



The Integrity Commission of Jamaica

Anti-Corruption and Good Governance Sensitization Workshop Series

**Specially Developed by the Integrity
Commission for the Cabinet of the Government
of Jamaica**

Acknowledgement of Gratitude

- On behalf of the Chairman and Commissioners of the Integrity Commission, and myself, I would wish to record our gratitude to the Most Hon. Prime Minister for this unique and welcome initiative between himself, his Cabinet and the Integrity Commission

Broad Objective of Workshop

- Sensitization and raising of awareness on a wide range of anti-corruption and good governance issues in order to enhance the quality and integrity of leadership
 - Integrity and good governance in public life
 - The problem of corruption
 - Anti-corruption frameworks and best practices
 - The Integrity Commission and its enforcement functions
 - Ensuring that leaders avoid culpability under the law
 - Leadership responsibilities
 - Commitment to the rule of law

Introduction of Presenters

- Greg Christie, Executive Director
- Craig Beresford, Director of Information and Complaints
- Kevon Stephenson, Director of Investigation
- Keisha Prince, Director of Corruption Prosecution
- Maurice Barrett, Senior Director (OCG Legacy Position)
- Gillian Pottinger, Legal Counsel

Overview of Presentations

- Overview of Jamaica's Anti-Corruption Framework
- The Problem of Corruption
- Principles of Good Governance and Integrity in Public Life
- Public Procurement Overview
- Other Critical Areas Involving Integrity Commission Oversight
- IC Process - Filing of Statutory Declarations
- IC Process - Protected Disclosures Act - Whistleblowing
- IC Process - Reporting Allegations of Corruption
- IC Process - Investigating Allegations of Corruption
- IC Process - Prosecuting Allegations of Corruption
- IC Process - Overview of Corruption Offences in Jamaica
- International Best Practices in Anti-Corruption and Anti-Bribery

Format of Presentations

- One-hour presentations delivered in PowerPoint format
- Approx. 45 minutes for verbal overview of material; 15 minutes for questions and answers
- Presentations will be structured to provide a documented record of key information
- Copies of the presentations will be provided to the Cabinet
- Commission will provide added info on any specific issue



Thank you!

Anti-Corruption and Good Governance Sensitization Workshop

Module #1:

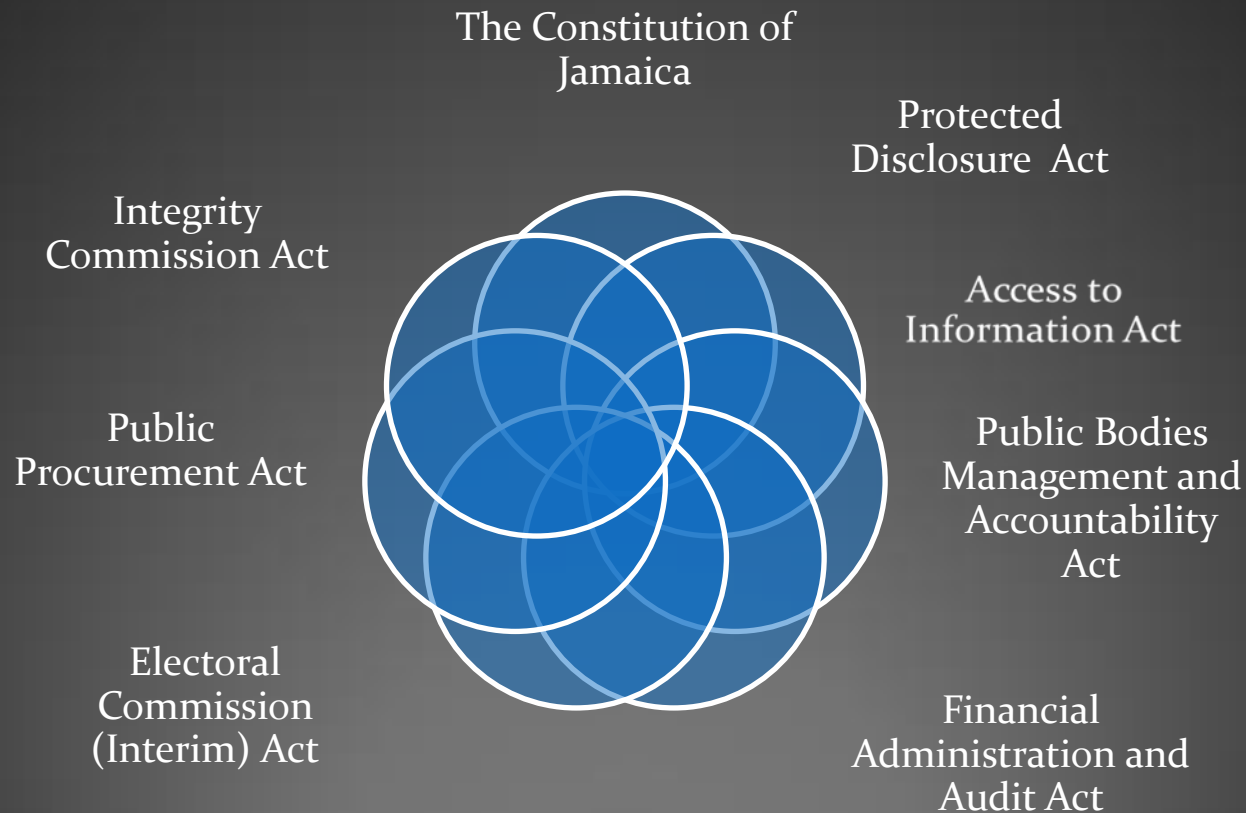
**“The Anti-Corruption Framework in Jamaica: A Focus on
the Integrity Commission”**

