for forensic examination was corrupted and destroyed. When asked about the police failure to ensure the integrity of the scene by an Amnesty International delegation, the Commissioner of Police said that the safety of police officers left to guard the house could not have been guaranteed.

In May 2001, the arrival in the country of a British Broadcasting Cooperation (BBC) film crew – to investigate police abuses including the killing of the Braeton Seven – appeared to prompt the police to have the house cleaned. In November 2001, in response to a request by the family of one of the Seven, Christopher Grant, a Magistrate's Court rebuked the police and ordered them not to touch the house until the deaths had been investigated by the Coroners Court. A police officer from the Bureau of Special Investigations, one of the bodies responsible for investigating the police killings, told the court that the owner of the house had asked the police to clean the building. Footage broadcast by the BBC showed that the cleaners had attempted to remove large deposits of dried blood from the floors and walls. Amnesty International is concerned that they may have destroyed crucial physical evidence and that an officer from the department responsible for investigating the incident appeared to find the cleaning acceptable and sought to excuse it to the Court.

## Removal of the bodies

The positioning of dead bodies, blood trails and other evidence can give vital information as to how an individual was killed. Yet the police moved the bodies of the seven before any officer independent of the killings had an opportunity to examine or record their positions. The police later justified their action on the grounds that they had taken the youths to receive medical attention. However, police evidence to the Coroner's Court suggested that the bodies were left for some time before being taken to hospital. In his original statement to investigators, Senior Superintendent of Police Adams said that the "injured persons" were removed between 4.45 and 5.15am. All the statements made by police officers suggest that the incident was over by around 5am, with references to the "injured" men being "rushed" or "immediately taken" to hospital. One police driver said in his statement that he was instructed to take the men to hospital at approximately 5.30am.

*"I personally made initial observations on those injured persons. Based on my training, I came to the conclusion that all might have been unconscious."*

Statement by Senior Superintendent of Police Adams to the Coroner's Court. The seven had suffered a total 46 gunshot wounds, including 15 to the head.

However, there is clearly a discrepancy of around 40 minutes or longer in the time of departure from Braeton and arrival at the hospital. The men were not documented as arriving at the hospital until approximately 6.20am. A statement by another police driver clearly suggested a delay before they were taken to hospital: "I heard loud explosions that sounded like gunshot, this lasted for some time. About an hour later I was instructed by SSP [Senior Superintendent of Police] Adams...to take them [three of the seven] to hospital." Another police driver testified before the Coroner's Court that a journey from Braeton to Spanish Town Public Hospital, in a police car with the sirens on, took 10 minutes at that time of day. Television journalist Michael Pryce told the Court that the police took some time to remove the bodies and that they were loaded into police jeeps "between 6.10 and 6.25/6.30am".

It is clear from the statements given by various sources, including numerous police officers, that the dead men were not taken to hospital immediately following the incident. In the unlikely event that the men were not dead, the police would have been derelict in their duty for allowing them to die without prompt medical treatment. However, the more likely scenario is that the seven were obviously dead, given the severity of their wounds, and that the police therefore knew medical treatment was not required. In such an event, the appropriate action for the police would have been to leave the bodies wherever they fell, for the investigators to photograph and collect forensic information.

Dr Peter Leth, the pathologist who observed the autopsies of the seven on behalf of Amnesty International and the relatives of the dead (see page 13), stated in his report:

*“The bodies were taken away from the scene of the crime before their position in the house was registered and photographed. As they had all received obviously lethal shots there was no need to hurry them to hospital for treatment, and they could have been left at the scene to be viewed, and the positions documented by crime scene technicians and pathologists.”*

Amnesty International asked John Beavis, a retired Detective Superintendent of Police with 30 years of experience in leading murder investigations in the UK, to examine the documentation about the investigation of the crime scene. He concluded that:

*“Many of the basic principles of homicide investigative procedures appear to have been disregarded in this case...[T]he house where the shootings took place should have been treated as a crime scene and therefore afforded a full and thorough forensic and ballistic examination and the bodies should have been treated as forensic exhibits in their own right. The JCF [Jamaican Constabulary Force] appear to have manifestly failed to adequately preserve the crime scene and therefore to fully gather all the available forensic evidence from it.”*

### **Forensic tests**

Forensic tests can be vital in determining whether someone has particles of gun powder or other residue on their hands and may therefore have recently discharged a firearm. According to the police, the hands of the seven men were swabbed by an officer from the Scene of Crime Unit at 8.30am on the morning of their deaths, and the swabs then labelled, bagged and handed over to the forensic laboratory for testing at 11.27am the same morning. A government forensic analyst told the Coroner’s Court that the swabs revealed that four of the seven men had “elevated” levels of gunpowder residue on their hands, suggesting that they had fired weapons before their deaths.

Amnesty International is concerned that the swabs were not taken by a person independent of the police force. It would have been more appropriate for an independent forensic analyst to take swabs from the seven men directly, especially in a case of shootings by police officers, in order to avoid any suspicion that the swabs could have been taken from any individuals other than the seven. As already noted, the men’s hands were not protected by bags or any other means after their deaths and the bodies were moved on numerous occasions before swabs were taken, for example when they were lifted by their hands and legs by police officers not wearing gloves. Contamination by gunpowder residue or other substances could have come from a number of other sources, including from the hands of police officers handling the bodies. Other substances similar in chemical compound to gunpowder could also have produced positive results, although the government forensic analyst, questioned at the Coroner’s Court, denied that this would have resulted in “elevated” levels of gunpowder residue.

## Shoot-out or murder?

In statements to police investigators (see Appendix), the four police officers who carried out the shootings said that at several times they came under “heavy fire” from those in the house. One of them, Constable Miguel L. Ebanks, mentioned four separate instances of the officers being fired upon and gave the strong impression that each consisted of numerous shots being discharged. However, a police firearms expert testified that the weapons reportedly recovered from the house had fired a total of 11 shots. Other forensic and tactical firearms experts who have reviewed the evidence have been strongly of the opinion that the Braeton Seven were extrajudicially executed by the police and not killed in a shoot-out.

## The autopsies

Amnesty International has longstanding concerns about the quality of autopsies performed on those killed by the police in Jamaica. Comprehensive autopsies to establish the cause and manner of a person’s death are vital to ascertain whether a person was killed as a result of justifiable use of lethal force. However, a forensic expert who has reviewed numerous autopsy reports from Jamaica has described the procedures used as not constituting autopsies “in the normally understood sense of the word” because of their almost complete failure to meet internationally accepted standards.<sup>11</sup> The Department of Forensic Study appears to be under the direct control of the Ministry of National Security, the ministry responsible for the police, raising serious questions about its independence in cases involving police killings. In Amnesty International’s view, it is of vital importance to create a Department of Forensic Medicine that has an independent status.

At the request of the relatives of the Braeton Seven, Amnesty International sent Danish pathologist Dr Peter Leth to observe the autopsies performed in March 2001. Dr Leth was critical of many of the procedures used to preserve the bodies and to conduct autopsies. The bodies were not protected from contamination by body bags, or the hands and heads by paper bags. The autopsies were performed 15 days after the deaths, allowing deterioration of the bodies. The government pathologist conducting the autopsies was given inadequate information about how the seven died and where the bodies were found. He was given a note that contained descriptions such as “deceased was shot and killed in a house by the Police in an alleged shoot-out” and “found by the Police in a house lying down”. No detailed information appeared to have been given to the pathologist by the Scene of Crime officer who was present during the autopsies. In his testimony to the Coroner’s Court, the pathologist admitted that he had not inspected the scene of the seven deaths and that it would have been useful to see where the bodies fell when determining how the men died.

Dr Leth also expressed concern that:

- all seven autopsies were performed in only six hours, not allowing sufficient time for thorough investigation;

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<sup>11</sup> For further information, see *Killing and violence by police: How many more victims?* Amnesty International, April 2001 (AI Index: AMR 38/003/2001), page 57, available at [www.amnesty.org](http://www.amnesty.org).

- the findings were not documented by photos;
- the autopsies were performed by only one pathologist. Most countries have two pathologists, one to perform the procedure, the second to review, and both of whom sign the report;
- no samples were taken from the hands of the deceased to prove or disprove that they had fired guns;
- no samples were taken for microscopic investigation, so no sections were taken from the alleged contact wounds for later study.

The pathologist's autopsy reports and testimony to the Coroner's Court were of little value in ascertaining how the seven died, providing barely more than the details of the wounds inflicted. He subsequently disputed Dr Leth's opinion that one of the seven, Andre Virgo, had been shot at close range. Dr Leth identified two of the four bullet wounds in his head as "contact" wounds, resulting from a gun being fired from a distance shorter than the length of its barrel. In his opinion, Andre Virgo was shot from a distance and then again at close range, or vice versa. Either scenario is inconsistent with the police account of an exchange of fire.

Some officials publicly disputed Dr Leth's findings. The chief government pathologist said Dr Leth's report was "inaccurate and deliberately misleading" and accused Amnesty International of presenting it as a report of the actual autopsies, despite the report title clearly stating the autopsies were observed.<sup>12</sup> The attorney representing the police before the Coroner's Court accused Dr Leth of bias and of having "preconceived ideas" about the killings.

Dr Leth was briefed to observe the autopsies from the point of view of the procedures being conducted in compliance with international standards.

