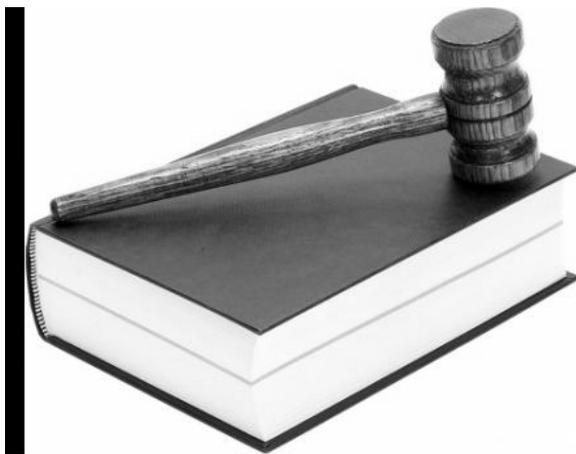


## Justice Ministry To Determine Number Of Court Cases In Backlog

The Glean



The justice ministry has said it is taking steps to accurately quantify the number of cases that have been before the courts for an unreasonable amount of time.

Justice Minister Delroy Chuck gave the assurance when he made his contribution to the sectoral debate in parliament last Wednesday.

Chuck says a statistician has been employed by the ministry to separate backlog cases from those currently before the courts. He says the new statistician will quantify and analyse the data from the courts and establish an accurate mechanism to capture data. The statistician will also provide regular and accurate reports on court statistics.

The justice minister says the backlog reduction strategy will be the primary focus of the ministry for the next few years in order to achieve a timely delivery of justice through the courts.

# More judges for parish courts

The Gleaner



KINGSTON, Jamaica (JIS) – The Government is seeking to increase the number of judges available to serve in parish courts.

“In the short term, we want to employ at least another 15 or 20 judges permanently or on a part-time basis to

deal with the backlog in the parish courts,” said Minister of Justice Delroy Chuck.

He was making his contribution to the 2016/17 Sectoral Debate in the House of Representatives on Wednesday.

Minister Chuck noted that the parish courts are now overburdened with civil and criminal cases and “it is important that we attend to them urgently”.

“This is where the average man gets his justice and we have to make sure more judges, prosecutors and clerks of court are available so that these matters can be dealt with,” he pointed out.

Meanwhile, the Justice Minister is encouraging Jamaicans to utilise alternative means such as arbitration and restorative justice to deal with disputes.

He noted that the Restorative Justice Bill will be brought before Parliament shortly. “If we can get the offender to admit that he has committed the offence and the victim to forgive, then we

can say use restorative justice to exercise mercy in the disposal of the matter,” the Justice Minister said.

As it relates to arbitration, he informed that a bill is to be submitted to Cabinet before tabling in Parliament.

The Justice Minister noted that many countries, such as Singapore, have been making use of arbitration to settle commercial disputes.

“When big money is in conflict, many of the parties do not want to go to court; they want arbitrators to assist them in coming to a decision. Singapore is now becoming the top place for arbitration,” Chuck said.

He said it is hoped that not only will Jamaica have a modern legislation but that the country will become an arbitration centre “for those big companies that have disputes and want it to be dealt with not in the courts, but by arbitrators”.

## **Portmore Woman Nabbed With Ganja At Airport**

The Gleaner

A Portmore woman is to appear in court on Friday after allegedly being arrested with ganja as she attempted to board a flight to The Bahamas.

Thirty-six year-old Camille Clarke of Waterford, St Catherine, was nabbed by police personnel at the Norman Manley International Airport.

The Police say Clarke was about to board a flight to the Bahamas when Police sniffer dogs alerted lawmen to her luggage.

Clarke's luggage was searched and the Police say 11 rectangular-shaped parcels were found containing ganja weighing nine-and-a-half pounds.

The Police say the estimated street value of the illicit drug is \$43,000.

