



**OFFICE OF THE ST. GEORGE WEST COUNTY
PORT OF SPAIN CORONER**

FINDINGS OF INQUEST

CITATION: Inquest into the death of Nazim Christian

TITLE OF COURT: Port of Spain Coroner's Court

COR FILE NO(s): INQ 284 of 2005

DELIVERED ON: 26th March 2012

FINDINGS OF: Nalini Singh
St. George West County
Port of Spain Coroner

REPRESENTATION:

- Mr. Israel Khan SC and Mr. Ulrick Skerrit appeared for Sgt. Roy #12260, PC Bentick #16416, PC Steele #14508, PC Baldwin #16389, Retired Inspector Winston Stewart, Retired Senior Superintendent Leon Anthony and then Acting Deputy Commissioner of Police Gilbert Reyes
- Mr. Wayne Rajbansee appeared looking after the interest of the family of the deceased
- Cpl. Gonzales, Cpl. Levine, Cpl. Maharaj and now Retired Cpl. Samuel appeared to assist the Coroner

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PREFACE

On the 3rd March 2009 an inquest was formerly opened into the death of 24 year old Nazim Christian. He died on the 4th May 2005 at #3 Mariquette Street, East Dry River, Laventille, from injuries associated with multiple gunshot wounds.

These are the findings of that inquest. They are divided into five parts.

Part 1 is an introduction to the inquest proceedings.

Part 2 sets out the evidence which was taken during the inquest.

Part 3 contains a summary of my findings as Coroner in relation to Nazim Christian's death.

Part 4 consists of my concluding remarks in this inquest and a formal conclusion of same.

PART 1
INTRODUCTION

1. The Preliminary Investigation

Upon receiving the post mortem examination report pertaining to Nazim Christian, and in accordance with **section 10 (1) of the Coroners Act Chap 6:04**, a preliminary investigation was carried out into the cause and circumstances surrounding the death of Nazim Christian.

2. The Inquest

Upon completion of this preliminary investigation it was found that the circumstances of the case warranted further enquiry and, pursuant to **section 10(A) of the Coroners Act Chap 6:04**, an inquest was held. This inquest commenced on the 3rd March 2009.

During the course of the inquest evidence was taken on 24 days from 40 witnesses. The witnesses who testified were:

1. Safiyah Rahaman
2. Sgt. Avalon Frank # 13401
3. Jivonne John
4. Retired ASP Nizam Khan
5. Erica John
6. Lloyd Wilson
7. Chantelle John
8. Claude Junior Sandy

9. Ag. DCP Gilbert Reyes
10. Retired Sen. Supt. Leon Anthony
11. Retired Inspector Winston Stuart
12. Sgt. Roy #12260
13. PC Baldwin #16389
14. PC Steele #14508
15. PC Bentick #16416
16. PC Adams #15163
17. Ag. Cpl Williams #15499
18. Cpl. Douglas #13031
19. PC Hyacinth #14548
20. PC Brown #16408
21. PC Ghent #14941
22. PC Phillip #15887
23. PC Bridgelal #16255
24. PC Cowie #14515
25. PC Arthur #15049
26. PC Forgenie #15059
27. PC Aroon #15002
28. PC James #14872
29. PC Coker #14269
30. Cpl. Mohammed #12662
31. PC Maharaj #16290

32. PC Burns #15664
33. Cpl Brown #13050
34. Inspector Dennis Housend
35. Private Jack
36. PC Jordan #15458
37. PC Taylor #13009
38. PC Andrews #13348
39. PC Doon #14857
40. PC Durity #16113

During the course of the inquest the following exhibits were tendered into evidence in this matter:

1. Certificate of Analysis pertaining to nitrite, lead and copper residue testing of the back and hands of the deceased
2. Certificate of Analysis pertaining to ammunition
3. Certificate of Analysis pertaining to alcohol, cocaine, cannabinoids, opiates amphetamines and their metabolites tests done on the blood and urine of the deceased
4. Certificate of Analysis pertaining to blood type of the deceased
5. Copies of 8 photographs
6. Reports submitted by Sgt. Roy #12260, PC Baldwin #16389, PC Steele #14508 and PC Bentick #16416 (who testified during the course of this inquest).
7. Copy of a medical report in favour of PC Baldwin 16389

8. Copy of a medical report in favour of Jivonne John. No reliance was placed on this document as it was deemed inadmissible by the court in light of its format.
9. Copy of a medical report in favour of Erica John
10. Copy of the Post Mortem Examination Report pertaining to Nazim Christian.

PART 2

THE EVIDENCE

1. Safiyah Rahaman

Safiyah Rahaman was the first witness to testify at these proceedings. She said she was Nazim Christian's girlfriend for about three years. She testified that she knew him for a total of twelve years and he lived in Mariquette Street, East Dry River Port of Spain. According to her, on the 4th May 2005, she was asleep in her home located at Block 22 Laventille. She had a conversation with her sister and after, she took a bath and went down to Mariquette Street.

Safiyah Rahaman told the Court that on the following day i.e. the 5th May 2005, she went to the Port of Spain Mortuary where she identified a body in the presence of Corporal Frank.

No questions were asked of this witness in cross examination.

2. Sgt. Avalon Frank #13401

Sgt. Avalon Frank #13401 testified next. According to him, on the 5th May 2005, he went to the Port of Spain Mortuary where he met one Claude Sandy; the stepfather of the deceased Nazim Christian. After meeting him, Sgt. Avalon Frank #13401 stated that he escorted the body of the deceased Nazim Christian to the Forensic Science Center. The body was conveyed to this location by personnel from the Armstrong's Funeral Services Company.

At the Forensic Science Center, Sgt. Avalon Frank #13401 witnessed an autopsy on the body of the deceased Nazim Christian. This autopsy was conducted by the pathologist Dr. Hughvon Des

Vignes who, at the conclusion of same, handed to Sgt. Avalon Frank #13401 samples of blood, urine, projectiles and swabs which he had taken from the body of the deceased Nazim Christian. These exhibits were submitted by Sgt. Avalon Frank #13401 to the Forensic Science Center for analysis. The witness further stated that he later returned to the Forensic Science Center where he obtained Certificates of Analysis in respect of these exhibits as well as a post mortem examination report and same were handed over to ASP Nizam Khan the investigator in the matter.

The Court also learnt that whilst Sgt. Avalon Frank #13401 was at the Forensic Science Center, he observed Safiyah Rahaman identify the body of the deceased Nazim Christian.

No questions were asked of this witness in cross examination.

3. *Jivonne John*

Jivonne John was the third witness to testify at these proceedings. According to him, on Wednesday the 4th May 2005 he had just come from playing football and was taking a bath near drums which were in the front yard of his home situated at Mariquette Street, East Dry River, Port of Spain. Whilst he was bathing, he heard about four gun shots. Ten to fifteen minutes after hearing these gun shots, Jivonne John saw about four police men and four gun men walking down Mariquette Street towards his direction from north to south. Jivonne John saw Nazim Christian in his (Nazim Christian's) yard. According to Jivonne John it was "*half past fivish*" at this time, "*it had a little bit a sun*" it was "*coming to night*". Artificial lights were not on as yet. The men walked into Nazim Christian's yard. Shots started to fire after this. Jivonne John stated

that he had the group of men under his view for about forty five seconds and then he ran up the stairs to his home. The gun men were men Jivonne John had seen in the area before that day. He knew the names of three of them. They were known to him as Hamid, Kamar and Irwin. The police officers were men that Jivonne John had never seen before that day.

Jivonne John further testified that when he ran upstairs, he saw Nazim Christian running away from his (Nazim Christian's) yard and shooting a gun in the direction of his (Nazim Christian's) yard and after he flung the gun down into that yard. Jivonne John was able to see that the gun Nazim Christian was shooting was a 38 spin barrel. Jivonne John did not hear any more gun shots after that and he then testified that the next thing he knew was that he saw Nazim Christian jump the wall and come into his (Jivonne John's) yard. After this Jivonne John saw police men and the bad boys meet up by the corner pointing guns toward each other. A police officer said *"if you shot I go shot back, if you shot ah go shot back."* The bad boys responded by saying *"if you shoot, ah go shoot back, if you shoot, a police get shoot, a police get shoot"*. By this time according to Jivonne John, it was not time for the street lights to come on yet. Jivonne John and his mother then went back inside and Jivonne John finished his bath.