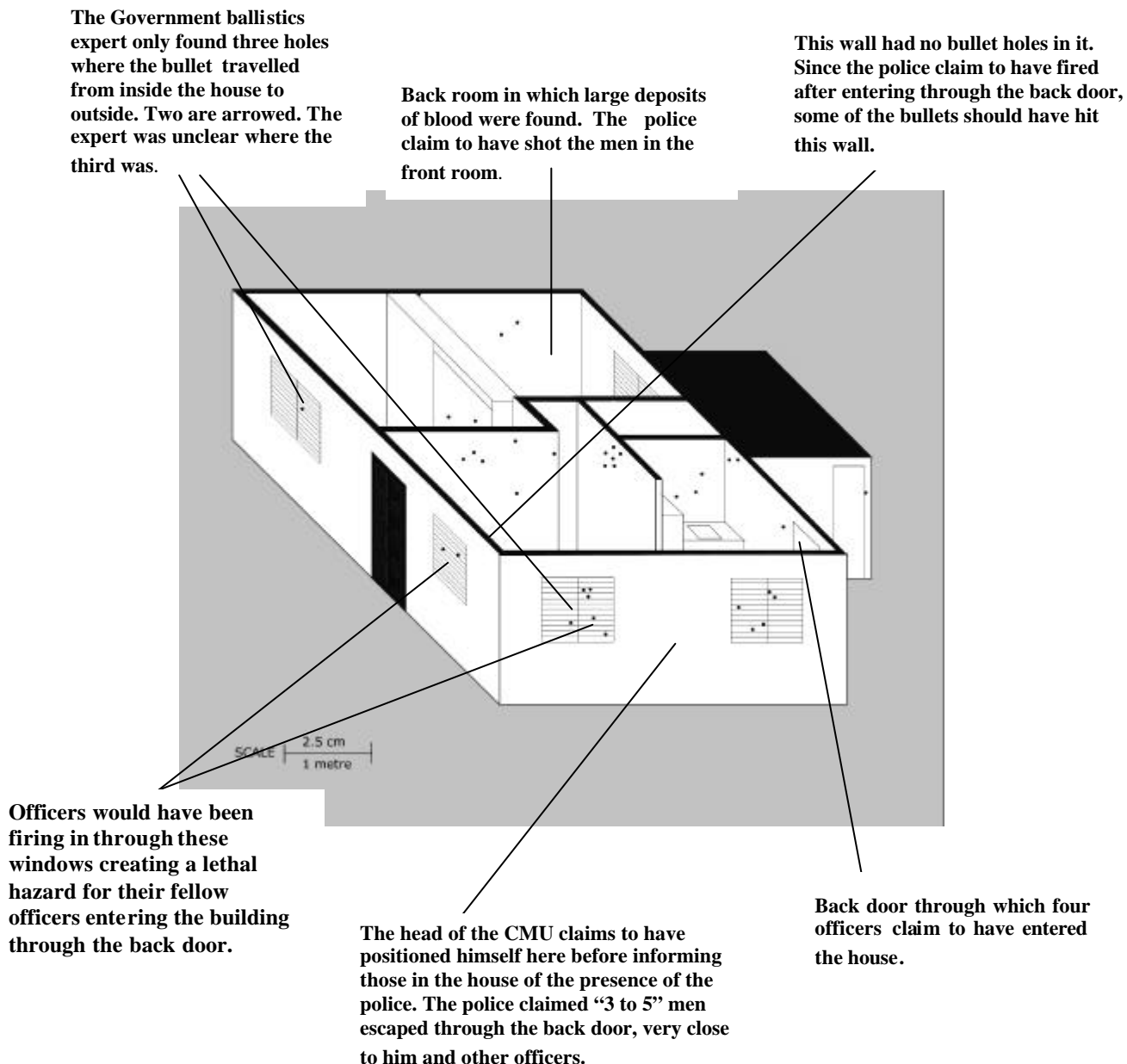
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<sup>12</sup> *The Braeton Seven: Report on the observation of seven autopsies*, AI index AMR 28.09.2001, published April 2001.



## Diagram of 1088 Seal Way, Braeton

The black dots represent bullet holes as recorded by the Government forensic expert.



## **The alleged escapees**

Immediately after the shooting, a Superintendent of police told the media some three to five men escaped<sup>13</sup>; the original press release from the police also mentioned that several others reportedly fled from the premises and the Commissioner of Police also stated at a press conference that police believed the escapees were nursing gunshot wounds. However, none of the statements given to investigators by the police officers involved mention of anyone fleeing the house, nor is this claim confirmed by any other evidence.

The Superintendent of the CMU claimed in his written statement (dated 14 May 2001) that he positioned himself at the first of the metal windows on the right side of the house (see picture on page 3) before making the occupants aware that the police were outside. He did not make any mention of anyone escaping from the house in the statement. At least ten other police officers were also close by and approximately 45 other officers were in the immediate vicinity. The escaping men would have had to use the back door of the house to get out, which was less than approximately 2 metres from where the leader of the CMU was standing. Furthermore, the escaping men would also have had to climb over a wall; it would have taken a considerable amount of time for all three to five men to scale the wall and such an action would have been impossible to do silently. It is therefore not believable that all eleven armed officers would have failed to take the necessary action to prevent the escape. None of the officers mentioned taking any action to prevent anyone escaping in their statements or testimony to the Coroner's Court.

To Amnesty International's knowledge, the alleged escapees have not been publicly mentioned again by any officer involved in the Braeton incident. There appears to be no ongoing investigation to identify or locate the men, although an attorney representing the police at the Coroner's Court did accuse a witness of being one of the men who escaped.

The assertion that men escaped from the house fits in with a pattern of similar claims by police officers in shootings in disputed circumstances (see page 21).

## **Entering the house under fire – an improbable scenario**

One of the officers responsible for the shootings, Constable Linroy Edwards, said in his statement that they entered the house after he "observed that the back door to the house was opened". However, the door opens inwards and faces a wall approximately one metre from it (see diagram of the house on page 15), and the house and surrounding area were in darkness.

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<sup>13</sup> Stated by Superintendent Harry Daley to a television journalist. The footage of the interview was not broadcast but was shown at the Coroner's Court inquiry on 1 March 2002.

It seems unlikely that an officer would have exposed himself to heavy gunfire by putting his head round the corner of the house or by standing away from the property at such an acute angle as to see the door was open.

The account of the four officers, that they voluntarily entered an enclosed space where armed criminals were allegedly firing on their fellow officers, further strains credibility. Their danger would have been severely increased by their colleagues firing into the building with automatic weapons. When asked by Amnesty International about the wisdom of entering the house under such conditions, Inspector Jon Vogel, a serving police officer and instructor with the UK Police Tactical Firearms Unit, stated:

*“I would never train or instruct officers to enter a building under such conditions, unless to do so was vital to save the lives of hostages, and then only as a last resort when no other option was available. If the officers did enter the house at Braeton in the conditions claimed, it is remarkable that none of them were hit in the exchanges of fire...”<sup>14</sup>*

### **The pattern of gunshot wounds**

Independent assessment of forensic and other evidence suggests that the pattern and high number of gunshot wounds on the bodies of the Braeton Seven were unlikely to have been produced by an exchange of fire in the dark. Many of the 46 wounds – including 15 to the head, which killed six out of the seven men – would have led to the immediate incapacitation of the individual concerned.

According to the government pathologist, the seven received the following gunshot wounds:

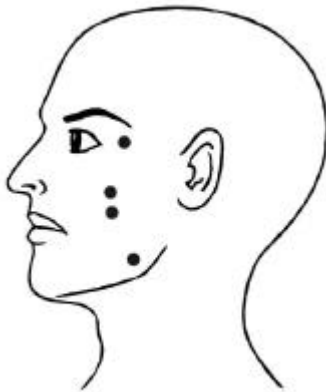
- Reagon Beckford had 12 wounds: to the right shoulder and neck, right thigh, right lower leg, right heel, left foot, left arm, two to the chest and three to the abdomen;
- Lancebert Clark was shot seven times: in the back of the head, in the chest, twice in the abdomen and three times in the left arm;
- Christopher Grant was shot six times: in the head, the abdomen, twice in the left forearm and twice in the right leg;
- Curtis Smith was shot five times: in the abdomen and four times in the head (by his left ear, his left lower jaw and twice in his left cheek);
- Andre Virgo was shot four times in the head, twice under the left ear, once above the left ear and once on the left forehead. In Dr Leth’s view, the shots under the left ear were “contact wounds”, and signs of “blunt trauma” to his head were consistent with fist punches;
- Dane Whyte had seven wounds: to the back of the neck, chest and jaw, two to the abdomen and two to the top of the head. His head wounds were caused by bullets

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<sup>14</sup> The views expressed in Inspector Vogel’s report to Amnesty International represent his professional opinion and do not reflect any official view by the UK police service.

travelling in a downward path, indicating that the person who fired them was above him at the time;

- Tamayo Wilson was shot five times: twice in the back of the head; and once each in the left shoulder, right shoulder and right buttock.



