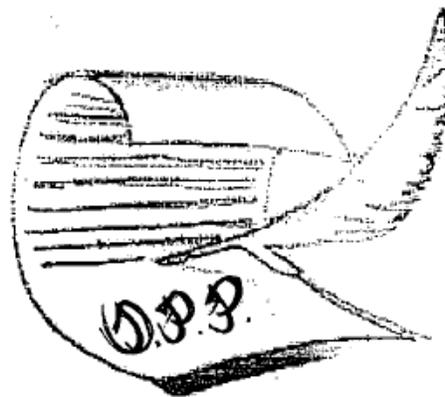


**THE DECISION OF THE DIRECTOR  
OF PUBLIC PROSECUTIONS IN THE  
JANICE ALLEN CASE (*with detailed  
reasons*)**



**Ms. Paula V. Llewellyn, Q.C**  
**Director of Public Prosecutions**  
**April 30, 2009**

## **TABLE OF CONTENTS**

<u><b>ITEMS</b></u>	<u><b>PAGES</b></u>
<i>Introduction</i>	5-6
<i>Outline of the Facts</i>	6-7
<i>Overview of the Case and the Result of the Different Hearings</i> _____	7-8
- <i>The Preliminary Enquiry</i>	7
- <i>Trial in the Portland Circuit Court</i>	7
- <i>Applications for Judicial Review</i>	8
- <i>The Court of Appeal and the Privy Council Hearings</i>	8
<i>What were the Challenges that faced the Prosecution in the Trial of the Case in the Portland Circuit in 2004?</i> _____	8-10
- <i>Inconsistencies in Ann-Marie Allen’s     description of the gun</i>	8-9
- <i>Dock Identification</i>	9
- <i>The unavailability of the Firearms Register</i>	9
- <i>The Absence of Detective Inspector Lynval Dunchie     From the trial</i>	9-10

<b><u>ITEMS</u></b>	<b><u>PAGES</u></b>
<i><u>Discoveries made in relation to the Potential Evidence</u></i>	<i>10-11</i>
- <i><b>The Firearms Register</b></i>	<i>10-11</i>
- <i><b>The Station Diary and the Crime Diary</b></i>	<i>11</i>
<i><u>Findings</u></i>	<i>11-14</i>
- <i><b>Superintendent Delroy Hewitt's Account</b></i>	<i>12</i>
- <i><b>Inspector Leroy Brown's Account</b></i>	<i>13</i>
- <i><b>Explanations offered by Corporal Lance Campbell (Dispatcher of the police personnel before the incident)</b></i>	<i>13-14</i>
<i>Further Statement of Constable Rohan Allen</i>	<i>14-15</i>
<i>The Law in respect of the Admission of the Accused Man's Statement taken without Caution</i>	<i>15</i>
<i>Conclusion in relation to the Tendering of the Statement</i>	<i>15-16</i>
<i>Status of former Inspector Lynval Dunchie</i>	<i>16-17</i>
<i>Whether the Facts Support the Allegation that the <u>Acquittal was procured by Fraud on the Court?</u></i>	<i>18-25</i>
- <i><b>Destruction of Evidence in the Case</b></i>	<i>18-19</i>
- <i><b>Allegations of Intimidation and Bribery of Witnesses</b></i>	<i>19-20</i>
- <i><b>Misleading information regarding the Absence of Detective Inspector Lynval Dunchie</b></i>	<i>20</i>
- <i><b>What is Fraud?</b></i>	<i>20-21</i>

**ITEMS**

**PAGES**

*Whether the Facts Support the Allegation that the Acquittal was procured by Fraud on the Court? (Cont'd)*

- *How will a Superior Court treat an allegation of Fraud?* 21-22
- *Distinguishing the Case of People v. Aleman* 22-23
- *Further Consideration of the Absence of Detective Inspector Lynval Dunchie* 23-25

*Whether as a Matter of Law the Accused can be deprived of his plea of Autrefois acquit?* 25-27

*Factors to Consider when Exercising the Discretion to Prosecute or Not to Prosecute* 27-28

*Whether to Re-indict?* 28-29

*What are the Possible Solutions?* 29-32

- *The Right of Appeal* 30-31
- *Tainted Acquittals* 31-32

*Recommendations* 32-34

*Conclusion* 34-35

*Appendices* 36-39

## **INTRODUCTION**

I am “fully conscious of the tragic circumstance of this case and the pain and indignation which the appellant, Ms. Millicent Forbes and family feel.” I echo the sentiment as was stated by Lord Hoffman in paragraph 5 of the advanced copy of the judgement. Factually and as a matter of law, a police officer is sworn “to serve, protect and reassure” and as such he must be held at a standard of high accountability when exercising his duties. Nonetheless, he is a citizen of our country who is not above the law but he is not below it either and is therefore entitled to its protection as any other citizen.

It is within this context and against this background that I sought to determine whether to re-indict or not to re-indict Constable Rohan Allen for the offence of Murder or the lesser offence of Manslaughter. In making my decision in this regard, as was indicated by their Lordships in the last paragraph of the judgement, I had to:

- (a) *“form a view first as to whether the facts will support the allegation that the acquittal was procured by a fraud on the Court; and*
- (b) *secondly whether as a matter of law, that would deprive the accused of his plea of autrefois acquit.”*

In arriving at my decision, the following documents were reviewed:

- (1) witness statements which were a part of the original papers and additional statements collected during the course of our investigations;
- (2) depositions of witnesses;
- (3) transcript of the trial;
- (4) the relevant station diary and crime diary;
- (5) the judgements of Wolfe CJ, the Full Court of the Supreme Court, the Court of Appeal and the Judicial Committee of the Privy Council.

I am aware through the media that emotions from different sectors of the public on whether to re-indict or not to re-indict have been heightened especially after the delivery of the Privy Council judgment on the 19<sup>th</sup> of March, 2009. I wish to emphasize that throughout the investigations conducted by my Office, I and my team considered that in our quest to act in the public interest that there was no room for speculation or emotions in my attempts to arrive at a decision. This was no easy task. In my analysis of the law and facts, I endeavoured to be objective and dispassionate and accordingly in the interest of transparency and the interests of justice, I hereby proceed to give the written reasons for my decision not to re-indict the accused, Constable Rohan Allen.

### **OUTLINE OF THE FACTS OF THE CASE**

On April 14, 2000 sometime around 8:30 p.m. a party of approximately eighteen (18) police officers from the Kingston Western Division and the Special Anti- Crime Task Force led by Deputy Superintendent of Police Delroy Hewitt were on special operation in the Rema area of Western Kingston. Whilst in the vicinity of 4<sup>th</sup> Street and Collie Smith Drive, the party of police officers were fired upon by gunmen. The police officers took cover and returned the fire.

When the shooting ceased, Mr. Calvin Dacosta was seen suffering from gunshot wounds and a firearm was taken from his hand. He was identified by the police as one of the men who had opened fire on them. He was taken to the Kingston Public Hospital for treatment and subsequently charged for the offences of Illegal Possession of Firearm and Shooting with Intent. Whilst at the Kingston Public Hospital the police officers learnt that a female child, Janice Allen, had been fatally shot during the same incident.