According to Jivonne John, the next time he saw Nazim Christian that evening was after he had finished his bath and he saw Nazim Christian inside of his (Jivonne John's) house. Nazim Christian was alive but he had a gunshot injury to his leg. Nazim Christian said to him: *"I get shoot in meh leg boy I get shoot in meh leg"*. He didn't say who had shot him. At this point Jivonne John's mother told him to tell the police that Nazim Christian was inside their house.

Jivonne John did not do this because he did not want to go outside to speak to anyone whilst gunshots were ringing out.

Between 6PM to 6:15PM on that same day, Jivonne John heard a knocking on the door and a voice said “*police!*”. Jivonne John’s mother opened the door to their home and this was when Jivonne John saw a number of police officers and soldiers.

According to him, it was about sixteen or more of them and they began to beat him about his body with their hands and guns. The beating started inside the kitchen. He was then taken into the cantilever where he got more licks then, he was taken into his yard where he continued to be beaten. From there he was taken into the road and finally to the bottom of Constitution Hill. Jivonne John recalls blows being meted out at both of these locations as well. Jivonne John told the Court that that day he was beaten about his hand, head, face, belly, chest and legs. The beating lasted for about one hour. Sometime after being beaten, Jivonne John was taken to the Besson Street Police Station. Hours after this, Jivonne John obtained medical attention at the Port of Spain General Hospital. At no time whilst being beaten was Jivonne John armed nor did he have anything in his hand.

Jivonne John pointed out Sgt. Roy #12260, PC Baldwin #16389, PC Steel #14508 and PC Bentick #16416 as four of the police officers who beat him that day. These men were men he had know before that day as he had seen them about four times whilst they were patrolling the streets and, he saw them a few times whilst playing football in the Center when the officers appeared to be off duty. These previous sightings occurred in 2005. Jivonne John said that he

was able to see Sgt. Roy #12260, PC Baldwin #16389, PC Steel #14508 and PC Bentick #16416 as four of the police officers who beat him that day because he said; *“I think de street lights begin to come on”* and whilst he was being beaten in his home he was able to see them there because according to him; *“a think de house lights was on”*.

Before Jivonne John was taken to the bottom of Constitution Hill however, he said that he was placed on the road, and a gun was placed near his head and in his mouth and then someone said *“yuh dead”*. After this Jivonne John saw that Nazim Christian had been captured. Whilst he was being escorted into the yard, he was being beaten. Whilst being beaten, Nazim Christian said *“all yuh would kill meh I know all yuh go kill meh”*. According to Jivonne John, the gun was removed from his head and Sgt. Roy #12260, PC Baldwin #16389, PC Bentick #16416 and two other police officers Jivonne John did not know, formed a semi circle around Nazim Christian and PC Bentick #16416 took the gun and shot Nazim Christian *“by he belly”*. When PC Bentick #16416 shot Nazim Christian, he was about one foot or the length of one ruler from Nazim Christian. The nozzle of the gun was about a foot and a half or a ruler and a half away from Nazim Christian. At the time he was shot, Nazim Christian was not armed, had nothing in either of his hands and he was leaning up on a four foot high wall in a crouching position. He was not lying on the ground. Jivonne John was able to see this from 15 to 20 feet away as he was across the road at the time. Nothing was obstructing his view at the time and the lighting conditions were *“not too bright”*. Before Nazim Christian was shot, he was on the wall being beaten. When Jivonne John made this observation Jivonne John was leaning up on a nearby wall. Jivonne John testified that the police were not doing him anything really when Nazim Christian was actually shot. After getting shot Jivonne John said that Nazim Christian said *“all*

yuh wah kill meh boy, all yuh really wha kill meh boy". After that Nazim Christian crouched down to the ground. Nazim Christian was shot in the presence of about 30-40 police officers and army men.

After this happened, Jivonne John said that a "red skinned police" hit him with a gun across his forehead and said "*yuh see too much*". Jivonne John was then handcuffed and after being slapped about his face, he was taken to the bottom of Constitution Hill and placed to lie down.

Whilst lying down at the bottom of Constitution Hill, soldiers began to beat Jivonne John. They told him he "*shoot police*". Jivonne John told them that he did not shoot any police and they had the man who they say had shot the police. With this the soldiers start to jump on Jivonne John's back and head and they put his fingers on the culvert and stamp on it.

Whilst this was going on Jivonne John's friend Rodney Claude Sandy came out and told the men that he was the one who had called them and when he saw that Jivonne John was on the ground getting licks he asked the men why they were beating him. The police then started to beat Rodney Claude Sandy as well. After a while Jivonne John saw some officers coming down the steps with Nazim Christian who was bleeding from his belly. He saw them throw Nazim Christian in a jeep and an attempt was made then to choke him by mashing his throat. Jivonne John told the Court that he never saw Nazim Christian again after that day.

The next thing that happened was that Rodney Claude Sandy and Jivonne John were placed in a jeep. Jivonne John recalled that he was taken to the Center and then to the Besson Street Police

Station. At the Besson Street Police Station Rodney Claude Sandy was placed to sit on a bench and Jivonne John was placed in a cell. Whilst in the cell PC Bentick #16416 came to him and said “*yuh dead yuh know yuh dead yuh know yuh want to shoot police*”. Jivonne John told him that he had not shot any police and PC Bentick #16416 responded “*yuh dead yuh know later yuh dead*”. Whilst Jivonne John was in the cell he was bleeding and this prompted men occupying nearby cells to plead with the police to take Jivonne John to get medical attention. Nothing was done and when Jivonne John appeared to be fainting, the men in the nearby cells started to shake the bars and again pleaded with the police to take Jivonne John to get medical attention. It was hours later that the handcuffs were removed from the hands of Jivonne John and he was placed in a jeep with two police officers. Whilst driving Jivonne John noticed that they had passed through the Promenade. This caused him to tell the police officers that that was not the way to the hospital. Then he started to scream “*they wa kill meh they carry meh to kill meh*”. According to Jivonne John, one police officer then hit him a slap and told him to hush his mouth. Jivonne John did not know who that police officer was. The police officers eventually took Jivonne John to the hospital where he stayed for about an hour and a half. Following this Jivonne John was taken back to the Besson Street Police Station where he was again placed in a cell.

Jivonne John remained in the cell until lunch time the next day when a police officer took him out so that he could give a statement. By this time it was lunch time on the 5th May 2005. Jivonne John attempted to tell him about the police and the beating but the police officer said that he did not want to hear that. Jivonne John then exclaimed that that was what had happened and the police officer said “*just tell meh wha go on. They come they take you from de house,*

they carry yuh into de yard, from the yard they carry yuh down Constitution Hill to lie down and they put yuh into the jeep and they carry yuh into the police station”. Jivonne John told him that that was not what had happened because the police beat him also. The officer recording the statement then said *“man I doh want to hear that just tell me what go on and what step they take until they reach into the police station”*. After giving the statement the police officer told Jivonne John that he could leave and Jivonne John then went home to his sister.

A few days after, Jivonne John attended Nazim Christian’s funeral at Nellas in Duke Street Port of Spain.

The following points were raised in cross examination:

1. The Previous Inconsistent Statement Regarding Jivonne John’s Ability To Identify Some Of The Police Officers & Soldiers

Mr. Khan SC made the point that according to Jivonne John’s first statement to the police, he told them he could not identify any of the police men or soldiers who were on the scene on the 4th May 2005 because there were too many of them and at the material time, the area was dark and he could not see faces clearly. Jivonne John testified at the Inquest that he never said this to the police man who was recording his first statement. Jivonne John testified on oath at the Inquest that he told the police officer recording his first statement and his second statement that he could identify some of the police men and some of the army men who had beaten him that day and, furthermore, he would also be able to identify the police officer who had shot Nazim Christian.

Mr. Khan SC then asked Jivonne John whether the police officers who recorded his first and second statements read those statements over to him after they were recorded. Jivonne John said the police officer did not read over the first statement he gave and he initially said that the police officer recording the second statement read it back to him. Then he maintained that he could not recall whether the police officer recording the second statement read it over to him after it was prepared. Against this backdrop, the first and second statements were then shown to Jivonne John and it came out in evidence that nowhere in either of those statements was it recorded that Jivonne John would be able to identify the police officer who shot Nazim Christian. Jivonne John maintained that he told the police officer recording his statements that he could identify some of the police men and some of the army men who had beaten him that day and, he would also be able to identify the police officer who had shot Nazim Christian.