**Left: Pattern of gunshot wounds to the head of Curtis Smith.**

Two of the four officers asserted that they fired in the direction of the “flashes of light” from guns fired at them. In such close combat, it would be normal for officers armed with automatic weapons to fire numerous shots rapidly in the direction of the threat to maximize the chances of hitting the target. Yet the inside of the front wall of the house, the wall at which the officers would have fired the most bullets, did not bear even one bullet hole. If the police version of events is credible, at least some of the young men must have been standing in front of this wall to fire out of the windows. Most of the bullets that killed them passed through their bodies and would have pitted the next solid

object they hit, yet none were in the wall.

Although the blood splatters on the wall show that one person was killed in the communal area, most of the seven appear to have been shot dead in the back left bedroom where there were the largest deposits of blood on mattresses and the floor (see diagram on page 15). The police alleged in statements and testimony to the Coroner’s Court that the seven were discovered in the communal area of the house.

Pathologist Dr Leth’s conclusion, after considering the pattern of wounds on the bodies, was that the seven had been extrajudicially executed:

*“What was striking was the many head wounds. Out of 37 gunshot lesions I observed, there were 15 to the head. It seems not possible that this pattern of lesions could have occurred by just random shooting. There’s no doubt... that it is a homicide; the question is, was it justifiable homicide or not? As I see it, these killings were extrajudicial executions. It seems quite clear that the police explanation about what happened cannot be correct.”<sup>15</sup>*

Retired UK army Major David Holly, an expert on close quarter combat, concurred with this opinion after viewing police statements, diagrams and photographs of the house, autopsy reports and other information about the case:

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<sup>15</sup> Dr Leth was unable to observe and verify all of the gunshot wounds because of restrictions placed on his movement, and only commented on those wounds he could clearly see.

*“The initial statements of the police that the seven were killed from guns fired outside of the house are discredited by the photographic evidence taken of the house immediately after the event. There is a lack of damage to the exterior of the property. From experience, I expect to see extensive damage to plaster, brick, roof tiles, sills and blinds in the windows; a house surrounded by police armed with semi-automatic weapons, on a dark night, exchanging fire with four armed criminals, would cause an immense amount of ‘holes’ in the masonry (M16 rounds would easily penetrate the walls on a building such as this).*

*“The second version of events that several officers crawled on their stomachs through the back door during the fire fight is extremely unlikely without a significant amount of supporting fire from colleagues to keep the criminals’ heads down: this has already been discounted. Furthermore, this course of events is very unlikely because of the risk involved: the officers themselves are more likely to die from ‘friendly-fire’; an officer would only ever ‘rush’ a building containing armed assailants as a last resort to stop escape or rescue a hostage.*

*“From the contradictory police statements and the lack of damage to the property, it is more likely that the police forced their way into the building without warning and took the occupants by surprise (the whole point of mounting this type of operation at this time of the night).*

*“The striking statistic from the autopsy report is the 15 shots to the head out of a total of 46 fired into the seven bodies: an extraordinary ratio. Furthermore, 6 out of the 7 dead had shots to the head: an unbelievable ratio. Last, the fact that none survived is unusual; it takes a lot to kill a human body quickly, within minutes; it would be quite reasonable to assume that at least two or three would survive an attack such as this and recover from their wounds in hospital. Normal ratios of dead to wounded is 1:3.*

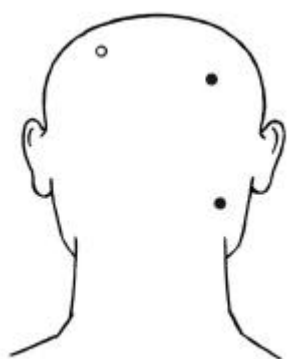
*“In a fire fight such as the police described, the injuries suffered by Reagon Beckford are more the norm and what I expected to find about the other six. The fact that the others all died of gun shot wounds to the head is highly suspicious and more in keeping with summary executions.”*

Ballistics testing of the police guns provided evidence at odds with police accounts of the killings. One police officer at the incident, Constable D. Bernard, said in a statement given on 8 January 2002 that he was stationed to “cordon off the area while personnel approached the house” and that:

*“I did not discharge my weapon throughout the operation that morning. I did not see anyone being shot in the pathway. We returned to the Anti-Crime base about 9.30 am, and I handed my M16 rifle along with 60 rounds I was issued with to the Station Guard.”*

Another officer told the Coroner’s Court that the police firearms register confirmed this account, showing that Constable Bernard did not use any ammunition on 13 or 14 March 2001. However, Daniel Wray, who conducted tests on the firearms carried by police officers at Braeton, testified that a bullet recovered from the body of Curtis Smith was fired from the

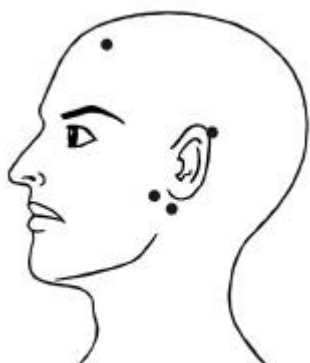
M16 rifle issued to Constable Bernard. The Coroner’s Court ruled that it was not necessary to call Bernard to testify (see page 24)



**Left: Pattern of gunshot wounds to the head of Tamayo Wilson. The solid dots represent entry wounds; the circle is an exit wound.**

Firearms tactician Inspector Vogel reviewed the statements of police and other witnesses, media reports, photographs and floor plans of the house, and Dr Leth’s report on his observation of the autopsies. He identified 19 wounds that did not appear to result from “deliberately” aimed shots, and the rest that did.

His opinion was that six of the seven youths had been shot in the head with a 9mm pistol or similar weapon, most probably that belonging to Constable Edwards, and that Christopher Grant had been shot dead, as reported by the police, with an M16 rifle. Ballistic tests confirmed that three were shot with the 9mm automatic pistol issued to Constable Edwards. Although Constable Edwards said in his statement that he expended twelve 9mm cartridges, fragments from bullets fired from the gun issued to him were found in the heads of Andre Virgo and Dane Whyte and in the trunk of Reagon Beckford. It is highly unlikely that he would have hit so many of his targets with only 12 shots, fired in the dark.



**Left: Pattern of gunshot wounds to the head of Andre Virgo.**

Inspector Vogel’s report stated that, when firing shots at the muzzle flashes of guns in the dark, “it would not be possible to fire at individual threats” and the shots “could be expected to be inaccurate”. In view of “the darkness of the building, the movement of the threats, the proximity of the threats, the accuracy and speed of fire of a 9mm Browning handgun”, he concluded that it was “inconceivable” that Curtis Smith and Andre Virgo, and “unlikely” that Dane Whyte and Tamayo Wilson, “received these gunshot wounds to the head in the manner described by Constable Edwards”. Shots appeared to

have been “deliberately aimed” at the heads of Lancebert Clark, Curtis Smith, Dane Whyte, Tamayo Wilson and Andre Virgo. He concluded:

*“[I]t is my opinion that they [the gunshot wounds] are not consistent with the version of events described by Police... [but] are more consistent with the version of events described in the statements provided by members of the public... From the pattern of gunshot wounds to the heads of Curtis Smith and Andre Virgo I suspect that their heads*

*were made temporarily immobile while the shots were fired at relatively close proximity. If this is the case, a possible scenario is that both men were lying on the floor with their heads held still by placing a foot on his neck. If this was the case, there may be marks on the floor of the house corresponding to the gunshot pattern on their heads.”*

He recommended that “a forensic examination is undertaken to the floor of the premises to establish if there is a gunshot pattern in the floor that corresponds to these gunshot wounds” and that “the firearms training records of Constable Edwards are examined to establish his proficiency with a handgun and that this be compared with the actions claimed during this incident.”

### **A pattern of extrajudicial executions**

In most cases of suspected extrajudicial executions in Jamaica, police statements are remarkably similar. They often allege that a police patrol came across some men acting “suspiciously” who, when challenged, produced firearms and opened fire on the officers, and that the police then returned fire, killing one or more of the men while others escaped.

The suspicions raised by the repetition of this account are compounded by the fact that almost every police shooting results in a fatality, although some of those shot would be expected to survive in an exchange of fire. Police casualties would also be expected, particularly if officers were fired on first. Although the number of police officers killed or injured in the line of duty is high in Jamaica, such attacks occur mostly in ambushes or similar situations and not in exchanges of fire.

Amnesty International monitored media reports of police killings in 2001 and 2002. At least 68 people in 47 cases in Jamaica were reported by the print media to have been killed by the police.<sup>16</sup> In 44 cases, the police reported that the person fatally shot had fired on the police first. However, in only six cases were police officers hit by gunfire, and no police officer was killed. In 22 of the cases, the police alleged that criminals escaped from the scene. In 19 of the cases, the media reported witness statements that contradicted the police version of events.

Retired Major Holly commented:

*“These figures are extremely questionable. It would be expected that whichever party was fired upon first would sustain the greater casualties. The police suffered only six woundings when fired upon first on 44 occasions, yet killed the person firing at them every time. This is an extremely unlikely ratio. The person firing first has more time to aim and fire, while the person returning fire will also be concerned with ensuring they take cover, thereby affecting their ability to hit the target. If anything, these ratios should be the other way round.*

*“Furthermore, it is also troubling how few people survive police shooting. In combat, the approximate ratio of wounded to dead is usually 3:1. In exchanges of gunfire of the type*

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<sup>16</sup> It should be noted that this study was not exhaustive and is based on statements made by the police and reported in the media during 2001 and 2002. However, it does provide strong evidence of the pattern of police accounts in many fatal shootings.