**Gillian Pottinger
Legal Counsel**

Jamaica's Anti-Corruption Institutional and Legislative Framework

- Despite the perception that exists, both globally and locally, that Jamaica is highly corrupt, the country, notwithstanding, has what many have come to regard as a fairly comprehensive anti-corruption institutional framework – at least on paper.
- The framework embraces a significant body of statutory and constitutional law provisions, as well as international treaty instruments. Among them, are the following:

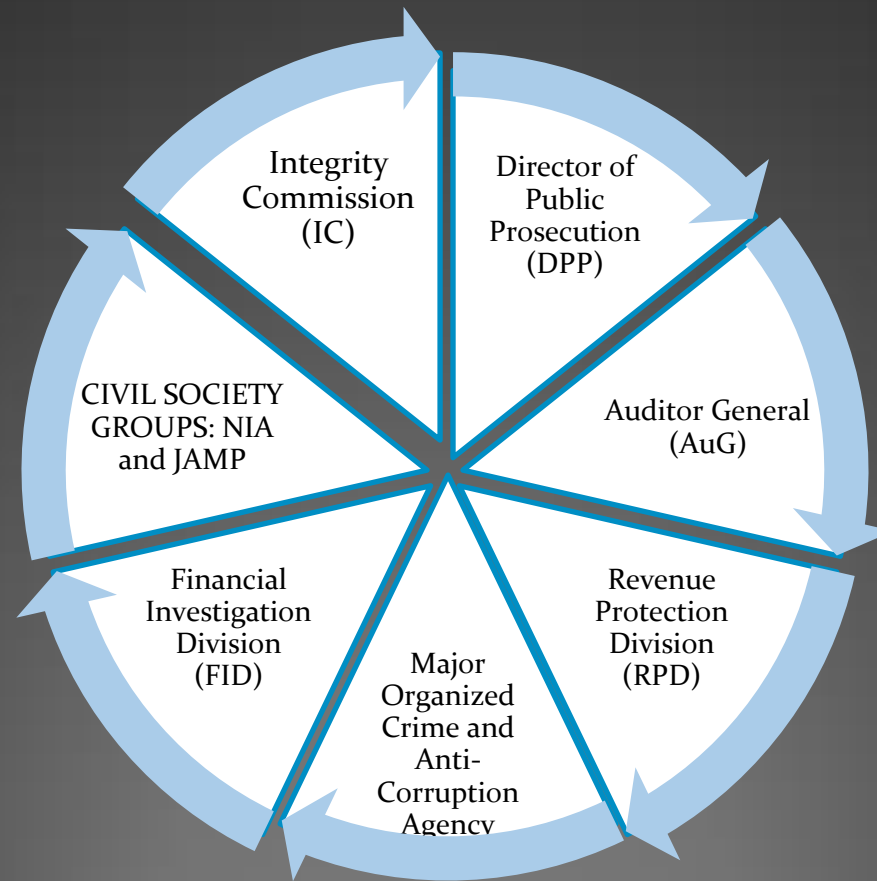
Legislative Framework



Legislative Framework

- Jamaica is also a party to:
- The 1996 OAS Inter-American Convention against Corruption, ratified by Jamaica on March 16, 2001.
- The 2005 United Nations Convention against Corruption (UNCAC), ratified by Jamaica on March 5, 2008.

Institutional Framework



Overview of the Integrity Commission

- Purpose
- Objects
- Functions
- Structure
- Board of Commissioners
- Executive Director
- Operating Divisions
- Privilege and Confidentiality
- Role of Section 35 Commission
- Role of Parliament Oversight Committee
- Restructure

Purpose

To promote and enhance standards of ethical conduct for parliamentarians, public officials and other persons

AND

To promote and strengthen the measures for the prevention, detection, investigation and prosecution of acts of corruption.

Objects

- S.3 of the ICA
 - Further, encourage and promote propriety and integrity among persons exercising public functions in Jamaica.
 - Promote and strengthen measures for the prevention, detection, investigation and prosecution of acts of corruption.
 - Ensure that government contracts are awarded, varied, renewed or terminated impartially, on merit and in a financially prudent manner.
 - Enhance public confidence that acts of corruption and impropriety will be investigated and dealt with in a manner which achieves transparency, accountability and fairness.

Functions

16
Functions
outlined
in S.6 of
the ICA:

- **(a)** Investigate alleged or suspected acts of corruption and instances of non-compliance with the provisions of this Act;