2. Other Previous Inconsistent Statements

- i. In his evidence in chief, Jivonne John said he saw about four police men and four gun men walking down Mariquette Street towards his direction from north to south. In cross examination however, he said that it was really three police officers he had seen walking down the road that day.
- ii. In evidence in chief Jivonne John said that he saw the police men and the bad boys go into Nazim Christian's yard and a short while after shots started to fire. In cross examination he stated that it was it was only the bad boys who had gone down into Nazim Christian's yard and the police men never went in there. In fact

he stated that they continued to walk down the road towards his home even as shots were ringing out.

- iii. In answer to a question posed to him in cross examination, Jivonne John said that when Nazim Christian was shot, he was leaning up on a four foot high wall. Later on in cross examination however he stated that when Nazim Christian was shot, his body was not touching the wall.
- iv. Before Jivonne John was taken to the bottom of Constitution Hill, he testified that he was slapped across his face by a police officer. It came out in cross examination that no mention was ever made by Jivonne John of being slapped across his face in his statement to the police.
- v. Jivonne John stated that he saw Nazim Christian being thrown into a jeep and an attempt was made then to choke him. No mention was ever made by Jivonne John in his statement to the police that he saw Nazim Christian being choked in a jeep after he was shot. Jivonne John maintained on oath at the Inquest that Nazim Christian was in fact choked when he was in the van.
- vi. After Nazim Christian got shot, Jivonne John said that Nazim Christian said “*all yuh wah kill meh boy, all yuh really wha kill meh boy*”. The first time he mentioned that Nazim Christian had made this utterance was on the fourth day of his cross examination. Jivonne John explained that he did not mention this before because according to him “*you (Mr. Khan SC) told meh don’t jump, wait until you ask questions, you tell meh don’t jump*”.

3. The Police Officer's Lack Of Interest In Hearing Details Of The Beating Jivonne John Received

Jivonne John stated that when he was giving his first statement to the police officer he was told: *“just tell meh wha go on. They come they take you from de house, they carry yuh into de yard, from the yard they carry yuh down Constitution Hill to lie down and they carry yuh into the jeep and they carry yuh into the police station”*. Jivonne John told him that that was not what had happened because the police beat him also. The officer recording the statement then said *“man I doh want to hear that tell me what go on and what step they take until they reach into the police station”*. Notwithstanding this, Jivonne John testified that he did not move on to other topics but continued to give the officer details as to what happened anyway. The point which was made by Mr. Khan SC was that when one has regard to Jivonne John's two statements which were recorded, contained therein is a record of Jivonne John being beaten at his house and later on, on the road on Constitution Hill.

4. The Beatings

Mr Khan SC also explored the beatings that Jivonne John testified to having received from the police officers and soldiers that day. Jivonne John said in cross examination that the first blow he got was when he was in the kitchen of his home. It was a severe cuff to his forehead. He said that the second blow was to his face and belly. He could not recall how many he had gotten this second time but he recalled that his lip burst. Jivonne John testified that in all, he got about three cuffs to his face area. These cuffs were administered by different people. He also recalled getting beaten about his body.

Jivonne John also told the Court in cross examination that he was dragged from the kitchen into the cantilever. During this time he was getting cuffs all over his body. He recalled that he was beaten for some ten minutes before he left the cantilever area of his home.

It also came out that the soldiers who were jumping on Jivonne John's back were wearing boots at the time that they were stamping and jumping on Jivonne John's back and kicking him in the area of his ribs.

The incident left Jivonne John with his forehead, nose and finger bleeding.

Against this backdrop, the Court heard that Jivonne John was examined by a doctor and discharged the same day. Furthermore, x rays were taken and there were no broken bones. The Court also heard that the medical report only detailed soft tissue injury which Mr. Khan SC suggested to the witness was consistent with simply being slapped about his entire body.

5. Why Wasn't Jivonne John Killed

Mr. Khan SC also made the point during cross examination that if Jivonne John had really seen who had shot Nazim Christian the police would have surely killed him that day. Jivonne John admitted that he thought the same thing.

6. Other Points Raised

In cross examination it also came out that Nazim Christian, Jivonne John's brother and another man were charged for murder.

Additionally, Nazim Christian lived two houses away on the left hand side of Jivonne John's home.

Another point which came out was that Jivonne John discussed the incident regarding the licks and how he saw Nazim Christian get shot with his mother.

Also Jivonne John admitted that he had sued the State for compensation. Mr. Khan SC asked him if that was the point behind his testimony and if he would not testify if he got money from the State. Jivonne John denied this. This is what Jivonne John said:

"I didn't even wanted this. I didn't wanted Nazim to dead. Me didn't wanted no body to shoot. I didn't wanted... I just come here to tell what happen. I didn't wanted to say I want dis one in trouble or I wanted that one to trouble. I saying it how it is... To me I woulda like to go to the newspapers too to let people know wa going on because these is not the first time yuh hearing bout police beating up people and beating up people. So I wanted the public to know what going on".

4. Retired Assistant Superintendent of Police Nizam Khan

This was the fourth witness to testify at the inquest. According to this witness on Wednesday 4th May 2005 at about 6:45PM he was at the St. Clair Police Station when he was detailed to carry out investigations into a shooting involving police officers who were at the time attached to the Inter Agency Task Force. In particular the police officers were Sgt. Roy #12260, PC Baldwin #16389, PC Steel #14508 and PC Bentick #16416.

On the 14th May 2005, Assistant Superintendent of Police Nizam Khan went to Mariquette Street with three of the aforementioned officers. PC Baldwin #16389 did not accompany the party to the scene as he was injured. He caused photographs to be taken. PC Hood was the police photographer who took the photographs. Witnesses were also interviewed and statements received from witnesses with respect to the matter.

This witness tendered the following items into evidence at this inquest:

1. Copies of 8 photographs
2. Reports submitted by Sgt. Roy #12260, PC Baldwin #16389, PC Steel #14508 and PC Bentick #16416 (who testified during the course of this inquest).
3. Copy of a medical report in favour of PC Baldwin 16389
4. Copy of a medical report in favour of Jivonne John
5. Copy of a medical report in favour of Erica John
6. Copy of the Post Mortem Examination Report pertaining to Nazim Christian.

5. Erica John

Erica John testified next. According to her, in May 2005 she lived at No. 6 Mariquette Street, East Dry River, Port of Spain. Erica John testified that at 5:40PM on the 4th May 2005, she was at home in the yard feeding some ducks when she heard some gunshots. She continued to feed her ducks and she observed that Jivonne John, her son, looked up the road and exclaimed “*Ah can't believe this, I can't believe this I see police and... bad boys coming down the road*”. After that the two went upstairs.

Erica John then testified that she observed that the bad boys went into Nazim Christian's yard; which was 40-50 feet away, whilst the police continued walking down the road. The next thing that happened was that when the bad boys went down in Nazim Christian's yard, she heard a lot of shooting taking place. About ten minutes after that Erica John saw Nazim Christian running up the road with a gun in his hands. He was shooting down into his yard. Then it appeared that all the bullets in the gun were discharged as he continued to pull the trigger and the gun was not firing. Erica John then saw Nazim Christian pitch the gun down into his yard, ran a few feet and then she observed him jump into her yard.

The next thing Erica John saw after Nazim Christian disappeared from her vision was that the bad boys ran out from his yard and ran down the road to the corner of Marquette Street and Constitutional Hill. At that point they met the police coming up Constitution Hill. Both the bad boys and the police were pointing guns at each other and the bad boys were saying "*don't shoot don't shoot a man down*". Some of the police then ran down into Nazim Christian's yard. At this point Erica John went inside of her home.

When all these observations were made Erica John was outside in her cantilever. According to Erica John at 5:40PM, "*it had plenty lights*" from the sun. There was nothing preventing her from seeing what was happening at the time. Her house was about 10 feet away from Marquette Street. The cantilever was on the second floor.

About ten minutes after Erica John went inside her home, she heard a knocking on the bedroom door which is a door that opened into the gallery. She went to the door enquired who was knocking and a voice answered “*Nazim*”. She opened the door slightly and Nazim Christian immediately forced himself inside her home. He said “*ah get shoot ah get shoot in meh leg see if yuh could call de police or the ambulance*”. He said he was in plenty pain and he wanted to go to the hospital. He said “*dem boys from Quarry Street dey really come out to kill me*”. Erica John understood Nazim Christian to be referring to the bad boys when he said “*dem boys from Quarry Street*”.

Erica John tried unsuccessfully to call the ambulance. She called her sister and asked her if she could call their other sister who worked at Mt Hope so that that sister could organise to send an ambulance over. She informed her sister that Nazim Christian had been shot and they were not getting through with an ambulance in Port of Spain.