### **Ann-Marie Allen's Account (The sole eyewitness for the Crown)**

On the day in question, she and her sister, Janice Allen, had gone to a shop on 3<sup>rd</sup> Street. When they got to the shop they were not served so they left and proceeded to 4<sup>th</sup> Street where they had seen some of their friends.

While on 4<sup>th</sup> Street, both sisters heard gunshots and took cover by lying in the street. The shooting subsided but had not stopped when Janice got up off the ground and ran across

the street. Ann-Marie saw one of the policemen who had been crouching on the ground raise himself up and pointed a “*short hand gun*” in the direction of Janice and she heard an explosion. The policeman was wearing “*a black pants and a black Moschino ganzie*”. Janice fell on her face to the ground and cried out to her sister that she had been shot and was going to die and she felt cold.

Ann-Marie tried to get the assistance of police officers who had passed in a jeep but they refused. They were concerned that Janice’s blood would soil the vehicle. She was subsequently transported to the hospital by a community member where she succumbed to her injuries.

## **OVERVIEW OF THE CASE AND THE RESULT OF THE DIFFERENT HEARINGS**

### **The Preliminary Enquiry**

A preliminary enquiry was held into the charge of Murder at the Resident Magistrate’s Court for the Corporate Area on the 26<sup>th</sup> June, 2001 and in November, 2002 the accused, Rohan Allen was committed to stand and take his trial at the Home Circuit Court. The matter went before the Home Circuit Court in January, 2003 when an application was made by defense counsel for the matter to be transferred to the Portland Circuit Court.

### **Trial in the Portland Circuit Court**

On the 15<sup>th</sup> March, 2004, the matter came on for trial and on that date, His Lordship Mr. Justice Lloyd Hibbert directed the jury to return a formal verdict of not guilty after Crown Counsel, Mr. Herbert McKenzie offered no evidence against the accused Rohan Allen who was represented by Mr. Churchill Neita, Q.C. This course was adopted by Mr. Mckenzie on the basis of:

- (1) the unavailability of the firearms register which contained details regarding the firearm with which the accused Rohan Allen was issued on the 14<sup>th</sup> April, 2000 which was necessary to link the accused to the bullet fragment recovered from the body of Janice Allen; and

- (2) the absence of Detective Sergeant now Inspector Lynval Dunchie from the trial whose presence was necessary to facilitate the tendering of a statement that he recorded from the accused Rohan Allen which the prosecution considered relevant to proving the case against him.

### **Applications for Judicial Review**

On the 12<sup>th</sup> July, 2004 an application for judicial review brought by Millicent Forbes mother of the deceased, Janice Allen was listed in the Supreme Court on the basis that a fraud had been committed on the Portland Circuit Court. However, Wolfe CJ refused the application. On the 24<sup>th</sup> February, 2005 the refusal of the application for leave was listed for hearing in the Full Court which again refused the application.

### **The Court of Appeal and the Privy Council Hearings**

The matter was then brought before the Court of Appeal on the 6<sup>th</sup> June, 2006 and in their judgement delivered on the 20<sup>th</sup> December, 2006, His Lordship Mr. Justice Paul Harrison, President of the Court of Appeal as he then was held that *“the decision of the majority of the Full Court cannot be faulted. The appeal should be dismissed....”* The matter was subsequently argued in the Privy Council and their judgement was delivered on the 19<sup>th</sup> March, 2009. Lord Hoffman in delivering the judgement affirmed the decision of the Full Court when he refused the application indicating inter alia that *“judicial review is the procedure by which the Supreme Court ensures that inferior courts and administrators act lawfully and within their powers. It is not a mechanism by which one judge of the Supreme Court can quash the decision of another.”*

### **WHAT WERE THE CHALLENGES THAT FACED THE PROSECUTION IN THE TRIAL OF THE CASE IN THE PORTLAND CIRCUIT IN 2004?**

A close examination of the case revealed certain weaknesses or challenges which would have had a negative impact on the prosecution’s case which faced Crown Counsel, McKenzie in the Portland Circuit prior to trial, namely:

- (1) *Inconsistency in Ann-Marie Allen’s description of the gun* alleged to have been used to shoot Janice Allen and the actual firearm that the accused, Rohan Allen,

was armed with. In her witness statement she had described the gun as being short whereas in her evidence given at the preliminary enquiry she indicated that it was a long gun that he had.

- (2) ***Dock Identification-*** there was no evidence that Ann-Marie Allen knew the accused before the time of the alleged incident. As such her subsequent pointing out of the accused at the preliminary enquiry without having gone to an identification parade amounted to dock identification which is of nugatory value in law unless there is the existence of other evidence which can buttress this evidence. In light of the absence of such supporting evidence, the Crown would not have been able to rely on Ann-Marie Allen's identification of the accused at the trial, there being no evidence of circumstances that provide the nexus between the accused and the murder of the deceased, Janice Allen.
  
- (3) ***The Unavailability of the Firearms Register*** which would have been an aide memoire to the officer who would be giving evidence of having signed the register and issued Mr. Allen with the particular M16 firearm serial number 9546306 on the 14<sup>th</sup> of April, 2000. The pellets recovered from the deceased's body had been found to match the firearm that was issued to Rohan Allen on the day of the incident. To this day we have not been able to ascertain who issued the firearm. Only Rohan Allen would be able to indicate who issued the firearm but **he has no duty as a matter of law to assist as it is the prosecution who must prove the case against him beyond a reasonable doubt.**
  
- (4) ***The Absence of Detective Inspector Lynval Dunchie now retired from the trial.*** His presence was necessary to facilitate the tendering of a statement that he recorded from Rohan Allen where Allen indicated that he at the time of the shooting had been in possession of the firearm serial number 9546306 which the prosecution would have been relying on to provide the nexus between the accused and the murder of the deceased, Janice Allen.

Detective Inspector Dunchie went on short leave in Canada and kept extending his leave by submitting medical certificates which enabled him to remain on leave for a total of 104 days.

Having taken into account the various weaknesses in the prosecution's case, efforts were to obtain all relevant facts, still mindful of the challenge that this incident occurred some nine (9) years ago.

### **DISCOVERIES MADE IN RELATION TO THE POTENTIAL EVIDENCE**

For further clarity, it would be helpful to state the purpose for which the Crown would have relied on documentary evidence to buttress the weak identification evidence that existed against the accused, Rohan Allen at the time the matter was heard in the Portland Circuit Court.

#### **The Firearms Register**

The Firearms register contains the following information:

- The calibre and the serial number of the firearm being issued along with the calibre and amount of ammunition being issued;
- Name and rank of the police officer to whom the firearm and ammunition is being issued;
- The date of the said issuing of the firearm and ammunition;
- The signature of the police personnel who issued the firearm and ammunition;
- The date of return of the firearm and amount of ammunition returned.

As a matter of law, it is not a public document and the Crown can only rely on it as an aide memoire to the police officer who issued the firearm and ammunition to the accused

on the date of the incident. Without the maker of the document it cannot be tendered into evidence by the Crown.