*described in many police reports in Jamaica, many of the injuries would be in the arms or legs since the target is often moving and the person firing has little time to aim. Such wounds would not be fatal. However, the Jamaican police forces' ability to inflict fatal shots upon moving targets when under fire themselves is remarkable."*

## **The Coroner's Court inquiry: a flawed mechanism**

The killing of the seven men was initially investigated by the Bureau of Special Investigations (BSI), a police unit charged with investigation of all police shootings. On 5 June 2001 the BSI passed the files on their completed investigation to the Director of Public Prosecutions (DPP), who ordered a Coroner's Court inquiry on 6 July. The Coroner's Court convened for an inquest on 14 January 2002. Initially scheduled to take up to six weeks, it eventually ran – not continuously – for nine months. On 3 October 2002, after deliberating for a mere 45 minutes, the Coroner's Court jury returned a verdict of six to four that the police were not criminally responsible for the deaths.

A Coroner's Court inquest differs from a trial in that the process is not adversarial. The court remains a "finder of fact" and presents a verdict that indicates whether action is required by the authorities, such as bringing charges or carrying out further investigation.

However, the inquest in this case was hampered by serious failings. A Coroner's Court jury can only be relied upon to provide a truthful and accurate verdict if it is provided with all the available facts and different interpretations of events. For this to be achieved, those appearing before the Court and examining the witnesses should have adequate and reasonably balanced resources. However, the authorities failed to provide legal aid or any other kind of assistance to the relatives of the seven, who had to rely on lawyers willing to donate their services free of charge. Their lawyers were not provided with the resources to access forensic and ballistics experts who could scrutinize the police version of events. The Court itself lacked basic equipment. For example it failed to provide equipment to play video tapes made of the scene immediately after the deaths of the men; a video tape player was provided by Jamaicans for Justice.

Furthermore, the Court itself failed to allow questioning of the police version in significant instances. The jury did not hear evidence from any police officer whose expended cartridges were found in the house or whose bullets were recovered from the bodies.

An Amnesty International observer – Ivor Frank, a UK lawyer and member of the Bar Human Rights Committee of England and Wales – attended the inquest in February and August 2002.<sup>17</sup> In his report, he observed that:

- the legal forces deployed by the police and the state could not be matched by the families of the deceased;
- the conduct of the case was inappropriate to its gravity. There were substantial delays between court sittings, which put at risk the jury's capacity to retain evidence. The

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<sup>17</sup> Ivor Frank's report is available in full on request to Amnesty International, International Secretariat, Peter Benenson House, 1 Easton Street, London WC1X 0DW, UK, e-mail [escarib@amnesty.org](mailto:escarib@amnesty.org).



Court was continually interrupted while other unrelated legal matters were heard and dealt with;

- rules of evidence and procedure were made on an *ad hoc* basis, depriving the parties of an adequate opportunity to prepare questions and representations;
- the presiding Magistrate made material errors in ruling on evidence and procedure, and material errors and omissions in summing up the evidence to the jury.

Ivor Franks concluded that, “No objective observer of the Braeton 7 inquest could be satisfied that justice had been done or been seen to be done.”

The police were represented by two attorneys who sought to portray the killings as legitimate acts of self-defence by officers, in a role similar to that of defence attorneys. The DPP was represented by an attorney responsible for marshalling the evidence, but who did not act as a prosecutor. Only the families’ attorneys were therefore actively attempting to establish whether the killings had been a criminal act. The DPP is extremely unlikely to press charges against police officers if the Coroner’s Court jury finds the police acted in self-defence. In this instance the Coroner’s Court inquest appears to have become a trial but without any guarantee or effort by the authorities to ensure that there is an effective prosecution.

### **Evidence of bias**

The sitting Magistrate made statements that showed a bias towards the police version of events. In April 2002, the Magistrate was quoted as stating:

*“Nothing is wrong with a propensity to shoot. Law Lords have said ~~shoot first and ask questions after~~ Police have a right to shoot. If a policeman shoots men in questionable circumstances, nothing is wrong with that if he had a reason to shoot. Police have the right to shoot students at Jonathan Grant High School when they threw stones at the police. There is a difference between police licensed to carry a firearm and persons with unlicensed firearms.”*<sup>18</sup>

The Magistrate appeared unaware of, or ignored, domestic and international law and standards – and Jamaican police policy – obliging police officers not to deploy lethal force unless directly confronted with a threat to life or other grave danger.<sup>19</sup> The statement risked

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<sup>18</sup> Quoted in “Braeton: the drama of (in)justice”, *Jamaica Observer*, 14 April 2002.

<sup>19</sup> The United Nations (UN) *Code of Conduct for Law Enforcement Officials* and *Basic Minimum Standards on the Use of Force and Firearms* are explicit in stating that deadly force should only be used as a last resort in response to imminent threat of death or serious injury, and only when other measures have been exhausted. Appendix “A” of the JCF Force Orders of 20 February 1997, which endorse the UN provisions for the use of lethal force, state: “*Deadly force shall not be used except as a last resort in any situation in which such force is justified: to protect the member or others from what is reasonably believed to be an imminent threat of death or serious bodily harm to them...*”

misleading the jury on this point. Such statements by judicial and government officials are not uncommon in Jamaica.<sup>20</sup>

On 29 July 2002 the Magistrate reportedly made inappropriate comments in front of the jury about one of the witnesses, Superintendent Adams, referring to his “celebrity” status and observing that many parents have named their children after him.

In October 2002, the Magistrate allowed the four police officers responsible for the shootings not to testify before the Court. This decision was made in response to a submission by lawyers representing the police that the four officers had the right not to be forced to make self-incriminating statements. Amnesty International believes that allowing these officers – some of whom have been implicated by forensic evidence as being responsible for the deaths of some of the seven – not to testify before the body responsible for deciding if anyone is criminally liable sets a disturbing precedent. While the officers have the right under the law not to incriminate themselves, it would have been appropriate to insist that they exercise this right while being questioned in front of the jury. This would have provided the jury with the opportunity to evaluate which questions the officers felt would incriminate them; this would possibly have been the most important evidence in the hearings. As they were allowed not to testify, the only account of their actions are their brief and inadequate statements to investigators (see Appendix).

The magistrate also allowed another key police officer not to give evidence. Although Constable Bernard claimed not to have been present during the shooting, a bullet from his rifle was found in the body of Curtis Smith. The Magistrate was informed by a member of the CMU that Bernard could not testify because he was recovering from surgery, but did not ask for medical documentation to verify this or delay the hearing until he had recovered.

The verdict of the Coroner’s Court may have encouraged the public to believe that the police officers involved had been exonerated. However, its inquest failed to show that the police shootings had been a justifiable use of lethal force. A jury that did not hear from the main witnesses, or from witnesses with professional expertise who could raise questions about the actions of the officers, had insufficient information on which to base a reliable verdict.

This case reflects wider concerns that inquests into disputed police killings have become a device for procrastination rather than a genuine attempt at fact finding, often taking months or years to complete. For example, the case of Cleon Brown, fatally shot by police officers on 16 October 1998, was not completed until 3 October 2002, when the jury found no one criminally responsible for his death. A prominent member of Jamaicans for Justice has expressed fears that inquest juries are not impartial and that the monetary incentive – 500

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<sup>20</sup> On 27 February 2002, legal counsel for the Commission of Inquiry into the July 2001 Violence in West Kingston, was reported as saying: “Referring to the evidence that women dressed in night wear and children as young as six to 12 formed a human shield for gunmen, I do not understand the logic behind saying to both the police and soldiers, that because there are women and children in front of the gunmen they cannot fire...” The statement is in direct contradiction of Jamaican and international law and standards.

Jamaican dollars a day (approximately US\$10) – may create a bias in favour of the police: “Having ‘professional’ juries...runs the risk of jurors being forced to return a verdict favourable to the police. If they don’t return a favourable verdict they don’t have work the following week.”<sup>21</sup> The authorities have reportedly justified the repeated use of the same jurors because other members of the public are not available.

## **Lack of will to prosecute**

The charging of police officers for an alleged violation of human rights is extremely rare, and trials almost unprecedented. The DPP has appeared reluctant to prosecute police officers, for example in the high-profile cases of Michael Gayle and Patrick Genius, even when a Coroner’s Court jury has found security personnel to be criminally responsible.

On 22 December 1999, a Coroner’s Court jury returned a 10 to one verdict of manslaughter as the cause of death after finding that Michael Gayle was “excessively beaten by joint security forces” on 21 August 1999. The jury recommended criminal charges but, despite numerous witnesses to the killing, the DPP refused to press charges on the grounds that there was insufficient evidence to identify the individual officers responsible.<sup>22</sup> Charges were not brought in connection even with minor offences, despite testimony at the inquest that police officers and soldiers had fabricated evidence.