About twenty minutes after, Erica John heard a knocking on the kitchen door and voices saying “*police police open up*”. After looking through the bedroom window and seeing that it was really the police knocking at the door, Erica John went to the kitchen and opened the door. About four or five police men rushed in and started to beat Jivonne John in her presence. He said “*I cool I cool I is not the person. I not in nuthin I cool I cool*”. The police men continued to beat Jivonne John and Erica John said “*look de man there*”. The police men continued to beat Jivonne John and Jivonne John said “*Tio what it is going on here, Tio what it is going on here?*”. Erica John again told the police that the man was standing in her corridor and she pointed to him as well. The police men ignored her and instead dragged Jivonne John outside.

At this point Jivonne John started to hold on to his mother. This was when the police men started to beat Erica John as well. The police men then dragged Erica John and Jivonne John outside and in the process, Erica John fell on the steps and Jivonne fell on her. Erica John held on to the rail and used her other hand to hug her son. The police continued to drag Jivonne John but he would not move. This was when a police officer took out his gun and hit Erica John's hand with it. It was the hand she was using to hold on to the rail. She continued to hold on to the rail despite the pain she was in, and the police man hit her another lash. Then Erica John moved her hands. He attempted to hit her again and Erica John said she heard a voice say "*Duncan no!*".

Half hour had passed from the time the beating had started in the kitchen to the time Erica John was dragged out of her kitchen. At this time Erica John was still able to see properly but it was from lights that were on in her house as well as that from other people's houses. At the time she was three feet away from the men who were beating her son. There were three to four men beating her son.

When Erica John moved her hand from the railing the police men were able to pull Jivonne John away from her grasp. Erica John recognised one of the police men and she said to him "*I know you and you know me and you know Jivonne is not Nazim Christian. You know Jivonne because you always telling him whenever ah come and call Miss Tio doh tell meh she ent there you must go and call she and now you tugging Jivonne and helping to beat him?*". At that time the police men dragged Jivonne down the steps and Erica John went inside because she could not bear to see anything else.

Ten minutes after, the same police officer Erica John had recognised, came inside her home and asked if there was anyone else inside the house. She replied “yes”, “*this fella here*” and at that very moment, Nazim Christian came forward and he and two other police men took him out and started to beat Nazim Christian straight away. They took him outside and the same police officer who Erica John had recognised came back inside and asked her if the man they had just taken outside was her family and whether he was living in the house with her. Erica John told him no. He then asked her where he was living and Erica John pointed in the direction of Nazim Christian’s yard. Then he asked her his name. She replied that it was Nazim Christian. With this he ran outside the kitchen into the cantilever and said “*hold all yuh hands hold all yuh hands, this one there is Nazim Christian*”.

Erica John then testified that she walked outside to see if her son was still being beaten. She saw that he was handcuffed, was leaning on a retaining wall and he was still being beaten. Erica John also observed that Nazim Christian was in her yard and he too was being beaten. The next thing Erica John noticed was that Nazim Christian was thrown onto road and police and soldiers circled him. Then, one police man handed another police man a gun. Erica John then noted that the circle of men became half of a circle since the men who were behind Nazim Christian moved away. When this happened Erica John saw the police man with the gun take it and shoot Nazim Christian somewhere by his belly area since according to her the gun was not pointed downwards or upwards but straight. The police officer who shot Nazim Christian was one foot away from Nazim Christian when he shot him. The gun itself was about 6-8 inches away from

Nazim Christian when he was shot. And one shot was fired. Erica John identified PC Bentick #16416 as the police officer who shot Nazim Christian.

According to Erica John she had seen PC Bentick #16416 *“one or two times passing in Mariquette Street”* before that day. This was some two to three weeks before the incident. When he passed Erica John was able to see his whole body as it was in the day and Erica John was on the Cantilever or going down the road. The sightings lasted about three minutes each. Additionally the day after the incident PC Bentick #16416 as well as two police officers had come to Erica John to apologize to her for what had happened to her son the day before. According to Erica John PC Bentick #16416 told her *“he and his pardner was together down in Nazim yard and Nazim shoot he pardner in his hands. He say they were the onliest two policemen in Nazim yard and Nazim shoot he pardner in his hands and when they go back in the station they will try and let go Jivonne”*. Erica John also said *“he making me to know that he and his partner was together, is so I know a policeman get shoot, and Nazim, he say, shoot his partner in his hands and that is why he take it on his responsibility to shoot Nazim. This is a man who shoot Nazim, standing in front of my face, 8:00 o’clock the next morning, tell me that. I would not recognise him after?”*. She also said that that day when the incident happened she was able to recognize PC Bentick #16416 right away.

The street ran from north to south and when Erica John saw the shooting Nazim was facing north. The back of the police man who shot Nazim was facing north, and since Erica John was facing north, she was face to face with the shooter. At the time of the shooting she was 20 feet away from PC Bentick #16416. Nazim Christian was not blocking Erica John’s view of PC

Bentick #16416. When Nazim Christian was shot he had nothing in his hand. It was 6:45PM and Erica John said at the time it had "*plenty lights*" from bulbs.

After seeing this Erica John went straight to the phone to speak to her sister. Whilst doing this a police officer came into her house and asked her who she was ringing. She told him not to study who she was ringing and he told her to put down the phone. After, Erica John went to see where they were taking her son but she was stopped by the police officers. Later she went to the Besson Street Police Station. By this time her hand was swollen three times its normal size. After waiting a while and not being attended to, Erica John left the Besson Street Police Station and went to Police Headquarters where she asked for some assistance in being taken to the hospital. She was later conveyed to the hospital where an x ray was taken of her hand and her hand was then placed in a cast.

Sometime later Erica John met with Deputy Commissioner of Police Gilbert Reyes. She related what had happened to her and he asked her if she wanted to give a statement and she said yes. She was sent to one Mr. Anthony who took a statement from her. After the statement was recorded, it was read over to Erica John.

At that meeting, Deputy Commissioner of Police Gilbert Reyes had also asked Erica John where her son was and she told him that he was at Besson Street. According to her Deputy Commissioner of Police Gilbert Reyes then called Besson Street and asked if they had a Jivonne John there and he was told that they did. He asked them how long he had been there and they said since last night. He then asked them if they had anything against him and they told him no.

He told them to let him go and that was how Jivonne John came to be released from police custody.

In cross examination it came out that after Erica John's son had been discharged of the murder charge he was on, Erica John admitted that she was thinking of suing the government. She also admitted that after the beating she once again thought of suing the government for money.

She admitted that she saw army men kicking and beating up her son in the area of his ribs and in his head whilst he was in the road. According to her it was "*real licks*" he got.

It was also put to her that in her statement to the police she had said that she could not identify the police man who shot Nazim Christian and Erica John said that she had never said so. Erica John agreed that the statement was read over to her and she signed it after but maintained that she had never told him that and if it was in the statement the police officer reading back the statement to her did not read that part to her.

According to Erica John ASP Reyes had also asked her if she wanted to leave out the part with seeing Nazim getting shot and she had told him that killing Nazim was not her interest.

1. One inconsistency which arose between her evidence and that of Jivonne John was that she said she was in the yard feeding the ducks whilst Jivonne John was taking a bath near one of the drums in the yard and when the gunshots rang out, they both went upstairs.

Jivonne John's recollection however was that when he was taking a bath in the yard, he was alone and after hearing the gunshots he went upstairs in search of his mother.

2. Erica John said that when she heard the gunshots she also heard her son Jivonne John exclaim "*Ah can't believe this, I can't believe this I see police and bad boys coming down the road*". Jivonne Jon never told the court that he said this when he heard the gunshots.
3. According to Erica John, when the police started beating Jivonne John in the kitchen he told them "*I cool I cool I is not the person. I not in nuthin I cool I cool*". Jivonne John did not say that he said this.
4. In evidence in chief, Erica John told the Court that she had seen PC Bentick #16416 "*one or two times*" before that day when he was passing along Mariquette Street some two to three weeks before the incident. In cross examination however, she stated that she would have seen him about four times before the shooting, the first time being some six weeks ago. The Court heard that on all four occasions Erica John saw PC Bentick #16416 in daylight whilst he was walking down Mariquette Street and she was in her gallery for the first sighting and for the second, third and fourth sighting, she was walking along the road when she saw him.