- **(b)** Prosecute acts of corruption and offences committed under this Act;
- **(c)** Take necessary and effective measures for the prevention and detection of corruption within public bodies;

Functions...

(d) Examine the practices and procedures of public bodies and make recommendations, in relation to the revision of those practices and procedures, which in the opinion of the Commission may reduce the likelihood or the occurrence of acts of corruption;

(e) Receive complaints in relation to alleged or suspected acts of corruption and non-compliance with the provisions of this Act;

(f) Monitor and where necessary investigate the award, implementation and termination of government contracts;

Functions...

(g) Prepare codes of conduct and other advisory material relating to corruption and guide public bodies in respect of matters within the purview of this Act;

(h) Monitor current legislative and administrative practices in the fight against corruption;

(i) Advise the Minister on the adoption of international best practices relating to the prevention of corruption;

Functions...

(j) Co-ordinate the implementation of an anti-corruption strategy;

(k) Collaborate or co-operate with other persons or bodies, whether in Jamaica or outside of Jamaica, duly authorized to prevent, combat and investigate acts of corruption, so as to implement an integrated approach to the eradication of corruption;

l) Advise the Minister on such legislative reform as the Commission considers necessary to reduce the likelihood or the occurrence of acts of corruption;

Functions...

(m) Compile and publish statistics relating to the investigation, prosecution and conviction of offences relating to acts of corruption;

(n) Determine the extent of financial loss and such other losses to public bodies, private individuals and organizations, including losses sustained by the private sector, as a result of acts of corruption; and

(o) Adopt and strengthen mechanisms for educating the public in matters relating to corruption.