In the case of Patrick Genius, killed by police on 13 December 1999, the DPP refused to prosecute despite the verdict of a Coroner’s Court jury that the police officers concerned should be held criminally responsible. The police officers who shot him alleged that he had fired first at them and that they had acted in self-defence. The DPP said that their explanation could not be disproved, and that Patrick Genius might have continued running and firing at the police after being shot, an assertion that strains credibility according to medical experts consulted by Amnesty International

Eyewitnesses said that Patrick Genius had his hands in the air when he was shot. An internationally renowned pathologist who reviewed the autopsy report concluded that the killing bore the classic hallmarks of execution: none of the bullet wounds were in the front of the body, suggesting that Patrick Genius was not facing those firing at him; and two wounds in the head showed a downward trajectory, indicating that he had been shot from above. Two of the three officers involved in the incident testified that they discharged their weapons after throwing themselves onto the ground to avoid gunfire, therefore giving their bullets an upward trajectory.

The DPP also said that forensic tests had revealed that Patrick Genius had gunpowder residue on his hands at the time of death. The forensic expert who testified at the inquest said she had found only one “trace” of residue on the palm of his right hand. When a gun is fired,

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<sup>21</sup> Quoted in “80% of cases at Coroners Court not yet heard. System overburdened and in need of reform”, *Jamaica Observer*, 4 August 2002.

<sup>22</sup> For further information see Amnesty International, *Jamaica: The killing of Michael Gayle: authorities yet to hold police and army officers accountable*, May 2000, (AI Index: AMR 38/02/00).

there are more traces of gunpowder on the back of the hand, since the palm is gripping the weapon and less exposed to the discharge of gunpowder. Yet no traces were found on any other part of Patrick Genius' hands, indicating that the trace on his palm was from another source, probably the hands of the police officers who had just discharged firearms and handled his body.

International human rights standards that Jamaica has committed to uphold require a *prima facie* case of unlawful killings by the police to be thoroughly investigated in a criminal court and those responsible held to account. A jury should decide whether the officers shot Patrick Genius in self-defence, not the DPP alone. In November 2002, the Court of Appeal granted his family leave to appeal against the DPP's decision.

The DPP has denied any reluctance to prosecute police officers and told Amnesty International that the general public impedes investigations of police shootings by removing evidence that the person shot dead had fired first. However, he has failed to take a proactive role in criminal proceedings, or to observe the UN Guidelines on the Role of Prosecutors, especially in terms of investigating crime, supervising investigations and ensuring that court decisions are carried out.<sup>23</sup>

#### **Mired in procedures**

The bringing of any police officer to justice for human rights violations involves a quagmire of procedures. The initial incident is investigated by the Bureau of Special Investigations (BSI), which may send the case to the Police Public Complaints Authority (PPCA) or direct to the DPP. The PPCA may conduct their own investigation or comment on the case. The DPP, on receiving the file, nearly always exercises his discretion to order a Coroner's Court inquest. When it has reached its verdict – sometimes only after many years – the DPP decides whether to order a criminal prosecution but is not bound by the verdict. If a prosecution is ordered, a court will hold a preliminary enquiry to establish whether a *prima facie* (at first glance) case exists. If such a finding is made the court then orders a trial.

## **Lawbreaking by police**

Extrajudicial executions are not the answer to violent crime. The ineffectiveness and inefficiencies of the Jamaican judicial system have left many people distrustful of the courts' ability to protect society from violent criminals. This has led some to believe that extrajudicial executions have a role to play in effective crime prevention. Such sentiments are morally wrong. Advocating unlawful methods of law enforcement has in practice proved totally ineffective in fighting crime. David Bayley, a professor of criminology at the University of New York, has written:

*“...the choice between hard (deterrent) and soft (rule-of-law) policing is false. In order to become effective at preventing crime, police need to be protective of human rights so that*

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<sup>23</sup> Article 15 states: *Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly...grave violations of human rights...and, where authorized by law or consistent with local practice, the investigation of such offences.*

*they can enlist the willing cooperation of the public. Policing by consent...is more effective at crime prevention and control than hard-nosed law enforcement from a socially isolated police.*

*“Second, when the police violate the rule of law, they not only forfeit the cooperation they need, but they raise the likelihood that encounters with the public will generate hostility and violence. When police act beyond the law they lose their moral authority. This creates a tragically reinforcing cycle: abuse by the police intensifies public suspicion and hostility toward the police; suspicion and hostility are expressed as sullenness and disrespect; this prompts the police to exert their authority more explicitly, perhaps more forcibly, which begins the cycle over again.”<sup>24</sup>*

The government and the police JCF have publicly endorsed community policing. A recent police strategy stated:

*“Our experience suggests that policing is most effectively done in association with an active and co-operative citizenry that is prepared to share with us the responsibility for their security and maintenance of stable social order. We intend to make a transition from the para-military and reactive type of policing to a more service-oriented and proactive style appropriate to Jamaican conditions.”<sup>25</sup>*

Community policing has been credited with having a positive effect on the crime situation and dramatically reducing crime in Jamaica. In May 2002, one senior officer, Superintendent Herman Brown, attributed the fall in crime to better police relations with communities: “We have proactive policing which leads to extremely good relations with members of the public...With the cooperation of the people, we’re getting on alright.”<sup>26</sup>

Amnesty International welcomes the proposal and implementation of community policing in Jamaica. It believes that a police force that is closer to the community it serves is less likely to commit human rights violations – as well as being more effective in crime detection and prevention.

However, advocating or attempting to implement community policing is rendered far less effective as a method of reducing crime if the police are allowed to continue to kill members of the community unlawfully and with impunity. It will be some time before the same police force that killed seven young members of the community in Braeton is trusted enough by residents to make community policing there practical or effective. Regular killings by the police in disputed circumstances convey the message to the whole of Jamaican society that the police cannot be trusted to obey the law and are authorised to resort to cold-blooded murder in the course of their duties.

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<sup>24</sup> David H. Bayley, “Law Enforcement and the Rule of Law: Is There a Tradeoff?”, in *Criminology and Public Policy*, Volume 2 (1), November 2002, pp. 133-154.

<sup>25</sup> Quote from the website of the Jamaican Constabulary Force, [www.jamaicapolice.org.jm](http://www.jamaicapolice.org.jm)

<sup>26</sup> Quoted in “Snr cop tells why crime is low in St Elizabeth”, *Jamaica Gleaner*, 2 February 2002.

Giving police officers a licence to kill unlawfully may also send the message that other unlawful practices will be tolerated. It is likely that a police officer who assaults a member of the public or carries out an extrajudicial execution will be willing to break other laws.

## **A pattern of impunity**

Jamaica has a history of investigations and commissions of inquiry into human rights violations that failed to result in convictions of the perpetrators or other action to hold them to account.

Recent examples include a commission of inquiry into the forcible removal by police of up to 35 homeless people from Montego Bay in July 1999. Abandoned 50 miles away, those that resisted were pepper-sprayed and tied up. A commission of inquiry identified six police officers as involved but not the officials responsible for ordering the removal. Only one officer was charged with false imprisonment and she was acquitted at trial for lack of evidence.

A commission of inquiry into the mass beating of some 300 prisoners at Saint Catherine's District Prison over several days in May 2000 failed to hold to account the soldiers and prison warders responsible. Reports indicated that the prisoners were beaten with batons, baseball bats, rifles and irons and that some were strangled with cord and rubber belts. Injuries included fractured bones and broken teeth. At least 100 injured prisoners were reportedly denied medical attention until the Head of Medical Services in the prison publicly condemned the incident. The commission of inquiry found that the extent of the inmates' injuries was disproportionate to the threat they posed. It concluded that they were taken from their cells and beaten, and that prison personnel discharged firearms into cells. To Amnesty International's knowledge, no security officers have been charged in connection with the assaults.

Despite clear evidence that the security forces had violated international and domestic law, the Commission of Inquiry into the West Kingston Violence, exonerated the police and army officers involved. No charges were laid against any officer. It investigated disturbances in July 2001 allegedly sparked by a CMU raid in Tivoli Gardens in which at least 27 people died and over 50 were injured. Local residents maintained that many of those killed were shot indiscriminately and that others were deliberately targeted by the security forces. Television showed soldiers and police officers firing automatic weapons into a densely populated area while holding the guns above their heads. Many civilian witnesses were unwilling to testify; some alleged that they had been intimidated by police.<sup>27</sup>

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<sup>27</sup> In July 2003 Amnesty International is scheduled to publish a report detailing its concerns around the Commission of Inquiry into the West Kingston Violence.

## Conclusion

As detailed in the introduction of this report, Amnesty International has closely monitored the investigation into the events of 14 March 2001.

Having subjected the information to detailed analysis -- including examination by independent experts in various fields -- the organization can come to only one conclusion. The evidence overwhelmingly points to the seven young men and boys being extrajudicially executed by the officers of the Crime Management Unit.

Numerous factors of the police explanation of the deaths of the seven are simply not credible. For example -- as pointed out by Inspector Vogel and detailed on page 20 -- it is inconceivable that Curtis Smith and Andre Virgo received so many head wounds in the manner described by officers. Other factors casting doubt on the police version of events include:

- That six of the young men were shot in the head when the police officers fired at them in the dark and without clear targets;
- That four of the men were shot in the head multiple times when the first shot to hit them would have resulted in their falling to the floor;
- There were so few bullet holes in the walls of the house and no bullet holes in the wall behind the men where they were allegedly shot;
- That a bullet from Constable Bernard's gun was found in the body of Curtis Smith yet the officer claimed in a statement not to have fired his weapon;
- That the police claimed to have come under 'heavy fire' but only documented 11 spent bullet shells as being recovered from the house.