6. Lloyd Wilson

According to this witness, on the 4th May 2005 at about 6:30 PM he was lying down in his home located at No. 6 Mariquette Street, East Dry River Port of Spain. He heard something that

sounded like *“people making a row”*. He got up and went out into the cantilever where he was able to see policemen and civilians walking down the street. At the time he made this observation the streetlights had not yet come on and according to him *“it was clear, you could ah see”*. Lloyd Wilson saw the four to five policemen continue to walk along the street and go in the direction of Constitution Hill. They were accompanied by four to five men he described as *“civilians.”* He saw them go into Nazim Christian’s yard. About five minutes later, Lloyd Wilson heard gunshots and he saw the *“civilians”* running out of Nazim Christian’s yard and one of them was saying *“a man down, a man down”*. At this point the policemen had come back and were pointing their guns at the *“civilians”* and one of them said *“doh shoot, doh shoot cause I would shoot back”*. Upon making these observations Lloyd Wilson left his wife and Jivonne John and went inside of his home.

Some ten minutes after Lloyd Wilson had gone inside he heard something that sounded like scratching on the door. Then he heard Erica John say that it was Nazim. Lloyd Wilson testified that he heard Nazim ask Erica John to call an ambulance or the police as he had been shot. He also heard Erica John ask him who had shot him and Nazim Christian replied *“them boys from Quarry Street”*. The next thing Lloyd Wilson was able to recall was that a little while after, Erica John told Nazim Christian that she was not able to get an ambulance or the police.

Some half an hour later, Lloyd Wilson heard a knocking on the kitchen door and a voice say *“police”*. He was standing in the corridor and he saw Erica Jon open the door and when she did this, about five men wearing police uniforms entered and started to beat Jivonne John *“just so”*. Lloyd Wilson recalled that at the time Jivonne was telling the men beating him that he was cool

and he was not in anything. Lloyd Wilson also recalled that at one point Jivonne John turned to his mother and said “*well, Theo tell them what happening nah. Tell them whey is this going on*”. The next thing he saw was that Jivonne John and Erica John were being dragged outside. He remained inside the house. Erica John returned to the house and shortly thereafter, a policeman came into the house and asked who else was in the house. Erica John replied “*well, look on the ground, I tell all yuh all the time the man all yuh looking for dey and all yuh wouldn’t hear*”. At this point Nazim Christian came forward. The policeman carried him downstairs. That same police officer returned and enquired whether the man he had just carried was Erica John’s family. Erica John replied that he was not her family and his name was Nazim. With this the police officer “*bawl out ‘hold all yuh hand, hold all yuh hand*”. A while after this, Lloyd Wilson testified that he heard a single shot and Erica John told him that Nazim Christian had been shot.

In cross examination, Lloyd Wilson stated that Nazim Christian had told him that he had gotten shot in his leg.

One inconsistency which came out was that in Lloyd Wilson’s evidence at the Inquest proceedings he spoke of seeing four to five policemen walking along the street and go in the direction of Constitution Hill. He also told the Court that the policemen were accompanied by four to five men he described as “*civilians.*” He saw them go into Nazim Christian’s yard and about five minutes later, Lloyd Wilson heard gunshots and he saw the “*civilians*” running out of Nazim Christian’s yard and one of them was saying “*a man down, a man down*”. Lloyd Wilson then went on to say that at this point the policemen had come back and were pointing their guns

at the “*civilians*” and one of them said “*doh shoot, doh shoot cause I would shoot back*”. None of this was included in his statement to the police.

7. *Chantelle John*

According to this witness on the 4th May 2005 at about 6:15PM she was at a neighbor’s home in Mariquette Street, East Dry River, Port of Spain getting her hair plaited. Whilst she was there she heard a number of gunshots. Upon hearing this she immediately went home to No. 6 Mariquette Street as her children were there. On her way home, she saw “*a couple police in the road*”. She passed them and went home. Upon reaching home her mother Erica John told her to call the police and tell them that Nazim Christian was inside their house and he had a gunshot injury to his leg.

Chantelle John told the Court that after speaking with her mother, she told a policeman that there was a man called Nazim who had gotten shot in his leg in her house. She recalled that the policeman she spoke to told her not to go back into her home and so, she returned to her friend’s house some three houses away. A few minutes after Chantelle John heard her mother and brother Jivonne John “*bawling*” for some fifteen to twenty minutes and about fifteen to twenty minutes after that, she heard a gunshot. The next thing she noticed was that her brother Jivonne John and another man were on the road and after that she observed that her brother and Nazim Christian were being escorted by policemen down the steps on Constitution Hill. Then she saw Nazim Christian being placed on a wall for a while. This wall was to the bottom of the “*Constitution steps on the right hand side*”. After this, Nazim Christian was placed in a jeep. At

this time Chantelle John saw a police officer put his foot on top of Nazim Christian's chest in the vicinity of his throat and mash down on it.

Chantelle John did not witness anyone being shot that day.

In cross examination, Chantelle John spoke of seeing a policeman mashing Nazim Christian's throat with his foot when Nazim Christian was in the jeep. This was not included in her statement to the police. Chantelle John insisted that she told the police about the mashing and that when they read back the statement to her she heard them read that part back to her.

She also recalled seeing Jivonne John the day after this incident and one of his eyes was swollen *"his face buss-up... his face was buss-up and swollen..."*. According to her his head, face, back and hands were blue and swollen.

8. Claude Junior Sandy

This witness stated that he lived at No. 3 Mariquette Street in May 2005. His brother is Nazim Christian. The Court heard that at about 4PM on the 4th May 2005, Claude Junior Sandy had just gotten home from working with a scaffold gang. On the way home he saw his brother Nazim Christian playing a game of cricket. Claude Junior Sandy then told the Court that he saw his brother leave the game and head to the Bazillion Street Youth Facility. Before going to the Center, he had told Claude Junior Sandy that *"he was going to buss one ah them face..."*. Claude Junior Sandy said that he was on top of the cliff watching down and he was able to see and hear his brother threaten about seven *"fellas from Quarry Street... telling them...all yuh kill*

my cousin and all yuh over which part I living. All yuh doh care about me". They walked off and did not respond to him. They went up a hill known as Superior Hill and Nazim Christian followed them there with a gun. He fired three shots at them and one of the shots hit one of the men his hand and another shot grazed another man in his foot. Three of the seven men ran down the hill to the Center and the remaining four went to Quarry Street. Upon seeing this Claude Junior Sandy said that he ran home because as he said "I was kinda frighten, cause I done know them fellas from Quarry Street go swing back over. That is how every time something happen with them, they does come back over and shoot up the place and thing".

According to Claude Junior Sandy, this is what happened next:

"I run inside by me, nah, and lock my gate. And I start to hear shots start to buss, 'bam bam,' real shots bussing in the, yard, nah... about six minutes ah shots bussing. So I run and lock my gate, snatch my father cell phone and call the police. When I call the police, they hang up on me. I call them back again. Hear them, 'That is which part ah officer get shoot?' Well I jump up and say, 'I don't know, cause I inside.' I hearing somebody bawling, I don't if it is my brother or if it is a police officer, but I never see no police coming in no uniform, to say well is a police outside get shoot. So I saying I don't know who get shoot. They hand up on meh again, cause like I ent telling them whey they want to hear. So when I call them back again, hear them, 'Which part this thing happening?' ... Them ask if it happening on Mariquette Street or Constitution Hill. Hear me, 'Mariquette Street all the shots coming from' ... So they say it have police attending it ah ready, nah, and they hang up on me...

And then after the shots still bussing, when then done talk to me, nah. I see one ah the fellas from Quarry Street trying to shoot off the lock by me, trying to come inside by me, nah, but like they couldn't come in, cause my brother was shooting at them and they run, jump over a fence in the back by my yard, nah, and run and go over the road.

So I wait a lil five minutes till the shots done, and walk outside, nah, well me and meh father, cause I lock me an meh father inside, right. My father walk in front because he so frighten, nah, and I still in my sliders, so I wanted to out on a pants and a jersey to go outside. Me eh want go outside just so.