*The Station Diary and the Crime Diary*

Conversely, the station diary speaks to the police personnel being detailed for duty while the crime diary records all reports of crime committed in a particular police division.

Therefore, the firearms register would provide the best material for use by the prosecution as previously outlined in terms of providing a nexus between the firearm issued to Rohan Allen on the 14<sup>th</sup> April, 2000 and the bullet fragments which were recovered from the body of Janice Allen as concluded in the findings of the Ballistics Expert.

Detailed and thorough investigations were conducted regarding the following:

- (i) the alleged destruction of the firearms register at the Denham Town Police Station;
- (ii) whether there was a fire at the Denham Town Police Station and the circumstances surrounding the said fire;
- (iii) custody and control of the said firearms register and the station diary relevant to the period April 2000.

**Findings**

It was found that the entries recorded in the Call-Out Book and Crime diary indicated that Detective Corporal Desmond Simpson of the Scenes of Crime Department attended a scene of “bombing and shooting” at the Denham Town Police Station on the 12<sup>th</sup> October, 2001.

*Superintendent Delroy Hewitt's Account (former Operations Officer of the Kingston Western Division)*

In a statement provided by Superintendent Delroy Hewitt now stationed at the Kingston Western Division for the purposes of this investigation, he indicated that at the preliminary enquiry held in 2001, the firearms register was called for and he personally took it to court having been given the said register by now retired Inspector Leroy Brown. Superintendent Hewitt said that he presented the firearms register which was inspected by both the defence and the prosecution. Unfortunately, this production of the register was not recorded in the depositions. He further stated that at the time the said register was in a “degenerated state as some of the cords which held it together were loose”. He stated, however, “**that there were no missing pages**”. After court, it was brought back to the Denham Town Police Station and placed in a room which was a general storage area for all finished and unused station records.

Superintendent Hewitt further stated that on the 12<sup>th</sup> October, 2001 (apparently after the preliminary enquiry), the station was attacked – sticks of dynamite were thrown on the roof and a fire broke out. The area housing the firearm register and other records was inundated with water from the Fire Department hoses. Most of the unused records in that section were damaged. They were subsequently removed to the back of the compound for storage. Having subsequently been transferred to the St. Thomas Division, Inspector Leroy Brown had the responsibility of taking the register to the Portland Circuit Court where the matter had now been transferred.

When Hewitt contacted, Inspector Brown to indicate to him that the register was needed in the Portland Circuit Court, he was informed that the register could not be found and was further informed that the register was among several items that were damaged during the attack on the station. Searches of the new storage area were carried out but the register was not seen.

**Inspector Leroy Brown's Account**

Inspector Leroy Brown now retired also provided a statement in the matter which does not contradict Hewitt's claim of having received the register from Brown. He remembered giving it to Superintendent Hewitt as he was the Sub-Officer at the time. However, he said that when he handed it over to Superintendent Hewitt, it was not damaged and he cannot recall seeing it in a damaged state.

He also confirmed that he was contacted by Superintendent Hewitt regarding taking the register to the Portland Circuit Court but he cannot recall if the particular register was actively in use or finished and stored away. He searched for the said register but could not find it. However, he cannot recall if he made any searches after that day for it.

**Explanations offered by Corporal Lance Campbell (Dispatcher of the police personnel before the Incident)**

In April, 2009 the station diary and the crime diary relative to the incident of April 2000 involving the accused Rohan Allen was discovered in a section of the Denham Town Police Station after diligent searches were made.<sup>1</sup> Extracts were made from the crime diary and pictures taken which showed the state of its decomposition by termites (aspects of its constitution were eroded by the termites). We were able to elicit the extract from the station diary which provided as follows:

***“Dispatched Cons. R. Allen driving service vehicle 201888 and armed with M16 rifle #9546306 with thirty (30) rounds, Cons. Hall W. #9547015 with thirty (30) rounds to the Trench Town command post for duty.” – L. Campbell cpl.<sup>2</sup>***

The extract from the crime diary contained similar information regarding the officers being detailed for duty, however there was no record of the serial number of the firearm issued to Constable Rohan Allen.

---

<sup>1</sup> See Appendix 1, 2 and 3 for copies of the crime diary.

<sup>2</sup> See Appendix 4 for certified true copy of the station diary entry.

Upon viewing the relevant entry in the station diary, I discovered that a Corporal Lance Campbell had made the said entry and as such I immediately requested that he be summoned to the Office of the Director of Public Prosecutions for a meeting with me and members of my team. He attended the said offices on the 15<sup>th</sup> April, 2009 and in an interview I conducted with the said Corporal Campbell it was elicited that even after identifying his signature which was affixed to the entry made in the station diary on the 14<sup>th</sup> April, 2000 relative to the dispatch of Constable Rohan Allen and Constable Hall on the said date, he could not say without looking at the firearms register whether he was the person who issued M16 rifle #9546306 with thirty (3) rounds to Constable Rohan Allen or if he was merely the dispatcher. It is our understanding that though the dispatcher may have recorded the serial number of the firearms issued or assigned to Constable Allen, for example, it cannot necessarily be inferred that the person who made the entry in the station diary is the person who issued the firearm.

**Neither he nor Superintendent Hewitt could indicate or recall who issued the firearm.**

**Further Statement of Constable Rohan Allen**

On the 14<sup>th</sup> April, 2000, the date of the incident, Constable Rohan Allen provided a statement relative to the incident. He stated that he was armed with M16 rifle# 4546306 and thirty (30) rounds of 5.56 ammunition and was the driver of the unit # 202139. Note the discrepancy between his statement and that of Corporal Campbell's diary entry.

After the operation had ended and the officers returned to the Denham Town Police Station, their firearms were taken from them and submitted to the Forensic Lab for ballistic testing. During the examination of the file by the Office of the Director of Public Prosecutions, it was discovered that there was a discrepancy between the serial number of the gun submitted to the Lab and the firearm that Constable Rohan Allen indicated that he had. Constable Allen was asked to provide a further statement in which he indicated that:

*“With reference to shooting incident on the 14<sup>th</sup> of April, 2000 along Colley Smith Drive, which I was involved and had submitted a statement to the effect. M16 rifle #9546306 is the correct number and not #4546306.”*

It should be noted that his further statement was not dated. This is the statement purportedly taken by Inspector Dunchie which the prosecution would have attempted to have admitted into evidence at the trial in the Portland Circuit in order to connect the accused, Rohan Allen to the killing of Janice Allen.