Clarke was subsequently charged for possession of ganja, dealing in ganja and taking steps to export ganja.

She is scheduled to appear in the Half-Way Tree Parish Court on Friday.

## **Legal Scoop | 50/50 Folly - Ex-Spouse Not Always Entitled To An Equal Share Of The Family House**

The Gleaner



Shena Stubbs-Gibson

The Property (Rights of Spouses) Act provides that spouses to a marriage are entitled to a 50/50 share in the family/matrimonial home.

For the average Jamaican, married couple, the matrimonial/ family home is purchased jointly and is the place the where the couple reside for

many years, and where their kids are reared and, therefore, the presumption of a 50/50 share seems sensible and just.

What happens, though, where the property in question was purchased exclusively by one of the spouses before the marriage and the marriage itself was of a short duration? In such a situation, should the party who never contributed to the acquisition of the house in question acquire a 50 per cent share of same, simply by virtue of a short marriage?

The recent case of *Allicent Kelly Lasisi v Jimoh Lasisi*, which was heard by Justice Laing in the Supreme Court between October 2015 and May 2016 (and the written judgment admirably - already handed down) provides some guidance.

In this case, Mrs Lasisi claimed a 50 per cent share in the matrimonial home located in the upscale Manor Park community, which had been purchased many years before marriage by Mr Lasisi, in his name only.

### **Duration Of The Marriage**

In the Lasisi case, the parties got married on January 1, 2013 and cohabited at the property until September 2013, when Mr Lasisi told Mrs Lasisi that it was not going to work out between them and moved into a separate room, sexual relations ceased between them and they hardly communicated thereafter.

This state of affairs continued until Mrs Lasisi moved out of the property altogether in December 2013. In determining whether September 2013 or December 2013 was the appropriate marker for the end of the marriage, Justice Laing was guided by Section 12(2) of the act, which provides that "A spouse's share in property shall ... be determined as at the date on which the spouses ceased to live together as man and wife or to cohabit, or if they have not so ceased, at the date of the application to the court." [emphasis added by writer].

Since Mr and Mrs Lasisi both ceased to live together (December 2013) and to cohabit (September 2013), the earlier in time marker was applicable. The court, therefore, concluded that September 2013 was when the marriage ended.

## **Where Application Of The 50/50 Share Rule Is Unjust**

It should be noted that Section 6 of the Property (Rights of Spouses) Act provides that each spouse is entitled to a 50/50 share in the family home. However, there are exemptions. Section 7, for instance, provides that the court may make such orders as it deems fit where it "would be unreasonable or unjust for each spouse to be entitled to one-half of the family home".

Section 7 also sets out the factors that should guide the court in arriving at a determination that it was unreasonable or unjust for each spouse to be entitled to one-half, namely:

- (a) That the family home was inherited by one spouse;
- (b) That the family home was already owned by one spouse at the time of the marriage or the beginning of cohabitation;
- (c) That the marriage is of short duration.

Two of the above-mentioned factors being present in the Lasisis case, that is, Mr Lasisi owned the property in question before the marriage and that the actual marriage was of a short duration, Justice Laing formed the view that in all the circumstances of the case, "it would be have been unreasonable or unjust for each spouse to be entitled to one-half the family home".

Having formed the view that it would be unjust for the parties to own a 50/50 share of the family home, Justice Laing then had to go on to consider whether an alternative reasonable order could be made in respect of the family home.

To this end, the judge looked at the following factors: the level of contribution by each party to the matrimonial home, their respective ages, behaviour and other property holdings. I have extracted, and set out below for the benefit of readers, because he says it so well, Justice Laing's conclusions on the various factors cited before:

## **Analysis And Conclusion**

"The claimant has her own property at Merrivale. She is approximately 47 years of age and in a good job. She has retained her furniture and other items that she took to the property.

"The parties did not have a joint account nor did the parties have any children together.