**Photo caption : the father of Tamayo Wilson, Leonard Wilson, demonstrates against the killing of his son.**

The relatives of the Braeton Seven and others killed by the police look to the Jamaican government to answer for the failures of the system responsible for investigating killings by state agents.

The Prime Minister and the Minister of National Security have told Amnesty International that the agencies and procedures for investigating alleged violations of human rights are -- while still subject to measures of improvement -- adequate. The government also asserts that the DPP and the courts are independent of government; that it has no control over who is tried or convicted; that it should not exert "political" pressure on the judicial system -- and that it is therefore not answerable for the lack of prosecutions or convictions of security officers accused of human rights abuses.

Amnesty International believes, and international standards specify, that the independence of the judiciary is paramount and that it is the duty of governments to respect and observe this. However, it is the absolute responsibility of the government to ensure that the mechanisms and procedures for bringing to justice those state agents responsible for human rights violations are meaningful, transparent and, above all, effective. This responsibility has been recognized by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, who stated:

*“In most situations impunity is the result of a weak and inadequate justice system, which is either reluctant or unable to investigate and prosecute cases of human rights violations, including violations of the right to life...The Special Rapporteur wishes to emphasize that the primary responsibility to prosecute persons responsible for human rights abuses rests with the national authorities (emphasis added).”*<sup>28</sup>

The Government’s abdication of responsibility for the lack of successful prosecutions begs the question: if the highest elected officials in the country are not responsible for the protection of human rights and the accountability of the security forces, who is?

In Jamaica, the process of bringing to trial any police officer accused of human rights abuses takes years. Cases where there are strong indications of criminal behaviour by police officers have been stalled or sometimes appear to be abandoned. The length of time itself creates problems: witnesses leave the country or die; their memories fade; evidence is lost or damaged.<sup>29</sup> Police officers are rarely detained awaiting trial, giving them the opportunity to escape justice by fleeing the country.<sup>30</sup>

Amnesty International holds the case of the Braeton Seven as a barometer for the Government’s commitment to holding the police force accountable. To date, the authorities’ ineffectiveness in adequately investigating and bringing to justice those guilty of breaking the law in this and other cases is lamentable.

To compound the grievous lack of adequate investigation, those involved in the killing of the Braeton Seven have seen their influence increase. The Crime Management Unit, a division of the police implicated in numerous alleged extrajudicial executions and other human rights violations has been massively expanded; a *de facto* promotion for its leader, Superintendent Reneto Adams, who led the unit in Braeton.<sup>31</sup>

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<sup>28</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 25 January 2002, reference E/CN.4/2000/3.

<sup>29</sup> Many of these problems are prevalent in the wider judicial system and damage public trust that common criminals will be convicted. The slowness of the system also leads to most alleged criminals suffering prolonged imprisonment without trial; an abuse of the internationally recognized right to a prompt trial.

<sup>30</sup> See for example, “Constables on the run”, *Jamaica Gleaner*, 18 September 2000.

<sup>31</sup> Source: “Cops set for battle”, *Sunday Gleaner*, 1 December 2002, announcing an increase of 100 men in the strength of the CMU.



On 30 April 2002, Prime Minister P.J. Patterson made the following statement to Parliament:

*“We have begun to establish the basis for harmonious community relations rooted in trust between the people and an efficient and competent security force. This will include a new philosophy of policing that will be anchored in respect for the human rights of all citizens, and create a renewed respect for law and order.”*

This vision can become a reality only if the security forces are held accountable, and are seen to be held accountable, by the authorities. On paper, the mechanisms for investigating alleged extrajudicial executions by security officers are adequate. In reality, the system is laborious, inadequate and inefficient, allowing lengthy procrastination. This diluted process allows the authorities constantly to shift the responsibility for seeing justice completed. The political will for vigorous investigations and prosecutions appears to be lacking.

Despite the hundreds of police killings that occur every year, the trial of a police officer is exceptional and a conviction even rarer. To Amnesty International's knowledge, the last police officers to be convicted of a serious human rights abuse in a court of law were in October 1999. Since then a mere handful of trials have led to acquittals.<sup>32</sup>

Amnesty International fears that the inadequate and incomplete investigation into the killing of the Braeton Seven is one in a long line of failures by the Jamaican authorities to ensure that police officers are fully investigated and, if necessary, prosecuted, for unlawful killings. For many years, the government has allowed security officers to commit human rights violations with virtual impunity. It is time for that impunity to end.

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<sup>32</sup> Amnesty International has repeatedly asked the Jamaican Government to provide details of the trials and convictions of police officers accused of violating human rights. To date, none of the request has been met.

## **RECOMMENDATIONS**

Successive governments in Jamaica have failed to take responsibility for or to correct the country's appalling human rights situation. The authorities have sought to excuse (or to mitigate) the situation by pointing to the appalling level of violent crime the Jamaica Constabulary Force and/or the Jamaica Defence Force face on a regular basis.

It is precisely because of the obligations that international law imposes on the state in this area, together with the state's monopolistic role in upholding the law, maintaining order and dispensing justice, that the Jamaican state must assume responsibility for resolving the human rights situation.

The authorities in general -- and the Director of Public Prosecutions in particular -- should demonstrate their commitment to the protection of human rights and the rule of law by ensuring that those responsible for the deaths of the Braeton Seven are subjected to any appropriate criminal proceedings. The criminal proceedings should include action, not just against those directly responsible for the deaths, but also against any officer involved in ordering the killings or attempting to prevent the discovery of evidence of criminal wrongdoing by other officers or otherwise obstructing the investigations.

The initiation of criminal proceedings in the case of the Braeton Seven should be viewed as a first step to ending the situation of impunity for police officers implicated in extrajudicial executions. The authorities should then continue to vigorously prosecute those police officers allegedly responsible for violations of human rights.

The authorities should also implement the following recommendations, which are made in concert with 7 pages of recommendations included in Amnesty International's report *Jamaica: Killing and violence by police: How many more victims?* To Amnesty International's knowledge, to date the authorities have only partially implemented one recommendation from this report.<sup>33</sup>

### **To Government**

#### **Official Condemnation**

*Jamaica's highest authorities should demonstrate their absolute opposition to extrajudicial executions, torture and ill-treatment. The authorities should make it clear that extrajudicial executions will not be tolerated in any circumstances and that police adherence to the law is central to an effective anti-crime strategy.*

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<sup>33</sup> That State officials at all levels should fully collaborate with, and facilitate the work of non-governmental organizations.

- State agents, including law enforcement officers, should ensure that those who make unsubstantiated allegations about human rights defenders face disciplinary action.
- The authorities (including police officers) should refrain from publicly discussing accusations of a criminal nature made against those who have been killed by the security forces.

### **Investigations**

*Jamaica's highest authorities should ensure the adequacy of investigations into all killings by police officers.*

- Those responsible for conducting the investigation must be independent from the police units under investigation.
- The scope of the investigation should not be limited solely to the killing of the individual but should also include the planning of the police operation and whether sufficient attention was given to the protection of the right to life, the responsibility of the chain of command, etc.
- Investigations should serve to identify victims; recover evidence; discover witnesses; discover cause, manner, location and time of crime and identify and apprehend perpetrators. Investigations shall also include the determination of any pattern and practice which brought about death.
- Incident scenes should be secured to allow the arrival of, and examination by, forensic experts.
- Jamaica's highest authorities should ensure that crime scenes are carefully processed with evidence accurately collected, documented and preserved, including forensics and ballistics evidence. The failure of police officers to carry out these procedures should be a disciplinary offence.
- The body of the alleged victim should not be disposed of until an adequate autopsy has been conducted by a suitably qualified doctor who is able to function **impartially**.
- The responsibility for autopsies on those killed by police officers should be removed from the Ministry of National Security and given to a body independent of the government.
- Those undertaking autopsies should be experts in forensic pathology. Autopsy reports should conform to international standards and be full, detailed, clear, comprehensible and objective. **Pathologists performing autopsies should receive training on how to conduct and record post mortems in accordance with international standards.**

- Investigations must answer all pertinent questions relating to the death of an individual killed.
- Officials suspected of responsibility for extrajudicial executions, torture and other violations should be suspended from active duty during the investigation.
- The families of those killed by police officers should be represented, via the legal aid scheme, by legal council which is independent of the state. The relatives of those killed must be informed to all significant developments in the investigation of the killing.
- The legal representatives of the families of those killed must be granted access to all relevant documentation of the investigation, such as autopsies, ballistic and forensic reports, etc, as an automatic right.
- All previous investigations that have been conducted in an inadequate manner and have fallen short in international standards should be reopened and vigorously repeated.

### **Coroner's inquests and other civil proceedings**

*Inquest should be held in all suspected cases of extra-legal, arbitrary and summary executions, and other deaths by law enforcement officials.*

- Inquest proceedings should not delay -- or be used as an excuse to delay -- criminal proceedings.
- All rules of procedure and evidence in civil proceedings, including inquests, in all suspected cases of extra-legal, arbitrary and summary executions, or other deaths by law enforcement officials, shall accord with international human rights law, standards and principles, and shall be conducted promptly, thoroughly and impartially.
- The requirement of impartiality shall apply to all aspects of inquests and other civil proceedings dealing with alleged human rights violations by state agents, including: jury selection procedure, summaries of expert evidence, contact between jury, counsel and the Coroner.
- Witnesses should be compelled to give evidence in coroner's inquests and other civil proceedings.
- Where civil proceedings, including inquests, find criminal liability on the part of law enforcement officials, criminal proceedings should be initiated *in all cases*.