**The Law in Respect of the Admission of the Accused Man’s Statement taken Without Caution**

In **Patrick Reynolds and Moses Treston v. Reginam**<sup>3</sup> with respect to the applicant Moses Treston, Counsel for the appellant challenged the admissibility of the statement given by Treston on the ground that no caution had been administered to the appellant before the giving of a statement. The court found at page 4 that:

*“The statement was taken during the course of the investigation when there was no decision to charge Moses Treston with any offence and it was therefore not necessary at this stage to administer a caution and the evidence was therefore admissible.”*

**Conclusions in Relation to the Tendering of the Statement**

It goes without saying, that the accused did not have the benefit of being told the words of the caution at the time the statement was given by the accused Mr. Allen. Despite the position enunciated in **Patrick Reynolds and Moses Treston v. Reginam** there are some obvious hurdles that the Crown would have a difficulty surmounting should any attempt be made to tender his statement:

---

<sup>3</sup> Resident Magistrate’s Criminal Appeal No: 19/95

- (a) Firstly, the Crown would have needed a witness who is competent to identify the statement by virtue of the fact of his knowledge of the Accused and his handwriting or the fact that he recorded the statement from the Accused. **There is no evidence that the accused Rohan Allen was known to Detective Sergeant Dunchie before or that Detective Inspector Dunchie recorded his statement. Even a cursory look suggests that it was the accused, Rohan Allen, who wrote his statement.** There would therefore then be some question of the ability of the prosecution to successfully rebut the anticipated objection by the defence in respect of the admission of the statement into evidence.
- (b) Secondly, the prosecution may not be able to rebut the potential argument by the defence against the admission of the statement given by the accused, Rohan Allen on the basis that it was unfairly obtained. That is, it was made at the time of the investigation into the matter by the Bureau of Special Investigations and as a consequence of his departmental duty. By virtue of this duty, police officers are obligated to give statements to the investigative authority in order to account for the use of firearm and the discharge of ammunition in a fatal shooting by the police. In these circumstances they are not the beneficiary of the caution prescribed in the Judge's Rules which is part of due process and protects his right to silence and against self-incrimination. Recent indications as enunciated in the Crawle matter and in the Braeton matter indicate that the Crown would have considerable difficulty as a matter of law in persuading the Tribunal of Law to admit statements given by the police in these circumstances in order to prove its case.

### **Status of former Inspector Lynval Dunchie**

Upon enquiries we are to the best of our present information advised that Detective Inspector Lynval Dunchie is now retired and resides overseas. Information from the Immigration Department indicates that Mr. Dunchie last came into the island of Jamaica on the 22<sup>nd</sup> day of August, 2007 and he returned to Canada on the 8<sup>th</sup> day of September,

2007. Diligent efforts have unearthed a telephone number, when the telephone number was dialled the recording indicated that the number was no longer in service.

It is without doubt that section 31D of the Evidence Act, which allows the admission of a statement or deposition into evidence in circumstances where the witness is abroad would be one path that the Crown could take in order to make his evidence available at trial. That course would however, be problematic and would not be in keeping with the interests of justice and fairness to the accused for the following reasons;

- a) That given the nature of the case and the purpose for which Inspector Dunchie's evidence would be required, the Crown would not be able, given the state of the case law in Jamaica to resist Defence objection to the admission of the statement.
- b) Furthermore, the interests of justice would obligate the Crown to produce the live witness in order that critical issues of credibility could be ventilated before the judges of facts, who would be the jury.

It is my considered view, based on experience and the present case law that a judge would not exercise a discretion in favour of the admission of the statement. Section 31D is very strictly and stringently applied by the Courts.

In these circumstances, unless the Crown can provide some other nexus between the firearm with which the accused Rohan Allen was issued and the bullet fragments extracted from the body of the deceased Janice Allen the Crown would not be in a position to mount a viable prosecution in respect of a charge of Murder or Manslaughter.

**There is no other evidence of a similar nature available to the Prosecution.**

The substratum of evidence that remains would not allow the Crown to resist any potential application made by the defence, to stay or quash the indictment for Murder or Manslaughter at the commencement of the trial had such an application been made.

**WHETHER THE FACTS SUPPORT THE ALLEGATION THAT THE ACQUITTAL WAS PROCURED BY A FRAUD ON THE COURT?**

Throughout the several hearings it was argued that Rohan Allen's acquittal was "*obtained by improper means to wit a fraud upon the Office of the Director of Public Prosecutions and upon the Court*". In the Court of Appeal, the appellant, Millicent Forbes made an application on the following ground:

(1) that "*the accused and/or his agents destroyed evidence in the case, sought to intimidate and bribe witnesses and misled the prosecution as to the whereabouts of the key prosecution witnesses which led to the formal acquittal of the accused.*"

Counsel for the appellant argued that the facts were "uncontroverted and amounted to clear evidence of fraud and collusion on the part of the accused and his agents to pervert the course of his trial." Let us examine each argument raised by the appellant separately vis-à-vis the facts as we have found them in this investigation.

***(I) Destruction of Evidence in the Case***

One (1) damaged 5.56mm copper jacketed bullet fragment and one (1) small lead fragment which could have been a fragment from the copper jacketed bullet was taken from the body of Janice Allen during the Post Mortem Examination. Ballistic testing was conducted on the firearms taken from the police officers who were present on the scene at the time of the incident. A comparison of a bullet discharged from firearm labelled "G" and bearing serial #9546306 with the fragments taken from the body of Janice Allen showed that they were discharged from the barrel of the said firearm which is an M16 not a short gun as indicated by Ann-Marie Allen in her witness statement. The firearms register which contained the entry for April 14, 2000 would show that the firearm labelled "G" bearing serial # 9546306 was issued to the accused, Rohan Allen.

It may be that there was a lack of clarity in respect of the exact state of the firearms register when it was produced at the preliminary enquiry. One account reflected in Counsel's bundles before the Privy Council suggest that the relevant pages were missing and their absence could not be explained by the police. However, I would reiterate that based on the statement of Superintendent Hewitt and Inspector Brown their recollection differ. In our detailed searches, we have not been able to find any other account which contradicts the account of Hewitt and Brown.

**(II) Allegations of Intimidation and Bribery of Witnesses**

- On the 14<sup>th</sup> May 2001, the brother of the deceased Janice Allen and son of Millicent Forbes was arrested by police officers. On the 18<sup>th</sup> May, 2001, Millicent Forbes visited several police stations including the Denham Town Police Station in search of her son. Later that evening it was discovered that he was being held at the Hunts Bay Police Station on suspicion of Murder. He was subsequently released without being charged. At no time was he a witness for the Crown.
- On the 14<sup>th</sup> May 2001, Ann-Marie Allen indicated that while her brother was being arrested she enquired whether they would do to him what they had done to her sister and the officer replied, "A dead de whole a oonu fi dead off." She indicated that she felt threatened and scared.
- On the 23<sup>rd</sup> May, 2001 two men dressed in plain clothes visited Millicent Forbes at her house. One of the two men indicated he was a police officer but did not state his name or present any identification card. He expressed knowledge of the fact that she was the mother of the deceased and her involvement in Rohan Allen's case.
- On the 23<sup>rd</sup> May, 2001 she went to visit "the godfather" at his request who informed her that there was an offer from one named Paul Whyte of \$125,000.00 to "finish away with the case". She subsequently discovered that Paul Whyte worked at the Remand Centre.

Though these incidents are most unfortunate and regrettable and certainly should not have occurred, it is a matter of record that the contents of any statement made by these witnesses touching and concerning the case against Rohan Allen would not have rendered any of these persons witnesses of fact who would have been able to assist the Crown's case against Allen without more.