Competent Authority

S.7(15): The IC is permitted to collaborate with:

- Director of Public Prosecutions (DPP);
- Attorney-General (AG);
- Tax Administration Jamaica (TAJ);
- Financial Investigations Division (FID);
- Major Organized Crime and Anti-Corruption Agency (MOCA);
- Revenue Protection Division (RPD);
- Jamaica Constabulary Force (JCF);
and
- Jamaica Customs Agency (JCA)

Structure

S.35
Committee

Board of Commissioners

Oversight
Committee
S.O.73D

Executive
Director

Investigation
Division

Corruption
Prosecution
Division

Information and
Complaints Division

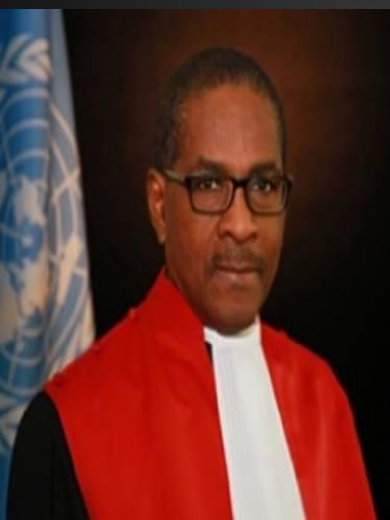
Support Services
Divisions

Board of Commissioners

- S.8 ICA- the following five (5) persons:
 - (a) The Auditor-General;
 - (b) Four other persons appointed by the Governor-General, by instrument in writing, after consultation with the Prime Minister and the Leader of the Opposition, from any of the following categories of persons:
 - (i) Retired Judges of the Court of Appeal or retired Judges of the Supreme Court, from which two persons shall be appointed;
 - (ii) Senior retired public officials with knowledge and expertise in the area of finance, accounting or public administration; and
 - (iii) Persons who represent non-governmental organizations that appear to be well established.

Current Board of Commissioners:

The Hon. Mr. Justice (Ret'd) Seymour Panton, OJ, CD (Chairman); Mrs. Pamela Monroe Ellis, FCCA, CA; Mr. Eric Crawford, CD; The Hon. Justice (Ret'd) Lloyd Hibbert, CD; Mr. H. Wayne Powell, OD, JP



Board of Commissioners

- S.18: No Commissioner shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission.
- S.25(1): The Commission may establish committees of the Commission in order to assist the Commission in effectively and efficiently performing its functions.
 - Investigation and Prosecution
 - Information and Complaints
 - Human Resource and Corporate Governance
 - Audit, Finance and Information Technology

Executive Director

- S.29- Functions of the Executive Director (Currently Mr. Greg Christie)

Subject to S.34(3), the Executive Director shall—

- (a) Be responsible for the day to day management of the affairs of the Commission other than those functions that are specifically assigned under this Act to a Director;
- (b) Be responsible for coordinating the functions of the Commission;