### **Prosecutions**

*Jamaica's highest authorities should ensure that those responsible for extrajudicial executions, torture and other human rights abuses are brought to justice.*

*To this end, comprehensive legal and institutional reform should be undertaken to ensure that national systems for investigation of human rights abuses committed by law enforcement officials accord with international requirements of transparency, thoroughness, impartiality and accountability:*

- Officers who order or tolerate extrajudicial executions, torture or other human rights abuses by those under their command should be held criminally responsible for these acts, including if the superior officer knew or should have known of abuses but failed to take concrete action.
- Trials must be fair and take place in civilian courts according all rights of due process.
- The perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.
- The DPP should ensure the *efficient, effective and prompt* prosecution of public officials implicated in crimes. The DPP should *actively* supervise such investigations and the execution of court decisions.
- The DPP should be required to provide comprehensive reasons for decisions when declining to prosecute in cases of police killings where *prima facie* evidence of extrajudicial execution exists.
- Complainants, witnesses, lawyers, judges and others involved in investigations should be protected from intimidation, threats and reprisals. Officers who testify against their fellow officers in criminal or civil proceedings should be supported and protected from intimidation and threats, including adverse internal proceedings. No pressure, whether physical or mental, shall be exerted on witnesses, victims or suspects in attempting to obtain information.
- Victims of extrajudicial executions, torture and ill-treatment and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

### ***Prevention and training***

#### ***Jamaica Constabulary Force and Jamaica Defence Force***

- The Jamaican authorities should ensure that all allegations of human rights violations by members of the JDF are investigated fully, promptly and impartially by a body which is independent of those allegedly responsible and which has the necessary powers and resources to carry out the investigation.

### **Policies on lethal force**

- The policies of the JCF and the JDF on the use of force and firearms should be revised in accordance with international standards, including the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, the UN *Basic Principles on the Use of Force and Firearms* and international legal obligations under the International Covenant on Civil and Political Rights (ICCPR).
- The JCF and the JDF should be required **by law** to implement policies on the use of force and firearms and systems for the monitoring of officers.
- The authorities should ensure that security officers are provided with all appropriate and available self defence equipment in order to lessen the need for the use of force.

### **Provide effective training**

- Training for law enforcement officials should incorporate international standards on human rights.
- Training should be practical and relevant to police work, equipping law enforcement officers with the skills to deal with situations which have often led to excessive force, including arrests, pursuits and sensitivity to vulnerable groups.

### **Chain-of-Command Control**

- Superior officials with chain-of-command control should be held responsible for strictly enforcing penalties for failing to report, or covering up, abuses.

### **The right and duty to disobey**

- Law enforcement officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution or other human rights violation.

### **Behaviour monitoring systems**

- Appropriate screening procedures must be implemented to select law enforcement officials and review their compliance with national regulations and international human rights standards. Psychological evaluations should be undertaken in recruitment, before training and at regular intervals thereafter.
- Early warning systems to deal with officers involved in human rights violations should be established. The records should be regularly audited in order to identify, and take remedial action in respect of, any patterns of abuses. The records should be open to inspection by independent oversight bodies.

### **Disciplinary proceedings**

- The Jamaica Constabulary Force, the Jamaica Defence Force and the Police Public Complaints Authority should publish regular statistical data on the internal disciplinary process and the outcome of disciplinary action.

### **To Police Public Complaints Authority (PPCA)**

- The PPCA should be monitored to ensure that it carries out its investigative functions fully, promptly and impartially, including powers to demand the production of evidence and insist on cooperation from police departments and individual officers.
- The PPCA should prioritize investigations into police killings and allegations of grave human rights violations.

- The PPCA should provide regular, detailed annual public reports, giving relevant data, including the type and outcome of complaints.
- The PPCA should embark on an awareness initiative to publicize the complaints procedure within the community to ensure that it is accessible to the public.
- The PPCA should be provided with the necessary powers and resources to carry out its function.

***To foreign governments and institutions providing policing arms, training or other assistance***

- **Based on the current record of the Jamaican security forces, foreign governments should not provide arms directly to the JCF or JDF, or transfer arms to Jamaica likely to be diverted to the JCF or JDF, until significant steps have been taken to end impunity for extrajudicial executions and other grave violations of human rights.**
- All foreign governments or institutions providing training or other assistance to the JCF or JDF should provide meaningful information to the public about the human rights content of the training and assistance that is being given to the police, including monitoring procedures to prevent firearms and other potentially lethal equipment from being given to police officers who are likely to commit unlawful killings or cause unwarranted injuries.



## **Appendix: Statements by police officers**

Four police officers who said that they had entered the house and shot the Braeton Seven gave their accounts of the shootings in statements made to investigators. The key parts of these statements, relating to the entry into the house and the firing of guns, are given below. The first statement is reproduced more fully, to include the description of the events leading up to the shootings by way of scene setting. The text is published as written; *sic* is not employed.

### **Constable Linroy Edwards, statement of 17 March 2001**

I am a Constable station at the Spanish Town Police Station and attached to the Criminal Investigation Branch.

On the 14<sup>th</sup> of March, 2001 about 3am, I reported for a special duty at the Duhaney Park Police Station in St. Andrew present were S.S.P. Reneto Adams, S.P. Harry Daley and D.S.P. Cornelius Walker. This operation comprised about sixty (60) Policemen drawn from the St. Catherine North Division, Special Anti Crime Task Force, Crime Management Unit. I was dressed in plain clothes wearing protective bullet proof vest and armed with service 9mm pistol with serial number 245PZ81009 and twenty six (26) 9mm cartridges.

We received briefing from D.S.P. Walker that we were going to 51 Cassava Piece in St. Andrew to apprehend two wanted men namely Christopher Grant and Conrad Robinson who were wanted in connection with the Murder of Constable Dwight Gibson, Dennis Betton and the Shooting of Miss Adassa White...On our arrival we received further briefing and we proceeded to Cumberland in St. Catherine...

We then went to Braeton in St. Catherine on our arrival about 4:23 am, we parked the service vehicle in a parking lot and I received certain instruction from Inspector C. McKenzie, as a result a party of Policemen namely S.S.P. Adams, Inspector McKenzie, Corporal Miller, Corporal McFarlane, Constables Walker, Wilson, Constantine and myself walked along a pathway and entered premises 1088 Fifth Seal Way.

I proceeded low and tactically along the side of the house to the back of the premises which was very dark with other Police personnel. Superintendent Adams alerted the occupants of the premises and also knocked on a side window of the house, I heard commotion in the house and shortly after explosions were heard coming from inside of the house which quieted after a while.

S.S.P. Adams then shouted for the men to surrender and then several explosions were heard coming from the house again. I observed that the back door to the house was opened and I moved tactically towards the rear door along with Constable Bucknor, Constantine and Ebanks, where we were greeted with gunfire, I saw flashes of light but could not see clearly at the house was in darkness.

I crouched and returned the fire in the direction and saw a man fell at the doorway, we then went down a passage way, Constable Bucknor and myself crawled on our bellies with Constable Ebanks and Constantine crouching behind. As we reached the living room area I

saw several flashes of light and heard loud explosions like gunshots, I returned the fire in the direction where the flashes were coming from. There was an exchange of gunfire and then the shooting quieted.

After the shooting ceased S.S.P. Adams then joined us in the house with a big light and illuminated the room, I saw several men lying on the ground bleeding and suffering from what appears to be gunshot wounds, there were six (6) men inside the house and one at the doorway to the back door.

The seven men were rushed to the Spanish Town Hospital by other Policemen and I later learnt they were all pronounced dead on arrival.

During the shoot-out I expended twelve (12) 9mm cartridges from my service pistol.

### **Constable Miguel L. Ebanks, statement of 18 April 2000**

...I was dressed in Denim equipped with bullet-proof vest and ballistic helmet which was worn by me and armed with M16 Rifle #8135141 and Thirty (30) rounds.

Senior Superintendent Adams and Inspector C. McKenzie entered this premise along Sealway, which was also dark, with me and other Police Personnel. Constable Edwards, Bucknor, Constantine along with me, tactically placed ourselves at the end of the house on the premise.

I heard a knock on the window, where I heard Senior Superintendent Adams called out to the occupants of the house, telling them that the Police are outside and that he had warrants to search and apprehend suspects in cases of murder and illegal possession of firearm. I then heard shuffling inside the house.

Gunshots were heard subsequently coming from inside the house. I immediately took cover.

After about 1-2 minutes I heard Senior Superintendent Adams saying, "Put down your guns and come out of the house."

The men again fired at us. The Police simultaneously returned fire.

I observed that the back door of the premise was opened. Constable Bucknor, Edwards and I crawled to the entrance of the house which was dark. We were greeted with gun fire, where I saw sparks of fire and heard a loud explosion. Fearing for life I immediately returned the fire where it was seen, for I was afraid of being shot and killed. Constable Bucknor and Edwards also fired in the direction of where the fire was seen.