"... Based on the circumstances of this case, and in particular the fact that the property was acquired before the marriage, as well as the fact that the marriage was one of short duration, I find that it would be unreasonable and unjust not to vary the equal-share rule prescribed by Section 6. I find that a fair award would be that the claimant is entitled to 10 per cent of the defendant's legal and beneficial interest in the property, and that it would be unreasonable and unjust for the claimant to be awarded a greater or lesser interest ..."

So there you have it, readers, the 50/50 share can and will be rebutted where the court deems it just to do so. However, my advice to my little brother recently on this similar: Do not live in your house if you are worried. Rent it out. Live in either a rental or something jointly purchased by the hard-earned cash of you both.

Remember, the family home has to be the only or principal family residence. Therefore, if you and your wife, after marriage, never live in the house purchased by you only before marriage, then it cannot qualify as the principal family residence during the union!

- Shena Stubbs is an attorney-at-law and legal commentator

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# Editorial | Strengthen Extradition Law

The Gleaner

In the event that people don't know, or have forgotten, the West Kingston events of May 2010, on which a commission of enquiry report was issued last week, had a long gestation period. It was after nine months of attempting to contort its way out of its obligations that Bruce Golding's government, through its attorney general, Dorothy Lightbourne, finally succumbed to public pressure and signed the order to proceed with America's request to extradite the Tivoli Gardens-based crime boss, Christopher Coke. In the event, Coke had time to assemble a private militia and fortify his redoubt. The operation by the security forces to arrest him resulted in the deaths of nearly 70 civilians.

It is against this background that the West Kingston commission recommended - and we agree - an amendment to Section 8 of Jamaica's Extradition Act, establishing "a finite time" within which the responsible minister must make a decision on the authority to proceed in an extradition request. Currently, there is no time frame within which the minister must act. So, as Ms Lightbourne did, these matters can be dragged out.

Mr Golding's explanation for the delay in the Coke matter was that his government was responding to a larger principle: the protection of the constitutional rights of a Jamaican citizen. Others, however, assumed that his judgement was clouded by other factors. Tivoli Gardens is, perhaps, the most archetypal of Jamaica's so-called garrison communities, and West Kingston, where it is located, was the epicentre of muscled support for the Jamaica Labour Party, of which Mr Golding was leader. Coke exercised power and influence.

## **FINAL AUTHORITY**

In any event, as the West Kingston commissioners observed, magistrates involved in extradition proceedings are not attempting to determine a person's innocence or guilt. And, in any event, an

individual who is the subject of an extradition request "is not stopped from invoking such legal challenges to the request as he/she may be advised".

In this regard, and given that the final authority for extradition remains a political act, resting with the minister, the Holness Government could well consider going beyond the commission's recommendation by also amending Section 9 of the act dealing with provisional warrants for the arrest of a person for whom there is an extradition request. In these circumstances, a magistrate (now a parish judge), having received information that a person wanted for extradition is in Jamaica, may issue a warrant for his arrest, but is obligated to forthwith inform the minister of his action. The minister can decide not to proceed, in which event the person is released.

The law requires that in issuing a warrant of arrest, the magistrate should be satisfied with the information that it would authorise the arrest for a similar offence in his/her jurisdiction. That requirement could be expanded to include the need for supporting documentation provided by the requesting state in the normal course of events.

In this regard, the initial phase of extradition matters would be primarily a judicial issue, placing the greater burden to get proceedings going with the competent authority, who acts on behalf of the requesting state, rather than the political issue. This would not obviate the political executive having the final authority to extradite, taking into account foreign-policy considerations and international political human-rights law.

# Court blames Remand Centre for teen's suicide



GORDON HARRISON ... likened verdict to a glimmer of hope

The administration of the Horizon Adult Remand Centre has been found negligent in the death of teenager Vanessa Wint. The 16-year-old was found hanging in a section of the remand centre with a sheet around her neck in November 2012.