So he gone in front me, about a minute in front me, and gone through the track, the same track whey we see the police coming up, he gone through dey and gone down the road. So I running out behind him to meet him. Same time I running out now, a police hit me a clothes-line, 'wha-tap,' and drop me on the ground. 'who is you?' 'who is you?' Hear me, 'I now call the police and all yuh beating me... they pick meh up off the ground and carry meh on the next side of the jeep, which part ah now get the clothes line, nah. While I walking, I see Jivonne on the ground... police mashing him on he head and kicking in he ribs and thing. So I jump up and say... 'I now call the police and all yuh beating me?' But them didn't want hear I saying that, 'cause them see me run out the same yard whey the officer now get shoot, wheyever happen up in the yard nah

So when we reach out I see Jivonne on the ground. Hear meh, 'but whey he ding dey? He doh be in nothing'. Hear them, 'you know that?' and start to beat me 'bap, bap, bap' hear me 'yeah, I know that Jivonne'... hear them 'hush'...he doh be in nothing he is a good fella, and thing, hear them, 'you don't know that' and start to beat me more, I shouldn't tell them that, they beat Jivonne more too..."

At this point Claude Junior Sandy told the Court that he was placed to lie down next to Jivonne John on the road and Jivonne John started to speak to him and told him that the police had almost killed him and that they had just pushed a gun in his mouth. Jivonne John told Claude Junior Sandy

"your brother walk who out and say, 'I is Nazim Christian, all yuh leave him alone, telling him that, nah, and they still... he telling me, when my brother walk out and say 'Is me all yuh looking for Nazim Christian,' they still drag he down the steps beating he, and they done get Nazim Christian".

The two continued to speak whilst they were lying next to each other on the road and

"bout five minutes after all the shots and things done buss, the place get quiet, people quarrelling and thing, nah. While we lying down in the road, we hear one shot buss, 'boom,' a single shot, we see them bring down Nazim with a hole in he belly here, but Jivonne tell me he get shoot in he foot..."

A minute and a half had passed from the time Claude Junior Sandy heard the shot to the time he saw his brother being escorted down the stairs. Claude Junior Sandy noticed that two police officers out of the group of Sgt. Roy #12260, PC Baldwin #16389, PC Steel #14508 and PC

Bentick #16416, were holding Nazim Christian's hands and bringing him down Constitution Stairs. One of them was PC Bentick #16416.

According to Claude Junior Sandy, he had seen the two police officers before since the police had a base at the Center and about two months before the incident, when he was playing basketball with his friends, the same two officers *"take a lil sweat with we and thing, normal"*. He would see them every time he went to the Center to play and whilst they were patrolling in the area. Then about two weeks before the incident Claude Junior Sandy recalled that he had gone to the Center with his brother Nazim Christian and they were playing football with the same two police officers when Nazim Christian started to use obscene language. PC Bentick #16416 told Nazim Christian *"take it down, nah, boy, we is police. You cyah be cussing and thing"*. Claude Junior Sandy then said that Nazim Christian told him *"'oh, all yuh is police and all yuh having on plain clothes' and quarrelling with them, nah, and start a whole bacchanal"*.

Nazim Christian was placed to sit on the road next to Claude Junior Sandy and Jivonne John. Claude Junior Sandy spoke to his brother and asked

"...Awoh That was his nickname. So I say 'Awoh you all right or what?' hear him, 'yeah boy, I all right' hear meh, 'whey happen to yuh boy?' Hear him, 'the policeman shoot meh, boy'. Hear meh 'who policeman?'... he say 'The policeman shoot meh'. So I say, 'who policeman' cause is plenty police, nah. He say, 'The same one who was quarrelling now in the Center with meh the last time'".

Claude Junior Sandy also observed that his brother's white jersey was red in the area of his stomach and there was a hole in the jersey also.

According to Claude Junior Sandy, the police and soldiers saw that he was speaking to Nazim Christian and they told him not to speak to him and then they started to beat him and drag Nazim Christian away. Claude Junior Sandy then saw them throw Nazi Christian into the tray of a van. Whilst they were dragging Nazim Christian to the van, the last thing Claude Junior Sandy asked his brother was;

“‘You all right, Awoh?’ ‘You all right’ Hear him, ‘I all right boy, I good, I all right’”

After Nazim Christian left, Claude Junior Sandy and Jivonne John continued to be beaten and the men told Jivonne John

“‘All yuh like to shoot police,’ and telling me I kill a soldier man over St. John Street, the police and them. ‘You getting that case, you kill a man. You kill a soldier over St. John Street,’ tell me that, nah. ‘You midjit, you go get a case’. Like how the officer get shoot, me eh know if dey blood hot and they just giving anybody anything at that moment”.

After this Claude Junior Sandy and Jivonne John were placed into a van and taken to the Besson Street Police Station. They were accompanied by three policemen and soldiers. On the way Claude Junior Sandy recalled that he heard them say *“let we go and kill two ah them, nah, boy, nobody wouldn't know why happen”*. When Claude Junior Sandy heard this he started to make

noise in the van and after being beaten every time he tried to look at the faces of the men in the van they reached the Besson Street Police Station.

At the Besson Street Police Station Claude Junior Sandy said that he was placed on a bench to sit. He observed that Jivonne John was *“bleeding very bad”*. He noticed that there was injury to Jivonne John’s forehead.

Whilst Claude Junior Sandy was in the bench he heard one of the cell mates saying *“look this man bleeding in the back here. He fainting on he self. He fainting on he self”. A policeman jump up and say, ‘let he dead, let he dead’”*. Claude Junior Sandy then heard the men telling the officers *“‘All yuh carry the man in the hospital. Carry the man in the hospital’”*. Three hours later he was taken from the cells. Then the police eventually took a statement from Claude Junior Sandy and he was allowed to leave.

In cross examination it came out that the Claude Junior Sandy never told the police officer who was recording his statement that Nazim Christian had told him that he was shot by the officer he had had the argument with down at the Center. Claude Junior Sandy also omitted to mention to the police officer recording his statement that the men who were transporting him were thinking of killing them. Claude Junior Sandy admitted that he did not tell the police this because he had seen the same officer who had shot Nazim Christian walk into the Station in the morning and *“walk in the station in plain clothes, just walk in ah office and walk back out like a big boy”*. According to him, he did not feel *“good”*. He felt *“like police for police”* so he said nothing.

Another point which emerged during the cross examination of this witness was that according to him, he was lying on the ground with Jivonne John and after the shot had been fired Jivonne John told him “*Nazim now get shoot*”. This is not what Jivonne John told the Court at the Inquest. According to Jivonne John he was leaning on a wall when Nazim Christian was shot and he never mentioned anything about telling Claude Junior Sandy that “*Nazim now get shoot*” when he witnessed it.

A point which Claude Junior Sandy made was that Jivonne John could not see the shooting from where they were because of the jeeps and police who were guarding them.

9. Deputy Commissioner of Police Gilbert Reyes

The then Deputy Commissioner of Police Mr. Gilbert Reyes testified that on the 5th May 2005 he was the Assistant Commissioner of Police in charge of crime. According to him Erica John came to see him that day and after having a conversation with her, he called Senior Superintendent Anthony and gave him instructions to record a statement from her. He then told the Court that he received the file pertaining to this matter on the 6th June 2005 and after perusing the file and making certain observations, the file was sent to the office of the Director of Public Prosecutions for advice and on the 22nd June 2005, the file was returned with instructions to submit the file for a Coroner’s Inquest and he complied with same.

The then Deputy Commissioner of Police Mr. Gilbert Reyes also informed the Court that Erica John never came into his office and told him that she was not interested in the death of Nazim Christian and all she was interested in was her son who was being detained at Besson Street

Police Station. Furthermore, he stated that he did not go on to tell her in those circumstances that when she was giving her statement, it was for her to decide whether she wanted to speak about the shooting of Nazim Christian or not and that it was her decision to make.

10. Senior Superintendent of Police Leon Anthony

According to this witness on the 5th May 2005 he was a serving member of the police service in the capacity of Acting Senior Superintendent in charge of the Criminal Investigations Department. He recalls being summoned to the office of the then Deputy Commissioner of Police Mr. Gilbert Reyes where he was introduced to Erica John. He received instructions from the then Deputy Commissioner of Police Mr. Gilbert Reyes to record a statement from Erica John and he complied with same. He said he did this by listening carefully to what she had to say and then he recorded the statement from her. Once he completed this he testified that he read the statement back to her very slowly and after she said that she understood what was written and she affixed her signature to the document. Later, acting on instructions from the then Deputy Commissioner of Police Mr. Gilbert Reyes, Senior Superintendent of Police Leon Anthony handed this statement over to Assistant Superintendent Khan, the investigator in the matter.

He also testified that he asked Erica John whether she could have identified the police man who came into her house and took Nazim Christian outside and shot him and she had told him that she could not identify that officer.