As we advanced in this house we were greeted with more gunfire, where flashes of fire and loud explosion was heard and seen. The fire was returned in the direction where the sparks of fire were observed. Soon after the place was calm.

### **Constable Leighton Bucknor, statement of 17 April 2001**

On Wednesday the 14<sup>th</sup> of March 2001, at about 3:00:

A party of policemen along with Senior Superintendent Adams entered a premises and I along with three (3) and four (4) officers went to the side of the premises. I heard knocking on the metal window, then several explosions were heard coming from inside the building, then I took cover by lying on the ground, suddenly the back door flew open and I saw the movement of persons, I shouted, "Police, put light in the house and come outside." About three (3) to four (4) seconds I heard explosions and saw flashes of light coming from inside the house to the direction of the door, where I was lying on the ground. I could not see the persons inside as the house was in total darkness.

I then crawled on my belly along with Constable Edwards and entered the house, while Constable Constantine and others cover us. As I entered the house through the open door, two (2) men rushed towards me. I again shouted out to them, "Police we are inside the house." I then heard another set of explosions and I fired several shots from my service rifle M16#56652325 in the direction that the shots were being fired and a man fell at the doorway beside a stone where I was. I got up along with Constable Edwards and several explosions were heard and I saw flashes of lights, I again fired my rifle in the direction of same. I heard explosions coming from beside me where Constable Edwards was. About three (3) seconds later I heard several more explosions.

After the shooting subsided, Mr. Adams entered the house with light and I saw a man lying face down beside a stone and a gun in his right hand. I took the gun from him, about a yard from him another man was lying beside a settee with another gun in his hand, I took it from him and identified them as revolvers serial# and serial# . I then handed these revolvers to Detective Corporal McFarlane from the Spanish Town Criminal Investigation Branch. I saw Constable Edwards with two (2) other revolvers in his hand, he told me that he took one (1) from the hand of a man in the room and the other was found on the floor beside a bed.

### **Constable Wayne Constantine, statement of 19 April 2001**

Upon our arrival at premises at along Fifth Seal Way in Braeton, Senior Superintendent Adams, I and some other members of the party entered the yard. This was about 4:25 4:30 a.m. the pathway that lead to the premises was in total darkness. There were no signs of anyone along Fifth Seal Way or in this yard. I, Constable Bucknor, L. Edwards, and M. Ebanks went to the side of the house nearest to the rear of the premises.

During this time I heard a knocking on the window of the house and heard Senior Superintendent Adams saying he had warrants to search and apprehend suspects in cases of Murder and Illegal Possession of Firearm and Ammunition.

I did not hear any response from inside the house. I only heard shuffling. I then heard shots rang out from inside the house.

After about 1-2 minutes I heard Senior Superintendent Adams saying put down your guns and come out of the house with your hands in the air.

I noticed that there was a back door that was opened. I, Constable Ebanks, Bucknor and Edwards approached the door and were greeted with gunfire from the house. I saw flashes of fire and heard explosions. I also saw shadows moving in the house. By this time I became very frightened and felt that I was going to die.

I then knelt on the ground and returned the gunfire in the direction of the threat. During this time I saw Constable Bucknor and Edwards crawled on their stomachs into the house.

After the Police entered the house I again heard gunshots rang out inside the house. After the shooting died down, Senior Superintendent Adams went inside the house with a light at this time I saw persons injured and lying on the floor. I also saw four (4) firearms being recovered from these men. These firearms were handed over to Superintendent Daley.

## **APPENDIX TWO: Text of letter sent to the Government. No reply was received.**

The Hon. Dr Peter Phillips  
Minister of National Security  
Ministry of National Security  
Mutual Life Building  
North Tower  
2 Oxford Road  
PO Box 472  
Kingston 5  
Jamaica

Ref.: TG. AMR 38.011.2002

31 October 2002

Dear Minister,

Amnesty International would like to offer its congratulations to the PNP on its recent re-election to office.

Amnesty International is currently preparing a publication addressing the organization's concerns around the deaths of Lancebert Clark, Dane Reynaldo Whyte, Christopher Grant, Curtis Smith, Reagan Beckford, Andre Virgo and Tamayo Wilson -- commonly known as the "Braeton Seven" -- and around other human rights violations allegedly committed by the Jamaican Constabulary Force.

Whenever investigating an allegation of the violation of human rights, it is the policy of Amnesty International to seek information from the government of the country concerned. In this spirit -- and as we have previously been requested to do by the Rt. Hon Prime Minister P J Patterson -- we are writing to seek information regarding the killing of the Braeton Seven, the subsequent investigation and other matters pertaining to alleged human rights violations.

Amnesty International would be extremely grateful if you could provide the following information detailed in the questions below.

**Trials or convictions of police or army officers on charges relating to the violation of human rights**

- Amnesty International is unaware of any trials taking place of any police or army officers on charges relating to human rights violations (although the organization is aware that several officers have been charged with such offences) in the past three years. Could you please inform us of any such trials that have taken place or which are currently underway;
- Assuming that law enforcement officers have been, or are currently being tried on charges relating to human rights abuses, could you provide details of the nature of the charges against the officer and the outcome of the trial (if completed);
- Were any charges laid or trials conducted in relation to the beating of prisoners in St. Catherine's District Prison in May 2000, following the Commission of Inquiry into same?;

**The killing of seven young men in Braeton on 14 March 2001**

- Could you please provide details of the criminal records of the seven males killed in Braeton on 14 March 2001;
- Amnesty International understands that police officers took swabs from the hands of the seven in order to ascertain whether they had recently discharged a firearm. Could you inform us as to which section of the police the officer(s) taking the swabs were from; and the date and time such swabs were taken;
- Is it common practice for police officers to collect forensic evidence via taking swabs from deceased persons?;
- According to various sources, the voice of a police officer -- allegedly the head of the Crime Management Unit (CMU) -- can be heard on the tape of a camera man present shortly after the killings of the seven, instructing other officers to pick up the spent shell casing of bullets. Amnesty International's believes that such tampering of the scene of a police killing would be in violation of police procedures. Has any investigation or disciplinary action been taken in relation to the evidence that the scene was deliberately tampered with by police officers for no justifiable reason?;
- Amnesty International understands that 1088 Seal Way was cleaned by police "auxiliary personnel" in late May 2001. We would be grateful to be informed as to which officer(s) of the JCF ordered such action? Is it common practice for the JCF to undertake cleaning work on behalf of private citizens who claim they are not able to afford to pay for such services?;

- Amnesty International received reports of threats to members of the Braeton community in general, and the relatives of the seven killed in particular, following 14 March 2000. The threats were allegedly made by leading members of the CMU. The organization reported these threats to the Commissioner of Police in person during a meeting in April 2000 and was assured the threats would be investigated and the outcome made known. However, Amnesty International has not received any further information regarding the threats. We would welcome any information as to whether the threats were investigated and the findings and action taken as a result of inquiries;
- In their initial reporting of the killing of the Braeton Seven, the JCF spoke of “3 to 5 men” who escaped from the premises at 1088 Seal Way after the police, who had surrounded the front of the property, made themselves known to the occupants. Has any investigation been made into who the alleged escapees were?; and what was the outcome of any such investigation?;

#### **The Coroner’s Court inquest into the killing of the seven young men**

- Was any legal aid or other assistance provided by the State in order for the relatives of the seven men killed to be represented at the Coroner’s Court inquiry?;
- Which, if any, State entity paid for the attorneys representing the police at the Coroner’s Court?;
- What role was assigned to the Deputy Director of Public Prosecutions at the Coroner’s Court inquiry into the killing of the Braeton Seven?
- What measures, if any, are taken to avoid jurors at the Coroner’s Court being repeatedly used in numerous cases leading to accusations that they are “professional jurors”? (sitting to claim the stipend);

#### **Other areas of concern to Amnesty International**

- Conroy Robinson was arrested on the 14 March 2001 by the CMU immediately prior to the CMU arriving at the house in Braeton. According to information received by Amnesty International, Robinson continues to be held. We would welcome confirmation of this and details of the charges against Robinson;
- What is the current status of the investigations into the killings, by police officers, of Cleon Brown, fatally shot on 16 October 1998, and Dameon Lunan, fatally shot on 22 October 1999. We understand both cases were before the Coroner’s Court following frequent adjournments.

On 5 July 2002, Amnesty International wrote to you and to the Commissioner of Police seeking clarification on the policy of the Jamaican government and the JCF regarding the status of human rights defenders following public statements made by the head of the CMU. The statements accused various sections of Jamaican society of being involved in criminality and Amnesty International and the United Nations of

being established to “protect” criminals. The head of the CMU also strongly implied he did not believe in criminal suspects’ right to be presumed innocent. A copy of this letter is enclosed for your convenience.

To date, Amnesty International has yet to receive a reply to the letter -- which sought to clarify whether the head of the CMU was expressing the official policy of the Jamaican authorities -- and would welcome your comments as to its contents.

I would like to make you aware that this correspondence and any subsequent reply may be published as an appendix to the report.

I would like to thank you for your time and look forward to hearing from you.

Yours sincerely,

Ignacio Saiz  
Deputy Director  
Americas Regional Program

cc. The Rt. Hon. P J Patterson, Prime Minister, Mr Francis Forbes, LL.B,  
Commissioner of Police, Mr Kent Pantry, Director of Public Prosecutions.