**(III) Misleading Information regarding the Absence of Detective Inspector Lynval Dunchie**

When the matter came before the Portland Circuit Court for trial, Crown Counsel advised the court that:

- (1) Detective Inspector Lynval Dunchie “recorded” a statement from the accused Rohan Allen while he was attached to the Bureau of Special Investigations; **(note: from my perusal of a copy of Allen’s statement it is not clear who was the recorder of the statement.)**
- (2) That Detective Inspector Dunchie “has since departed the jurisdiction”;
- (3) *That “he is on sick leave and from all indications, based upon my enquiries, there is no likelihood of him returning because the sick leave keeps extending by his submissions of medical reports from the United States to the Police Headquarters here in Jamaica”.*

Subsequent research further clarifies the position regarding Detective Inspector Lynval Dunchie’s absence which will be dealt at a later juncture.

**What is Fraud?**

The Court has never ventured to lay down as a general proposition, what should constitute fraud.<sup>4</sup> However, Wills J in **Ex parte Watson**<sup>5</sup> pointed out that Fraud is

<sup>4</sup> per Lord Eldon, **Mortlock v. Butler** 10 Ves. Jun. 292 at 306.

<sup>5</sup> 21 Q.B.D. 301.

“something dishonest and morally wrong”. It goes without saying that there must be a clear intention to defraud.

*How will a Superior Court treat an allegation of Fraud*

It should be highlighted that while a court of superior jurisdiction has exercised its supervisory powers of control over an inferior court where a conviction was obtained by perjury and fraud,<sup>6</sup> in my research and experience I have not met upon a case where this has been done in relation to a court of equal and competent jurisdiction.

Mr. Kent Pantry, CD, Q.C., former Director of Public Prosecutions, in his Affidavit dated the 26<sup>th</sup> November, 2004 stated at paragraph 3 of his said Affidavit that after Rohan Allen was acquitted investigations were conducted by the Bureau of Special Investigations with a view to ascertaining whether there was any basis upon which any charges could be preferred for the offence of attempting to pervert the course of justice. After examining the file which was submitted to him, he came to the conclusion that there was no evidence to support criminal charges. As a matter of law, I concur.

At page 7 of the Full Court judgement, Gloria Smith, J. adverted to Mr. Pantry’s finding as stated in his Affidavit and pointed out the fact that there had been no confession by anyone as to a fraud or perjury. In these circumstances she concluded:

***“It is my considered view that the very basis upon which the applicant was relying to say what took place in the Portland Circuit Court is void ab initio has evaporated.”***

Having regard to all the circumstances, there is no evidence of fraud in the instant case. While the firearms register may have been damaged or destroyed at a time unknown, there is no direct correlation between the accused and the destruction of the said register; nor is there proof that he was *participis criminis* in any act of intimidation and any alleged incident of attempted bribery or any other attempt to pervert the course of justice.

---

<sup>6</sup> **R v. Gillvard** [1848] 12 Q.B. 527.

There is **no factual evidence** to suggest that the persons involved in these acts were acting on behalf of the accused or that he orchestrated the acts which led to his acquittal.

### **Distinguishing the Case of People v Aleman from the Janice Allen case**

The instant case can be distinguished from the case of *People v. Aleman*<sup>7</sup> (a case from the American jurisdiction) which the learned Solicitor General, Mr. Douglas Leys through his industry unearthed and presented in his arguments before the Judicial Committee of the Privy Council. In that case while incarcerated, the appellant Aleman had discussions with a fellow inmate about crimes he had committed including the Logan murder for which he had been re-indicted. He indicated that he was unconcerned about being indicted a second time because he had had money paid to “fix” his first trial and the second trial would not be won because it would amount to double jeopardy.

Interestingly, the Appellate Court of Illinois posed the same questions that I am obligated to answer after my investigations in the present case. The Court asked:

**“Did Aleman’s actions in the case sub judice rise to the level of fraud or collusion such that he was not “subjected to the risk that is traditionally associated with a criminal prosecution?”<sup>8</sup>**

The court answered the question in the affirmative. They said further that **“given his involvement in the bribery of Judge Wilson in order to procure an acquittal in his 1977 murder trial we conclude that Aleman clearly was not subject to the risk normally associated with a criminal prosecution. The principles of double jeopardy do not bar the instant re-indictment and re-prosecution.”<sup>9</sup>**

---

<sup>7</sup> 667 NE 2<sup>ND</sup> 615 ILL. App. 1 Dist 996.

<sup>8</sup> See page 12 of the judgement.

<sup>9</sup> Ibid.

It is clear and without doubt that it was the involvement of the accused in the bribery of the judge in order to obtain the acquittal which moved the court to find that he should be deprived of his plea in bar of autrefois acquit (double jeopardy).

In the Janice Allen case, having engaged in an objective and dispassionate analysis of all the available facts I cannot find that critical evidential link which would render any conduct on the part of Mr. Rohan Allen as being part of a conspiracy or an involvement to perpetrate a fraud on the court. As enunciated before, the evidential substratum to ground the elements of the fraud is also inadequate.

**I must make the point that I cannot speculate, I can only base my analysis on the material that is available.**

**Further Consideration of the Impact of the Absence of Det. Inspector Lynval Dunchie at the Trial**

Regarding the absence of Detective Inspector Lynval Dunchie from the trial in Portland in his statement submitted shortly after Allen's acquittal he indicated that:

- (1) After the matter was committed to the Circuit Court he applied for short leave on the 28<sup>th</sup> day of November, 2003 to be spent overseas. The leave was granted. Whilst overseas he became ill and did not return to Jamaica until the 17<sup>th</sup> March, 2004 (it was his intention to return in December, 2003) and he remained on sick leave until the 29<sup>th</sup> April, 2004;
- (2) Whilst on sick leave overseas he communicated with his Division and submitted sick leave applications which contained his contact information along with the required medical certificates;
- (3) He was never contacted about any of his several cases while he was overseas and he never stated that he had no intention to return to Jamaica.

Inspector Alvin Jones who was the Sub-Officer in charge of the Constant Spring Police Station at the time, in his statement dated the 23<sup>rd</sup> April, 2004 stated that:

- (1) In November 2003 approval was granted for Detective Inspector Dunchie to proceed on short leave overseas for 14 days from the 28<sup>th</sup> day of November, 2003 to the 18<sup>th</sup> day of December, 2003;
- (2) Detective Inspector Dunchie did not resume his duties on the 18<sup>th</sup> day of December, 2003 but instead reported sick and went on sick leave for a period of 104 days;
- (3) In the application for short leave Detective Inspector Dunchie indicated that he would be residing in Canada;
- (4) He recalls receiving a telephone call from a male Crown Counsel who was enquiring of the whereabouts of Detective Inspector Dunchie. He told the caller:
  - (a) that Dunchie had proceeded on short/departmental leave for 14 days;
  - (b) that he reported sick on the day he should have resumed his duties; and
  - (c) that he had been on protracted leave since that date and that he did not know *“when he will resume or if he is coming back”*.
- (5) On the 27<sup>th</sup> day of March, 2004 he received a telephone call from Detective Inspector Dunchie advising that he was back in the island and that he would be resuming his duties on the 30<sup>th</sup> day of March, 2004.