Wint was remanded in custody by a Family Court magistrate after she repeatedly ran away from home. The child was sexually molested by an older male community member who threatened to kill her parents if she reported the crime.

She was deemed an uncontrollable child and sent to the adult remand facility.

On Friday, a jury in a Coroner's Inquest requested by the Office of the Children's Advocate (OCA) ruled that her death was "due in part by the negligence of the authorities of Horizon Adult Remand Centre to place her under suicide watch and take measures to protect her from self-harm".

In 2013, an investigation into Wint's death conducted by the Independent Commission of Investigations (INDECOM) found that her remand was "irregular and possibly unlawful, due to the fact that the committal order was not endorsed by the minister as required by the law."

The commission also revealed that there was no particular training of the staff as it relates to the handling of juveniles and has decided to not just consider the issue of Wint's death, but also the broader issues regarding reducing the risk of suicides in the future.

"The commission found that the State failed in its duty to safeguard the life of Vanessa Wint, as they failed to take all reasonable steps to cause her to be closely monitored in a manner that would facilitate quick response should she make another attempt to harm herself or take her own life; this, considering the known fact that she had made numerous attempts," INDECOM said. "The commission also found that the State failed in its duty to establish and maintain standard operating procedures to effectively detect and manage the risk of an inmate or ward's suicide," the news release added.

The OCA recommended a coroner's inquest and referred the matter to the Special Coroner to determine the circumstances surrounding the teen's death.

A news release from the OCA recently stated that the inquest was convened in 2013 amidst concerns about the safety of teens being housed in adult correctional facilities at the time. Its hearing began in February.

In the news release the OCA stated that it was pleased with the verdict.

Likening the verdict to a "glimmer of hope, Children's Advocate Diahann Gordon Harrison said that the decision gives the OCA a sound basis upon which to determine the next steps.

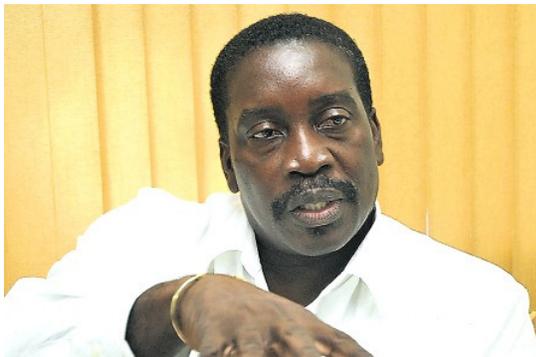
The OCA believes that from this judgement, going forward vulnerable children like Vanessa, who are faced with psychological and deep emotional challenges, will get some specialist attention and intervention when in custody of the State, especially those with a proclivity to self – harm.

The OCA also feels that children who are the subject of correctional orders must be given due care to ensure that they are placed in appropriate correctional facilities which are approved for holding children.

The Coroner's Inquest was held at the Sutton Street Coroner's Court in Kingston. Former Prime Minister Bruce Golding was the foreman who relayed the verdict.

## Defence Board discusses Tivoli enquiry findings

The Observer



Security Minister Robert Montague

THE Defence Board last Friday discussed the Tivoli enquiry report and considered in detail the findings of the report relating to the Jamaica Defence Force, and specifically those in relation to the conduct of officers and the use of mortars during the operations

of May 2010.

The board, chaired by Prime Minister Andrew Holness, also had in attendance Minister of National Security Robert Montague; Minister of Justice Delroy Chuck; Attorney General Marlene Malahoo-Forte; Chief of Defence Staff of the Jamaica Defence Force (JDF) Major General A B Anderson, and other Government officials.

A Jamaica House release said the report will be further discussed by Cabinet today and the Government will, in short order, hold further meetings with the Jamaica Constabulary Force, residents of West Kingston and other stakeholders to arrive at a final position in relation to the recommendations of the commission of enquiry.

