

## PRESS RELEASE

The Law Association of Trinidad and Tobago wishes to express its increasing concern over what appears to be an inability of the Government of the day to strike an appropriate balance between the objectives of the Executive and many of the fundamental rights and freedoms to which the citizens of Trinidad and Tobago are entitled under the Constitution.

The Association's concern has been provoked by incidents of lock-down, general detention, continued use of the military in police business and methods of surveillance and spying that are not backed by legislative authority. The Association is also observing carefully the removal of socially displaced persons from public places.

### LOCKDOWN

The recently concluded Fifth Summit of the Americas has highlighted the imbalance. The need for the authorities to "lock down" substantial sections of Port of Spain, the Airport and its environs seemed in many respects disproportionate. The Association does not for one moment discount the importance of the security concerns involved in protecting 34 world leaders. However the decision of the Executive to deny public access to key public areas in Port of Spain for prolonged periods ( from midnight

### **Law Association of Trinidad and Tobago**

established by the  
Legal Profession Act 1986



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Thursday night to midnight Sunday night) caused substantial disruption to all sectors of society. This inconvenience may have been aggravated for persons who were unable to access the required temporary passes to go about their urgent necessary and lawful business or who may have been denied entry into and exit from their neighbourhood despite holding a pass.

The situation was further aggravated by what appeared to be inefficiency in communicating to the members of the public in a timely or accurate manner what traffic restrictions would be instituted and where, not only for the period of the summit but during the period approaching the summit. The result of this was that many citizens were left waiting for hours in traffic or could not leave their homes.

The continuing practice of "lock-down" is of the gravest concern to the Association as it anticipates the Commonwealth Heads of Government meeting scheduled to take place in Port of Spain, latter this year, in November.

#### POWERS OF ARREST AND DETENTION

The Police responded to the recent shooting in Diego Martin, where two gunmen fired on five men unloading a container reportedly by arresting and detaining 17 persons labelled as "gang members". We remind the authorities that there are clear

rules that govern the police powers of arrest and detention, that those are powers entrusted to the police and not the military and that the prolonged detention of persons without charge is illegal and unlawful outside of a State of Emergency. The Association deplores any attempt to use emergency type powers without observing the constitutional requirements for their use.

#### SURVEILLANCE

The Association has also observed the installation of several hundred CCTV cameras throughout Port of Spain and along the highways. The Association supports the use of cameras as an essential tool in the fight against crime, but use of surveillance cameras must be based on and supported by appropriate legislation. The Association feels that it must sound another note of caution. There have been instances where certain politicians claim to possess information on political rivals that could only have been obtained by illegal electronic surveillance. The Association deplores all forms of electronic surveillance without appropriate legislation and oversight. We call on the Government to bring legislation to regulate such activity.

It must be emphasized that the unregulated surveillance of private citizens is unlawful and remains so as long as the Government fails to bring to Parliament legislation that implements

the necessary checks and balances to make surveillance reasonable and proportionate. None of the institutions charged with prosecuting crime will ever be able to use any relevant information gathered by surveillance in the courts. It makes no sense to know who "Mr. Big" is unless you can bring to court evidence to secure a conviction.

#### PEACEFUL PROTEST

The right of citizens to protest peacefully as well as their right to freedom of expression is under threat. The spectacle of riot police lined up and positioned to forcibly shut down the recent event at the St James Amphitheatre was extremely disturbing. The way the police handled the early stage of this event turned a peaceful gathering into a volatile situation that had the potential to cause a violent confrontation. If it were not for the timely intervention of police officers of rank, the situation could easily have been much different.

#### REMOVAL OF SOCIALLY DISPLACED PERSONS

The Law Association is noting the attempts to deal with socially displaced persons. We accept that many of the socially displaced persons who

are living in Port of Spain and environs may suffer from degrees of mental illness. However many do not.

The authorities must be careful that in their attempts to rid the streets of these individuals that they do not trample upon fundamental rights. Where there is a basis to justify a person's alleged mental illness the court has the necessary power to remand a person who has committed an offence to St Ann's for treatment. In the absence of evidence of mental illness and an appropriate court order the authorities have no authority to arrest and detain a person at St Ann's or elsewhere without that person's consent.

#### CONCLUSION

The Association appreciates that dealing with the questions of crime and security is challenging even at the best of times much less when the eyes of the world are focused on Trinidad and Tobago. However, and moreso when we are under the global microscope, we must not forget or forego the core principles of our Constitution. They are there for good reason and we need to respect them.

The Law Association has made a contribution towards solutions of the unacceptable levels of crime in Trinidad and Tobago by submitting its 40-point crime plan to the Prime Minister in 2005. It considers the response of the Minister

of National Security to have been inadequate and it is surprised that the offer of a meeting made by the Minister of National Security in June 2008 has not materialised.

A handwritten signature in blue ink, appearing to read 'M. G. Daly', with a stylized flourish at the end.

Martin G. Daly S.C.  
President  
May 6, 2009