11. Retired Inspector Winston Stuart

This witness testified that on the 5th May 2005, he was a Police Sergeant attached to the Criminal Investigations Department at the Besson Street Police Station. On that day he received instructions and interviewed Jivonne John. According to him all that was said that day was recorded. At the end of the recording of that statement it was read over to Jivonne John and he said that it was true and correct. He testified that Jivonne John did say that he could not identify any of the police men or soldiers who were on the scene on the 4th May 2005 because there were too many of them and at the material time, the area was dark and he could not see faces clearly.

12. Sergeant Terrance Roy #12260

This officer testified that on the 4th May 2005, he was posted to the Bassilon Street Outpost when at about 6:45PM he heard gunshots in the area of the Siparia Hill and he saw people scampering for safety. He left the Outpost with PC Baldwin #16389, PC Steele #14508 and PC Bentick #16416 and headed towards the Siparia Hill. On the way there they met Kirkland Sayers who had blood running from the area of his right forearm. He told the police officers that Nazim Christian had shot him. He also told them that Nazim Christian was wearing a white jersey and a three quarter pants. The men separated and Sergeant Roy #12260 and PC Steele #14508 went in the direction of Belgrade Street, and PC Baldwin #16389 and PC Bentick #16416 headed in the direction of Mariquette Street. Upon hearing gunshots being fired however, Sergeant Roy #12260 and PC Steele #14508 made their way to Mariquette Street. When they got there a man in a three quarter pants and a white jersey was running toward them. He pointed a gun in their direction and Sergeant Roy #12260 heard a loud explosion and he also saw a flash emanate from the gun.

Sergeant Roy #12260 said that he became fearful for his life and resorted to using his gun to “neutralize or subdue him” by firing at him. He did this because in his view his life was in danger. With this the man turned and started running away from Sergeant Roy #12260 and PC Steel #14508 and went toward PC Bentick #16416. Sergeant Roy #12260 saw the man point his gun in the direction of PC Bentick #16416 and he heard another explosion. He also saw PC Bentick #16416 fire at the man. This caused the man to turn around and once more head toward Sergeant Roy #12260 and PC Steele #14508. At this point Sergeant Roy #12260 said “police stop”. The man did not stop and instead pointed his gun in the direction of Sergeant Roy #12260 and fired at him. This prompted Sergeant Roy #12260 to return fire and with this, the man ran east and disappeared into the yard of a two storey concrete structure he later learned belonged to Erica John. The next thing that happened was that Sergeant Roy #12260 heard PC Baldwin #16389 say “oh gawd ah get shoot”. Sergeant Roy #12260 then gave PC Steele #14508 instructions to take PC Baldwin #16389 away from the scene and he also instructed PC Bentick #16416 to summon assistance.

Other police officers and soldiers came on the scene and about ten to fifteen minutes after Sergeant Roy #12260 had seen Nazim Christian run off toward Erica John’s yard, Sergeant Roy #12260 was summoned by some police officers who had come on the scene and he saw the man who had fired at him and his colleagues, lying on the roadway. He was bleeding about his body. At this point Inspector Housend gave instructions that the man be taken to receive medical attention and PC Jordan #15458 gave Sergeant Roy #12260 a chrome and brown revolver with the markings “Jaguar” written on it and said that he had found it in the possession of the injured man.

Later that night Sergeant Roy #12260 returned to the scene where he pointed out certain areas to crime scene experts and the police photographer.

He denied being part of any semi circle around Nazim Christian that day and he also denied handing PC Bentick #16416 a revolver to shoot Nazim Christian.

In cross examination Sergeant Roy told the court that at 6:45PM the lighting conditions that day was *“approaching total darkness, minimal daylight and the street lights had now began coming on”* and there was the *“last remnants of daylight... sunlight”*.

According to Sergeant Roy #12260, he fired five rounds of 9mm ammunition from his Smith and Wesson Pistol that day. When told that he had accounted for two shots in evidence in chief, Sergeant Roy #12260 stated that he had fired off five bullets when he spoke of firing at Nazim Christian twice.

When Sergeant Roy #12260 initially saw Nazim Christian he was some 15 feet away from him and was running toward him and Nazim Christian had fired a shot from his gun about 2 seconds after Sergeant Roy #12260 first saw him. This was when according to Sergeant Roy #12260, he said *“stop, police”* and then he fired the first shot at Nazim Christian. Two seconds after that, Nazim Christian fired the second shot at Sergeant Roy #12260 and this was when Nazim Christian was some seven to eight feet away from Sergeant Roy #12260 and, he was facing him and running toward him. At this point according to Sergeant Roy he fired a second shot. If this is correct, it would mean that two seconds would have elapsed from the time Sergeant Roy

#12260 fired the first shot at Nazim Christian who would then have turned toward PC Bentick #16416, point his gun in the direction of PC Bentick #16416 and fire and PC Bentick #16416 would have then returned fire at Nazim Christian and after that Nazim Christian would then have turned around once more to head toward Sergeant Roy #12260 and PC Steele #14508.

In his report Sergeant Roy #12260 said that Nazim Christian broke down a galvanise fence before he got into Erica John's yard. In evidence in chief at the Inquest, he said that Nazim Christian ran into the yard making no mention of first breaking down a galvanise fence.

In his report Sergeant Roy #12260 mentioned that there was a man running south along Mariquette Street holding his hand and pointing toward a man who was running toward Sergeant Roy #12260 with a gun in his hand. In evidence in chief at the Inquest Sergeant Roy #12260 said that Nazim Christian was alone when he was confronted. This also conflicts with the fact that Sergeant Roy #12260 testified at the Inquest that he met the man with the injury to his hand and got a description of Nazim Christian from him and then they went in search of Nazim Christian. No mention was ever in evidence in chief at the Inquest of any man pointing toward Nazim Christian.

PC Kere Baldwin #16389 also testified at this Inquest and his evidence was duly considered.

14. PC Shawn Steele #14508

This witness adopted the contents of his report and same was tendered into evidence in the matter.

15. PC Danny Bentick #16416

This witness adopted the contents of his report and same was tendered into evidence in the matter. Additionally he testified that he was never part of a semicircle formation and in those circumstances, he never took a gun and shot Nazim Christian. Furthermore he denied ever having a conversation with Erica John where he apologized to her for beating up her son. He also denied admitting that he shot Nazim Christian because his friend had gotten shot.

16. PC Martin Adams #15163

This witness testified that on the 4th May 2005, he, some police officers and army men entered a house located along Mariquette Street. He saw Nazim Christian in that house and he was bleeding from his chest area. There was an African man and woman who tried to prevent them from taking Nazim Christian away. PC Adams #15163 said they did this by standing in between the police men and Nazim Christian and they pushed the police officers without making physical contact with them.

He never saw any men form a semi circle around Nazim Christian and one of the men in the circle take a gun and shoot Nazim Christian but he did recall that there were two holes to the jersey that Nazim Christian was wearing. One was in the left nipple region and the other was to the lower right nipple region. Blood was pouring down the jersey.

He said that four to six men removed Nazim Christian from the house and placed him to stand in a yard with the assistance of officers. This was done with the officers holding on to Nazim Christian's arms as well as the loop to the back of his pants as well as the back of his jersey. At

the time, according to the officer, Nazim Christian was resisting them as he was upset. He was moving his hands in all different directions and firing kicks as well. Less than three minutes later according to this witness, Nazim Christian was taken into the road to be searched. He continued to resist the officers in the same way he had done in the yard. He was standing whilst the search was conducted. He was not assisted in standing from a nearby wall. A gun was found on his person. It was estimated to be about seven inches long. It was found stuck in his pants to the right back in the waist area.

Nazim Christian was then placed in the tray of a van and taken to the Port of Spain General Hospital.

He said that the place was dark but there was some light from nearby houses and street lights.

17. Ag. Cpl Roger Williams #15499

This officer testified that at about 4PM he received word that a police officer had been shot at Bazillion Street. He met Sergeant Roy #12260 in the vicinity of Bazillion Street and Bart Street and Sergeant Roy #12260 told him that the officer was receiving medical treatment. This officer in the company of other police men then went in search of the suspects. Same proved futile.

He testified that he went to a house and met an African woman who invited him and the officers accompanying him including PC Martin Adams #15163, into her house. Once in the house, this witness noticed that there was a man inside of that house who was bleeding from the front part of his body. He was bleeding from the area between his breasts. He was not sure whether there

were holes in that tee shirt the man was wearing. The man said his name as Nazim Christian and he said he was not too sure who had shot him because the area where he was, was dark and it did not have proper light.