The commission of enquiry, appointed to enquire into events which occurred in West Kingston and related areas in May 2010, which led to the death of more than 70 people during an

operation to nab then fugitive Christopher 'Dudus' Coke, who was wanted by United States authorities to answer to criminal charges in that country.

Coke, who was on the run for a month, later waived his right to an extradition hearing. He is now serving time in a US prison.

The Defence Board is established by the Defence Act of Jamaica and is responsible under the general authority of the prime minister, as the minister of defence, for the command, discipline, administration and all other matters relating to the JDF, including to act as an advisory board to the minister of defence.

## **No one should be 'lost' in prison system – Montague**

The Observer



Minister of National Security Robert Montague  
KINGSTON, Jamaica – Minister of National Security Robert Montague says he has instructed the Department of Correctional Services to conduct an audit of inmates. This, he said, is to ensure that no one is lost in the system.

"I do not want to hear a fellow Jamaican is lost in the system," Montague said while speaking to editors and reporters at the Jamaica Observer Monday Exchange today.

"Every human body must be attached to a file..." Montague said.

The minister pointed out that there might be instances when people have completed their prison

time but remain in prison voluntarily because the conditions there are better than their own living arrangements.

He said if this is the case, it should be known to the authorities as all prisoners should be accounted for.

He said the Department of Correctional Services is carrying out a “nose count” and that the audit should be completed soon.

## **Man allegedly damaged another’s car during jealous rage over his ex**

Covering the courts  
with Tanesha Mundle  
The Observer



A brief look at Jamaica's political history provides an interesting background to the concept and creation of the 1962 Constitution and the format of the Senate.

A man was hauled before the court after he reportedly got jealous when he saw his ex-girlfriend, with whom he has just broken up, dancing closely with another man at a night club in New Kingston, and damaged the man’s car.

The accused, Cori Sinclair, 28, of Walford Close in Kingston, is facing charges of assault at common law and malicious destruction of property.

The court on Tuesday heard that Sinclair pulled a ratchet knife at the complainant and flung a bottle at his car, damaging the bonnet.

Attorney Lawrence Haynes, in explaining what had sparked his client's behaviour, said: "He had just broken up with his girlfriend and he went to a popular night club and found that she was dancing in a manner that was too familiar."

The incident happened at Escape nightclub on May 7, around 4:30 am.

But the complainant, in his statement, said he was talking to the sister of Sinclair's ex-girlfriend when Haynes approached him and started asking him several questions about his ex-girlfriend, which made him feel uneasy.

The complainant, who was not aware at that time that Sinclair was familiar with either of the women, said he refused to answer and left for the parking lot.

Sinclair reportedly followed the complainant and started behaving boisterously

Allegations are that he broke a bottle and threw it at the complainant's car, damaging the bonnet.

Sinclair also reportedly pulled a three-star ratchet knife and stabbed at the complainant, but was restrained by a security guard who had intervened.

Haynes subsequently asked for the matter to be rescheduled for mention and Sinclair's bail was extended until September 9.

## **Man snatches man's chain to help sick sister**

Covering the courts with Tanesha Mundle

The Observer

A man who grabbed a car dealer's gold chain from his neck in downtown Kingston claimed he did it to help his sick sister, who has a hole in her heart.

Kemar Reynolds was arrested and charged with larceny after he pounced upon the complainant in a bus at the intersection of Heywood and Orange streets, where he grabbed the chain valued at US\$1200 and ran.

Reynolds was, however, chased by the complainant and was caught with the chain by police officers who were on patrol in the area and who assisted the complainant.

The complainant had reportedly travelled to downtown Kingston with his grandson in an effort to allow him to experience what it was like to travel on public transportation.

Last Thursday when Reynolds appeared in court he pleaded guilty but told Parish Judge Chester Crooks that he had a valid reason for robbing the man of his chain.

“Mi did deh in a wants because mi sista sick, she have hole inna har heart and mi did want fi help har buy some pills so mi did a try something to help her,” Reynolds told the court.