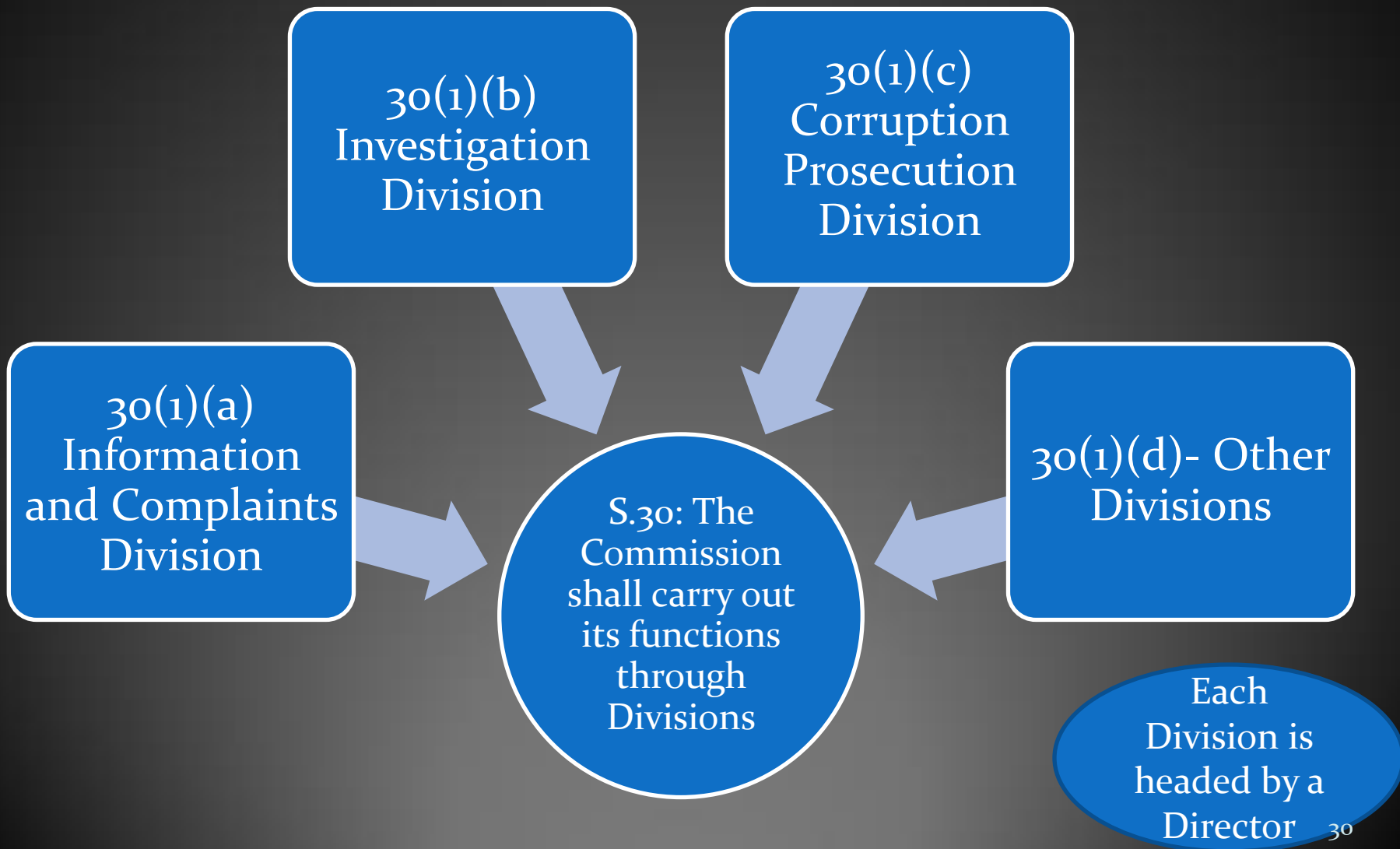
Executive Director

- (c) Ensuring the timely implementation of the decisions and directions of the Commission;
- (d) Submitting quarterly reports to the Commission in relation to the activities of each Division in such manner as maybe prescribed;
- (e) Preparing the budget of the Commission and submitting the same to the Commission for approval;

Executive Director

- (f) Developing and implementing operational policies and procedures in relation to the functions of the Commission; and
- (g) Performing such other functions as may be assigned to the Executive Director under this Act or any other enactment.
- 29(2) The Executive Director may, where he considers necessary, refer to the Commission any matter which may arise in relation to the execution of his functions.

Operating Divisions



Information and Complaints Division

- S.32- Functions of the Director of Information and Complaints (Currently Mr. Craig Beresford)

The Director of Information and Complaints shall—

- (a) Receive, keep on record and examine all statutory declarations filed with the Commission;
- (b) Make such enquiries as he considers necessary in order to certify or determine the accuracy of a statutory declaration; and
- (c) Receive and keep proper records of any complaint or information or notification in relation to allegations of corruption amongst other things.

Information and Complaints

- **Part IV- Complaints- Sections 37 and 38**



- S.37 – A person may make a complaint or give information about a matter which involves or may involve an act of corruption or non-compliance with the ICA

- S. 38- The complaint will be recorded and submitted to the appropriate Director

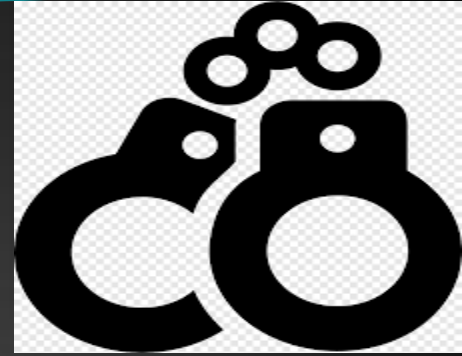
- **Part V-Statutory Declarations- Sections 39-44**