Could it be said that this is sufficient to form the substratum of fraud? As previously outlined, when Crown Counsel said *“he is on sick leave and from all indications, based upon my enquiries, there is no likelihood of him returning because the sick leave keeps extending by his submissions of medical reports from the United States to the Police Headquarters here in Jamaica”* and when Inspector Alvin Jones reported

that what he said to Crown Counsel was that he did not know “when he will resume or if he is coming back” - was this a matter of semantics or lack of precision in language on the part of Crown Counsel when he addressed the court? **Where is the evidence to ground the mental element required as a matter of law to show the intention to defraud on the part of anyone without more? It has not been demonstrated on this material to the required legal standard, if at all.**

It is submitted that these circumstances would be insufficient to provide any basis for a fraud being perpetrated on the court. Even at its very least, is it that Crown Counsel did not go far enough to make enquiries about the existence of contact information and/or inadvertence in respect of Inspector Jones not going far enough to offer the contact information? Could it be said that inadvertence on the part of both men and what was outlined to the court fell within the legal parameters of fraud legally and literally? I think not. **The questioned action must be over and above mere inadvertence, imprecision in language or a misunderstanding.**

In order to deprive the accused of his constitutional right (the Constitution being the supreme law of the land), the Crown would have to establish the existence of fraud of a compelling and cogent nature and the standard of cogency should be at the normal criminal standard of beyond a reasonable doubt. I believe that the interest of justice would admit of no other view. From our examination of the very minutiae of the circumstances surrounding this case, it is clear that there is no evidence of any link with these missteps to the accused Rohan Allen which would *a fortiori* further emphasize that the Crown would not be on good ground to seek in these circumstances to deprive him of the plea of autrefois acquit as provided by the Constitution.

**WHETHER AS A MATTER OF LAW, THE ACCUSED CAN BE DEPRIVED OF HIS PLEA OF AUTREFOIS ACQUIT?**

Section 20 (8) of the Constitution of Jamaica provides *that no person who shows that he has been tried by any competent court for a criminal offence and either convicted or*

*acquitted, shall again be tried for that offence save upon the order of a superior court, made in appeal proceedings relating to the conviction or acquittal.*

The leading case remains Connelly v DPP<sup>10</sup>. The House of Lords held per Lord Devlin “*that for the doctrine of autrefois acquit to apply the accused must have been put in peril for the same offence both in fact and in law with which he was previously charged. The offence must be exactly the same in law because legal characteristics are precise and either they are the same or they are not.*”

Pertinent to deciding this issue is a brief consideration of whether or not the Portland Hearing constituted a trial? If one adopts the principle enunciated in R v. Tonner<sup>11</sup> that a trial begins once the jury has been sworn and the defendant has been put in their charge then the result is that since the accused Rohan Allen was pleaded to the indictment and subsequently put in the charge of the jury then a trial can be said to have taken place and his subsequent acquittal arising from the verdict returned by the jury was valid.

In these circumstances, if the Prosecution were to re-indict the accused it would lay a second indictment for Murder. That indictment had already been laid and pleaded to in the first trial and the accused had been found not guilty, albeit upon the return of a formal verdict.

I would therefore adopt the position of Lord Devlin above and state that the accused has already been put in peril for the offence of Murder and had been found not guilty. The offence of Manslaughter which is the lesser offence where the accused could be charged for unlawfully killing of Janice Allen would arise on the exact same facts as the facts for the case for Murder albeit without the same mental element.

Where the prosecution indicts the accused for murder, the prosecution must prove:

- (1) the death of the deceased named in the indictment;

---

<sup>10</sup> [1964] AC 1254

<sup>11</sup> 80 Cr. App. R. 170

- (2) that it was the accused who killed him/her;
- (3) that it was a deliberate act, that is not accidental;
- (4) that he intended to kill the deceased or inflict really serious bodily injury on him;
- (5) that the killing was unprovoked; and
- (6) that the killing was not in self-defence.

Conversely, manslaughter is the unlawful killing of another without the intention either to kill or to do serious bodily harm. Apart from intent, the elements of the offence are the same as in murder.<sup>12</sup>

It is my view, however, that as a matter of law the previously outlined analysis of the law and the facts would also apply to the issue of whether to indict for Manslaughter. **Fraud not having been established as a matter of law and fact then the prosecution could not seek to deprive the accused of his plea under the Constitution of autrefois acquit.**

### **FACTORS TO CONSIDER WHEN EXERCISING THE DISCRETION TO PROSECUTE OR NOT TO PROSECUTE**

In all jurisdictions where Prosecution Services are called upon to decide whether to go forward with a prosecution it is established prosecutorial practice to weigh a number of factors in the public interest. One good example of some of these factors which are codified can be found below in an extract from the Australian prosecutorial practice.

---

<sup>12</sup> **R v. Taylor** (1834) 2 Lew. 215.

In Para 2.10 of the **Prosecution Policy of the Director of Public Prosecutions of Australia**, several factors were identified as arising for consideration in determining whether the public interest requires a prosecution to include:

- (1) the seriousness, or conversely, the triviality of the alleged offence or that it is of a ‘technical’ nature only;
- (2) the effect on public order and morale;
- (3) the obsolescence or obscurity of the law;
- (4) whether the prosecution would be perceived as counter-productive, for example, by bringing the law into disrepute;
- (5) the availability and efficacy of any alternatives to prosecution;
- (6) whether the alleged offence is of considerable public concern.

The applicability of and weight to be given to these and other factors will depend on the particular circumstances of each case.

I also give due respect to the judgement of the Privy Council in the well known case referred to as the “ **Patrick Genius case**” where his mother, Leonie Marshall appealed a decision of the Court of Appeal. The Law Lords stated that “where a decision is made not to prosecute and this decision is based on an assessment of the evidence and the prospects of securing a conviction, the courts will still accord great weight to the judgement of experienced prosecutors on whether a jury is likely to convict.”<sup>13</sup> **I must indicate that based on the material that I have examined, the Crown would not be able to resist the Defence submission *in limine* (at the commencement of the proceedings) that the indictment not be preferred as a matter of law or a submission of no case to answer.**

### **WHETHER TO RE-INDICT**

For the avoidance of further doubt, I wish to clearly state that the Crown would not be in a position to evidentially establish a prima facie case wherein there is a nexus/link

---

<sup>13</sup> **R v. Director of Public Prosecutions, ex parte Manning** [2001] Q.B. 330 at 349, para. 41, per Lord Bingham of Cornhill CJ.

between the accused Rohan Allen and the M16 firearm from which the fragments of bullets which were found in Janice Allen's body. This is further compounded by the fact that there is no evidence of identification as a matter of law which would connect Rohan Allen as the person who fired the M16 (he was not known before to the sole eyewitness and he was never pointed out on an identification parade)

Having looked closely at the matter and analysed the law I am constrained to indicate that there is an insufficiency of facts to support a conspiracy to perpetrate fraud on the court or attempting to pervert the course of justice in order to gain the acquittal of the accused Rohan Allen. Therefore in all the circumstances already outlined and as a matter of law the Crown would not be in a position to mount a viable prosecution which would effectively rebut the accused man's plea of autrefois acquit from the beginning of the case.