But Reynolds, when asked if he had any previous convictions, told the judge that he was convicted for the same offence in 2013.

Judge Crooks then ordered a social enquiry report after scheduling Reynold’s sentencing for July 4.

Reynolds was then remanded.

## **Young man to pay money to replace teen’s tooth following fight**



Covering the courts with Tanesha Mundle  
The Observer

A young man faced the court for punching out a 15-year-old boy’s tooth during a dispute.

Rohan Graham, 21, and the juvenile appeared in court last Wednesday on charges of unlawful wounding.

Graham accused the teen of cutting him with a knife while the teen reported him for punching out his tooth.

The altercation occurred at the Denham Town Community Centre in West Kingston on May 4, around 4:00 pm.

According to the teen, he was at the centre sharing jokes with a group of friends when Graham rode up on a bicycle and called him “b....bwoy”. The teen said he responded by using an expletive and was hit with a broomstick on his left hand.

The teen said he tried to retaliate but was punched in the mouth by Graham, who knocked out one of his teeth.

Graham, however, gave a different story.

According to him, he went to the centre to bring one of his friends lunch and, on his arrival, the teen started “feistyng” with him. This, he said, resulted in a fight wherein the juvenile hit him with a broomstick and cut him on his hand with a knife.

However, he admitted to Senior Parish Judge Judith Pusey that he punched out the teen’s tooth, but said that he did not do it intentionally.

“Me never directly say me ago punch out him teeth, a punch me punch him and it come out,” he said.

“So what you expect? Subtract 15 from 23; you’re eight years older than him and you thump out his teeth,” the judge said.

The teen, however, denied cutting Graham.

The judge then asked the juvenile what he wanted her to do with Graham and he indicated that he wanted him to cover his medical expenses for the repair of his tooth.

As a result, the judge instructed the teen's mother to visit the dentist and find out how much it will cost to replace her son's tooth.

The two are scheduled to return to court on June 28.

## Two to be sentenced on human trafficking charges

The Observer



KINGSTON, Jamaica (CMC) – Two people will be sentenced early next month after they were convicted of human trafficking charges in the Home Circuit Court involving a teenage girl from Haiti.

A seven-member jury deliberated for more than two hours Friday before finding Rohan Ebanks guilty of rape, trafficking in person, and facilitating trafficking in person.

His co-accused, Voneisha Reeves, pleaded guilty to facilitating trafficking in person at the start of the in-camera trial.

They will be sentenced on July 7.

The court heard that while on a visit to Haiti in 2010, Ebanks convinced relatives of a teenage girl to allow him to take her to Jamaica with the promise that she would have a better life. However, prosecutors say when the teen arrived in Jamaica, she was forced to take care of the couple's children and was sexually assaulted.

Ebanks broke down in tears after the jury's decision was announced. He maintained his innocence.

His attorneys, Donald Bryan and Paul Wayne Gentles, said they would be appealing the verdict. Ebanks and Reeves bring to four the number of people convicted of human trafficking since the legislation was enacted in 2007.

## **Jamaicans Found Guilty Of Trafficking Haitian Girl To Be Sentenced**



Published: Sunday | June 19, 2016 | 12:22 PM

Two Jamaicans found guilty of trafficking a teenage Haitian girl are to be sentenced next month.

Rohan Ebanks was indicted by a seven-member jury on Friday for rape, trafficking in person, and facilitating trafficking in

person.

His co-accused, Voneisha Reeves, had pleaded guilty to facilitating trafficking in person at the start of the in-camera trial.

They will be sentenced on July 7.

The court heard that while on a visit to Haiti in 2010, Ebanks convinced relatives of a teenage girl to allow him to take her to Jamaica with the promise that she would have a better life.

However, prosecutors say when the teen arrived in Jamaica, she was forced to take care of the couple's children and was sexually assaulted.

**The End**