- S. 39 - Duty to submit Statutory Declarations where official in receipt of total annual emoluments of \$3.5M and above

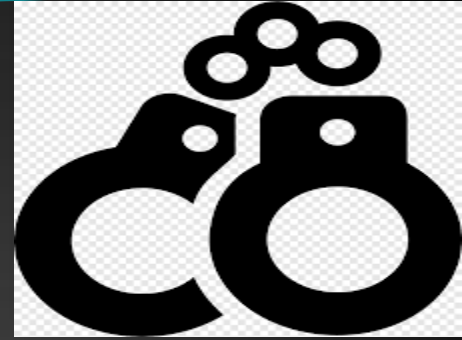
- S. 43-Offences in relation to Statutory Declarations

Information and Complaints (Offences)



- S.43 ICA- Offences in relation to Statutory Declaration:
 - Failure without reasonable cause to submit a Statutory Declaration in accordance with the ICA.
 - Failure without reasonable cause to submit information to the Director of Information and Complaints.
 - Fine of no more than \$500,000/ up to 6 months imprisonment.

Information and Complaints (Offences)



- Knowingly make a false statement in a Statutory Declaration.
- Fine: Not exceeding \$2 Million or imprisonment of up to 2 years.

Investigation Division

- S.33- Functions of the Director of Investigation (Currently Mr. Kevon Stephenson)



- To investigate any allegation that involves or may involve an act of corruption and non-compliance with the ICA
- Conduct of investigation in relation to government contracts and prescribed licenses
- **Part VI- Powers and Procedures in Respect of Investigations Generally- Sections 45-50**

Investigation

- S. 45: Powers of the Director of Investigation Generally
 - Power to summon witnesses.
 - Compel the production of documents or any other information.
 - Do all such things which are necessary for conducting an investigation.

Investigation

- S.47(2)- Factors to consider in determining whether to investigate:
 - (a) The seriousness of the conduct to which the matter relates; and
 - (b) Whether the matter is frivolous or vexatious.
- S.51- Monitoring responsibility- the DOI is to be advised of the award, variation and termination of government contracts.
- S.52- Investigation of government contracts and prescribed licences responsibility- includes reviewing registration of contractors and tender procedures.

Investigation



- S.54- Findings of the DOI
 - Report of findings and recommendations to be submitted to the Commission through the Executive Director (S.54(1)).
 - Terminate an Investigation where insufficient grounds for continuing investigation and issue a report of his findings to the Commission through the Executive Director(S.54(2)).
 - Where breaches are identified, the DOI is required to take specific steps (S.54(3)):

Investigation (S.54(3))

If suspect that there has been a **breach of any code of conduct by a public official or a parliamentarian**, the Director of Investigation shall, in his report to the Commission—

In the case of a **public official**, recommend to the Commission that the matter be referred to the relevant public body for appropriate action;

In the case of a **parliamentarian**, recommend to the Commission that the matter be referred to the Speaker of the House of Representatives or the President of the Senate, as the case may require, for appropriate action;

Investigation (S.54)

- Where the Director of Investigation suspects an act of corruption, he shall recommend that the matter be referred to the Director of Corruption Prosecution.
- The Commission on receiving the report from the Director of Investigation where it is indicated that a breach has occurred or an act of corruption is suspected, shall submit the Report to Parliament for tabling.
- A report submitted to Parliament as aforesaid, shall exclude matters that the Director of Corruption Prosecution considers likely to prejudice the prosecution of matters indicated in the report.

Investigations (S.54(3))

- If suspects that an act of corruption or an offence under this Act has been committed, the Director of Investigation shall, in his report to the Commission, recommend that the matter be referred to the Director of Corruption Prosecution who may take such action as maybe deemed appropriate.



- S.53(3)- Restriction on disclosure- until the tabling of an investigation report in Parliament all investigation shall be kept confidential.