**I will therefore not exercise my discretion to re-indict the accused for murder or manslaughter. To do otherwise would be a betrayal of my office and would be inconsistent with my ethical obligation as an officer of the Court to make a determination on anything other than the law and the facts.**

### **WHAT ARE THE POSSIBLE SOLUTIONS?**

All well-thinking persons as has been echoed by the Attorney General's Office who dealt with the appeal at the Privy Council (represented by the Solicitor General) would wonder, given the decisions of all the relevant Courts, that since judicial review is not the appropriate remedy to quash the formal verdict which acquitted the accused, Rohan Allen, in these circumstances, what then would be the solution in respect of ensuring justice for the deceased and her family?

I have been made aware that **civil proceedings** by the family of Miss Allen are in train. It is clear from the ballistic certificate and other available material that the bullet fragments extracted from Miss Janice Allen's body came from police issue M16 ..... that according to, at the very least, the relevant station diary and the presently unavailable

firearms register and the further statement of Mr. Rohan Allen was assigned to him, a police officer an agent of the state. The reasonable inference as a matter of fact on paper to be drawn is that at the time of Miss Allen's unfortunate death the bullets were released from this firearm which would have been in the possession of the police. It is unfortunate that because of the challenges previously outlined the Crown would not be able to prove the identity of the perpetrator as a matter of the criminal law. Perhaps the competent authorities including the learned Attorney General may wish to consider the exercising of an option which may have a positive impact on the undoubted suffering of Janice Allen's family. I would not wish to appear presumptuous or breaching protocol by making any other stronger assertion and would simply leave this aspect of the matter entirely for the consideration and review of the learned Attorney General.

It is my humble submission that the interest of justice obligates an enlargement of the conversation to include enactment of legislation providing **the right of appeal to the prosecution** in certain restricted instances and also legislation providing for **"tainted acquittals"**.

### **The Right of Appeal**

The right of appeal to the prosecution does not exist in Jamaica at this time unlike our sister jurisdiction of Belize where section 49 of the Court of Appeal Act grants the Director of Public Prosecutions a right of appeal. In that jurisdiction, this right of appeal extends to instances where:

*(a) a person tried on indictment and has been acquitted by the direction of the Judge at the close of the case for the prosecution whether in respect of the whole or part of the indictment; or*

*(b) where the Judge quashes the indictment; or*

*(c) against the sentence passed on conviction on a trial on indictment.*

The Act further stipulates the grounds on which the appeal can be made and states how the appellate court should exercise its discretion where the right is exercised.

**Tainted Acquittals**

In England, the **Criminal Procedure and Investigations Act 1996** provides “a major exception to the availability of autrefois acquit. They enable the prosecution of an accused for a second time for a crime for which he has already been acquitted at trial provided certain conditions are met. Section 54 and 55 lay down a procedure relating to tainted acquittals where the following conditions are met:

- (a) an accused has been acquitted of an offence;
- (b) a person has been acquitted of an administration of justice offence involving interference with or intimidation of a juror or a witness or potential witness;
- (c) the court convicting of the administration of justice offence certifies that there is a real possibility that but for the interference or intimidation the acquitted person would not have been acquitted and that it would not have been contrary to the interest of justice to proceed against the acquitted person; and
- (d) the High Court then grants an order quashing the acquittal after deciding that the conditions precedent have been satisfied.”<sup>14</sup>

**I would make the comment that these provisions show the high bar which has to be met in order to deprive the accused of his right to plea in bar autrefois acquit. This would further support my view that as a matter of law the nature and character of**

---

<sup>14</sup> Blackstone’s Criminal Practice 2005 at page 1435.

**the fraud would have to be so cogent and compelling that in order to deprive the accused of the plea of autrefois acquit in these unfortunate circumstances the standard of proof would have to be beyond a reasonable doubt. I reiterate that this standard has not been attained in this case.**

### **RECOMMENDATIONS**

In so far as the problems encountered in obtaining the Firearms Register, it is my considered view that certain procedures should be reviewed with a view to making changes and those changes should be implemented and entrenched to prevent a recurrence of this most unfortunate state of affairs.

- (1) That documents /records must be kept as per Force Policy. If they are not so kept then there should be regular inspection from the Head Office to ensure that they are properly kept.
- (2) A safe place should be designated above ground at the police station where records which are no longer being used are kept to prevent destruction by vermin or natural occurrences or consideration could be given to the establishment of a central records depository.
- (3) Once a police shooting which is being investigated has occurred, as a matter of course, the records should not only be properly kept but secured.
- (4) It should be made a part of Force policy that the person who issued the firearm or firearms to the relevant officer or officers be required to immediately write a statement regarding such issuance. The statement should contain information regarding the name of the relevant officer, the date the firearm was issued, the type of firearm that he was issued, the serial number, the number or rounds issued, where the operation took place and any other pertinent information regarding the said issuance. This information should be reflected throughout the records.

- (5) Failure on the part of the officer who issued the said firearm to write the requisite statement regarding the issuance of the firearm must result in immediate departmental sanction. This must be done as a matter of normal departmental accounting. It may take the form of a standard form filled out in triplicate and perhaps after completion and relevant signatures, be sent to the Police Complaints Authority with an accompanying report, the Bureau of Special Investigation and the Commissioner of Police.
- (6) Investigators of police shootings must ensure that at the earliest opportunity certified copies of the relevant entry in the Firearms Register are made. If at the time of the investigations, the said register is not available or in its proper place then the Sub-Officer of that station must be held accountable.
- (6) Once there has been a fatal shooting and investigators have reason to suspect that the shooting was unjustified, as a matter of course, the register must be taken into custody in addition to keeping certified copies of the relevant entries. If there is a ruling by the Director of Public Prosecutions that no criminal or departmental charge should ensue from the incident, then the register may be released.
- (7) For the enhancement of accountability and transparency, if in the future a situation arises where the prosecution requires information regarding the whereabouts of a key prosecution witness who is still a serving member of the Jamaica Constabulary Force, the officer transmitting this information to the Crown should be mandated to provide this information in writing, dated with regulation number and certificate.

In many instances police shootings have occurred they are witnessed by civilians who had no prior knowledge of their identity. In such cases unless the police officers have been placed on an identification parade, the question of creating a nexus between the culpable police officer(s) and the incident has to be provided by the use of forensic and ballistic evidence. It is within this context that these recommendations are made. The administrative regime must be tightened to hold

investigative bodies accountable for the firearms register, station diary and crime diary.

- (8) **There has been an ongoing problem in procuring ballistic and forensic certificates** and some files are being submitted for ruling without these documents. Administrative efforts must therefore be made to ensure that there are enough qualified gazetted personnel to facilitate the examination of exhibits and the preparation of ballistic and forensic certificates in a timely and expeditious manner. This must be at a time sufficiently proximate to the incident being investigated.
- (9) **It is my final recommendation that there should be a departmental enquiry in respect of the entire circumstances that led up to the unfortunate and tragic shooting of Miss Janice Allen, and the subsequent conduct of the relevant police personnel touching and concerning the unavailability of the relevant records in this matter.** This is a matter for the Commissioner of Police to take the necessary departmental action as he sees fit within the circumstances of the case.