Corruption Prosecution

- S.34- Functions of the Director of Corruption Prosecution (Currently Miss Keisha Prince)

The Director of Corruption Prosecution shall—

(a) Subject to the powers conferred on the Director of Public Prosecutions by section 94 of the Constitution of Jamaica, institute, undertake and have the conduct of prosecutions in respect of acts of corruption and offences committed under this Act;

(b) Provide legal advice to the Commission on matters concerning acts of corruption and offences committed under this Act;

Corruption Prosecution

- S.34- Functions of the Director of Corruption Prosecution

(c) Collaborate with the Asset Recovery Agency established under the Proceeds of Crime Act, in relation to the conduct of proceedings with respect to the seizure, restraint, forfeiture or recovery of any property relating to acts of corruption;

...

(e) Perform such other prosecutorial functions relating to acts of corruption as may, from time to time, be assigned to him by this Act or any other enactment.

Privilege



- S.7(8) and S.48(4):
- Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or thing, imposed on any person by or under any other law, shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Commission;
- Accordingly, no person shall be liable for prosecution for any offence under the *Official Secrets Act, 1911, 1920 and 1939* or any other law, by reason of his compliance with a requirement of the Director of Investigation under this Act; and
- Exception in S.52(2) in relation to matters concerning defence, equipment for security forces, matters of national security or international relations.

Confidentiality



- S.53(3)- Restriction on disclosure of matters under investigation until tabling in Parliament
- S.56- Confidentiality

Regard and deal with as secret and confidential, all information, statutory declarations, government contracts and all other matters relating to any matter before the Commission.

Requirement continues after employment ceases.

Offence: S.56(3)- If you communicate or attempt to communicate information in breach of s.56 you shall be liable on conviction to fine not exceeding \$1M or imprisonment not exceeding one year.

Section 35 Committee

- A Committee which is chaired by the Speaker of the House of Representatives and otherwise composed of the President of the Senate, Minister of Finance, Leader of Government Business and the Leader of Opposition Business in the Senate and, Leader of Government Business and the Leader of Opposition Business in the House of Representatives.
- Function is to review staff related matters of the IC, to include remuneration, terms and conditions for staff, as may be considered necessary, to assist it in the proper performance of its functions under this Act.



Integrity Commission Oversight Committee

- Standing Order 73 D

The Integrity Commission Oversight Committee is required to assess the effectiveness of the Integrity Commission and the appropriateness of its procedures and shall have the duty of—

- (a) Monitoring and reviewing the performance of the functions of the Integrity Commission;
- (b) Reporting to both Houses of Parliament on any matter relating to the performance of the functions of the Integrity Commission; and
- (c) Reviewing the annual report and any other report of the Commission and submitting recommendations in relation thereto to both Houses of Parliament.

Anti-Corruption and Good Governance Sensitization Workshop

Module #1:

**“Integrity Commission Organization
Restructure”**

**Greg Christie
Executive Director**

Restructuring

- Approved organization structure ‘not fit for purpose’
 - Structure approved by Parliament and MOF in late 2019
 - 132 staff-complement
 - Designed and approved prior to appointment of substantive Executive Director and Divisional Directors
 - Designed and approved prior to the appointment of current Chair and 2 other Members of the Commission
 - Structure substantively addressed only 5 of the Commission’s 16 statutory mandates (See slides #17-21)

Restructuring

- Commission organization structure revised
 - Commission interrogated previous structure and approved new structure with 170 staff-complement on August 11 – up from 132
 - Fourth operating division added: Corruption Prevention Division
 - Original 3 statutory operating divisions strengthened: Information and Complaints, Investigation and Corruption Prosecution
 - Commission now requires expanded accommodations to house new 170 staff-complement – up from current 85
 - Structural issues, associated with consolidating 3 legacy institutions into single Integrity Commission, now substantially settled

Restructuring

- Commission has received positive support from the Government
 - Ministry of Finance has been satisfactorily progressing the Commission's restructuring proposal
 - Ministry of Finance has responded positively to the Commission's interim budgetary proposals
 - The Commission is currently in the market-place to identify expanded accommodations; it has solicited the assistance of 5 private sector realtors and 3 public sector agencies
 - Once adequate accommodations are secured, hiring will commence; until then, the Commission will be restricted in the effective discharge of its 16 Section 6 statutory mandates

Questions

Thank You