## **CONCLUSION**

This entire scenario had its genesis in a most tragic series of events. One can understand the heightened emotions and anxiety, both on the part of the relatives of the deceased and their community and on the part of law enforcement colleagues of the accused. This was reflected by views coming from different sectors of the society, ranged on one side, to indict or on the other, not to re-indict. It seems that based on media reports everyone had an opinion. I and my team at the Office of the DPP did the best we could in seeking to unearth all the available material in this matter.

In the final analysis as a prosecuting attorney of some twenty-four years experience bound by my training and by the law, having conducted a thorough analysis of all the material facts in addition to all the relevant law previously outlined, it is my considered view that these particular circumstances admitted of no other decision than exercising my discretion not to re-indict Mr. Allen for either murder or manslaughter.

It goes without saying that for the future, in the event that there is a re-occurrence of some other fact situation where the underpinning evidence of fraud is clearly made out, I would wish to assure the public that the Office of the Director of Public Prosecutions would stand ready in the appropriate case to proceed to re-indict once the facts and the law allow for such a course.

I wish to reiterate that the task of making this decision was no easy one and I would hope that a careful reading of these detailed reasons will go a far way in enhancing the confidence of the public (including those who do not agree with this decision) that the Office of the DPP is committed to acting in the public interest. I am also gratified that I was also able to fulfil my promise to deliver this decision with reasons within a month and a half of the Privy Council's judgement on March 19, 2009.

I have delivered this decision with reasons, given the controversial nature of this matter so that the public and all other interested stakeholders may understand the basis of what was a difficult decision to make. Transparency and accountability would have it no other way.<sup>15</sup>

---

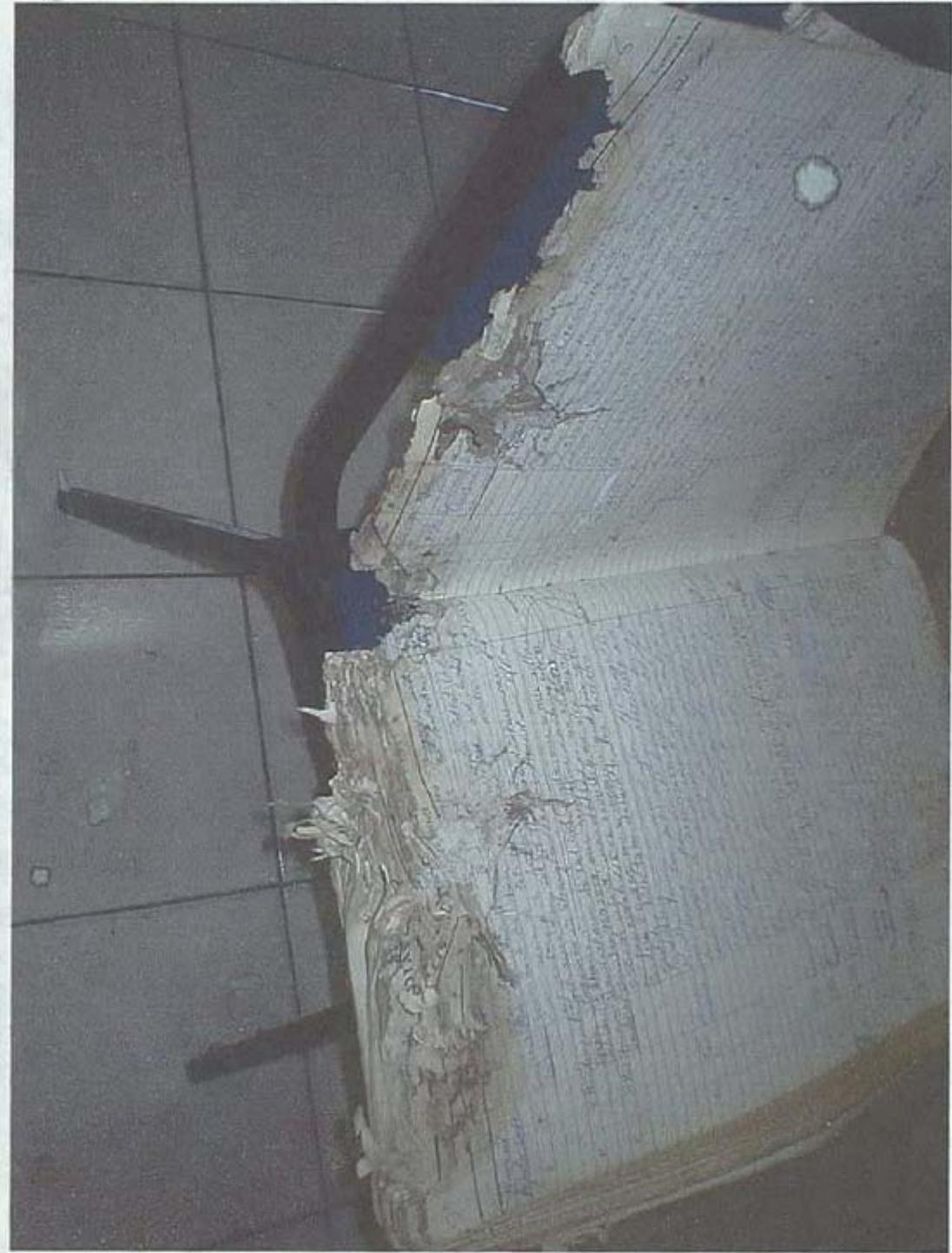
<sup>15</sup> I wish to acknowledge the assistance of several persons in the investigation and preparation of this report, including Mr. Jeremy Taylor, Deputy Director of Public Prosecutions (Ag), Ms. Claudette Thompson, Crown Counsel, Mrs. Tracey-Ann Johnson, Crown Counsel and Mrs. Nadine Atkinson-Flowers, Crown Counsel (Ag).

APPENDIX 1



I hereby certify that this is a true photograph of Crime Diary in which entry recorded by Det. Insp. C. Thompson on the 14.04.2000 in relation to the accidental shooting of Janice Allen was recorded.  
Matherland SP.  
14.04.2009

**APPENDIX 2**



**APPENDIX 3**



APPENDIX 4

Page No.	Ref. No.	Hour	Subject	Nature of occurrence	Date	Signature
49	275	3 <sup>30</sup> pm	Dove Tail	Dispatched cons R. Allen driving service vehicle 201888 and armed with m16 rifle #9546306 with thirty (30) rounds, Cons Hall w #9547015 with thirty (30) rounds to the Trench Town Command post for duty. — Stimpert/cpl.	Fri 14.04.00	
<p>I hereby certify that this is a true copy of diary entry number 49, page 275 dated Friday April 14, 2000 taken from the station diary at the Deakam Town Police Station.</p> <p>Stimpert/cpl # 409 08.04.09</p>						