When they were taking Nazim Christian away, Ag. Cpl. Roger Williams #15499 said that the woman

“sound a bit grumpy... she didn’t want the gentleman to go with us. She was putting a bit of resistance... she was holding back his hand while we was trying to get him away”.

This was not what PC Martin Adams #15163 had testified she did. He also said that Nazim Christian just walk down the steps leaving the house and only PC Martin Adams #15163 held his hands and the other army men who were with them did not. This too is different from what PC Martin Adams #15163 said on oath at the Inquest. Then this witness said that Nazim Christian was taken through the yard unto the street and into a vehicle to obtain medical attention and at no time did they stop before they got to the vehicle. This is in stark contrast to the account given by PC Martin Adams #15163 in the Inquest.

18. Cpl Kirt Douglas #13031

This witness recalled being at the Bazillion Street Post when he heard several loud explosions. Sometime later, he left the Post and went to Bazillion Street where he met Sergeant Roy #12260. It was about 6:50PM. He had a short conversation with Sergeant Roy #12260. He was with him for about ten to fifteen minutes and then both men were summoned by other police officers who were in the vicinity. They saw a party of police officers conveying a civilian from out of a yard

onto Marquette Street. The civilian was then taken into a vehicle and conveyed to the hospital for medical attention. This is diametrically opposed to what Sergeant Roy #12260 said as his version of the events was that about ten to fifteen minutes after he had seen Nazim Christian run off toward Erica John's yard, Sergeant Roy #12260 was summoned by some police officers who had come on the scene and that was when he saw Nazim Christian lying on the roadway.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

19. PC Riki Hyacinth #14548

This witness gave evidence at the Inquest that at about 7PM on the 4th May 2005, he was on mobile patrol when he received word of a shooting. He proceeded to Marquette Street and got there around 7:03-7:04PM. At that location he observed police officers removing a man who appeared to have gunshot wounds about his body. The front area of his jersey was bloody. He was being conveyed from a two storey house.

He was being lifted completely off the ground whilst being conveyed from the house and he was placed into a vehicle and taken to the Port of Spain General Hospital. This differs from the version advanced by Ag. Cpl Roger Williams #15499, who testified to seeing Nazim Christian walking down the stairs with only one officer holding his hand.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

20. PC Keron Brown #16408

This witness was on foot patrol with other police men and army men along Bazillion Street on the 4th May 2005 when at about 6:45PM he heard gunshots. He received a wireless transmission and proceeded to Mariquette Street. The party of men arrived there at about 6:55PM. There he observed a party of men taking an injured man out of a house and place him into a vehicle. He was being held by his hands and feet. He was not walking and was being lifted off the ground and in this regard, this witness's evidence is different from that given by Ag. Cpl Roger Williams #15499, who testified to seeing Nazim Christian walking down the stairs with only one officer holding his hand.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

21. PC Travis Ghent #14941

At about 6:50PM on the 4th May 2005 this witness was at VMCOTT Compound when he received word that a police officer had been shot. He left in the company of other police officers in a police bus and proceeded to Mariquette Street where he saw a man of African descent with a wound to his chest being placed into a police vehicle to be taken to the Port of Spain General Hospital.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

22. PC Allan Phillip #15887

This witness was at VMCOTT Compound and his evidence was in essence the same as that given by PC Travis Ghent #14941.

23. PC Armanath Bridgelal #16255

On the 4th May 2005 this witness was on foot patrol duties along Oxford Street when at about 6:45PM he heard several loud explosions. After that he received a transmission and proceeded to Marquette Street on foot. When he got there, he observed police officers taking a wounded man out of a house. The man was placed in an unmarked police vehicle and taken away.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

24. PC Allistair Cowie #14515

This witness was on mobile patrol in the East Dry River area on the 4th May 2005 when he heard a wireless transmission. He proceeded to Marquette Street where he observed two police officers removing a man from a two storey house. That man was placed in a vehicle and taken away.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

25. PC Kelvis Arthur #15049

This witness was at the Bazillion Street Base when at about minutes to seven he received information relating to a shooting on “*Maskette Street*”. He could not recall the exact name of the street. He went to the location but did not render assistance and he observed that other officers were providing assistance.

He saw a man being brought out of a house. His body was red from blood. The man was placed in an unmarked police vehicle.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

26. PC Andre Forgenie #15059

This witness testified that at about 9PM he was on patrol in the Port of Spain Division. He responded to a wireless transmission by proceeding to Mariquette Street. When he got there he observed that some police officers were carrying a person who was wearing a white jersey and a dark colored pair of pants. That person had a lot of blood flowing from the front part of his body and he was put into a vehicle and carried away.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

27. Cpl. Christopher Aroon #15002

On the 4th May 2005 at about 7PM this witness was at Mariquette Street when he observed a man being brought from a building on Mariquette Street. He saw that the man was then placed on a tray to the back of a police vehicle and he was conveyed to the hospital.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

28. PC James #14872

On the 4th May 2005, this officer was on foot patrol when he heard a wireless transmission and proceeded to Mariquette Street where he assisted in removing an injured man from a house at that location.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

29. PC Dave Coker #14269

According to this witness at 6:55PM on the 4th May 2005, he was at the St. Barbs Police Post when he received information and proceeded to Belgrade Street and Mariquette Street. He observed police officers placing an injured man into the tray of a vehicle.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

30. Cpl. Aleem Mohammed #12662

On the 4th May 2005, this witness was at the St. Barbs Police Post when he received a wireless transmission. He proceeded to Mariquette Street where he met and spoke to Sergeant Roy #12260. He observed police officers placing an injured man into the tray of a vehicle. The man had blood in the area of the front of the man's jersey. After he was placed in the vehicle it left immediately.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

31. PC Vindura Maharaj #16290

This witness was at VMCOTT Compound and his evidence was in essence the same as that given by PC Travis Ghent #14941 as well as PC Allan Phillip #15887.

32. PC Burns #15564

This witness was on mobile patrol in the Laventille area on the 4th May 2005 at about 7PM when he received information. He went to Mariquette Street where he saw that an injured man was being taken away from a house. The man appeared to have gunshot injuries about his body.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

33. Cpl. Wayne Brown 13050

On the 4th May 2005 this witness was at the Besson Street Criminal Investigations Department when he received information. He proceeded to Mariquette Street and saw PC Baldwin #16398 with an injury to his hand. Then he saw an injured man being taken out of a house and placed on the tray of a van. This witness then saw PC Baldwin #16398 being treated at the Port of Spain General Hospital and he also observed the lifeless body of Nazim Christian at that institution as well.

34. Inspector Housend

On the 4th May 2005 at about 6:45PM this officer was at the St. Barbs Police Post. He received information and left on inquiries in the company of other police officers. They went to Mariquette Street and saw some police men placing an injured man into the tray of a vehicle.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

35. Private Marvin Valley

At the material time this witness was at the VMCOTT Base. This witness went to Mariquette Street and saw that an injured man was being taken from a house and placed in the tray of a van. He observed that the man was bleeding from his upper body from the waist somewhere up there the witness recalled.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

36. PC Michael Jordan #15458

On the 4th May 2005 this witness was attached to the Bazillion Street Community Center. He heard shots being fired off and he went to Marquette Street. He assisted in searching a man and was able to recover from off of his person –to the right side in the area of his waist, a brown and chrome revolver. He gave it to Sergeant Roy #12260.

37. PC Sterlin Taylor #13009

On the 4th May 2005 at about 7PM this witness was on patrol in East Dry Rives Port of Spain. He heard shots being fired and he proceeded to the corner of Marquette Street and Bazillion Street. When he got there he saw a man being moved from a house. He saw that the man had blood on the upper part of his white tee shirt. The blood was in the region of the man's chest and belly.

He never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

38. PC Amon Andrews #13348

This witness was at the St Barbs Police post at the material time and then he proceeded to Marquette Street after receiving instructions. He saw an injured man being removed from a house and whilst he was there he never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

39. PC Doon #14857

This police officer was on mobile patrol in the Laventille area when he heard a transmission and proceeded to Mariquette Street. He saw an injured man being removed from a house and placed on the tray of a police vehicle. Whilst he was there he never saw any police officers form a semicircle around Nazim Christian and one of the officers in the circle take a gun and shoot Nazim Christian in the region of his stomach.

40. PC Durity #16113

This was the last witness to testify at this Inquest and his evidence is in essence the same as PC Doon #14857.

SUMMARY OF THE EVIDENCE

From the evidence which came out during the course of the Inquest, there are two versions of how Nazim Christian came to be shot on the 4th May 2005.

The version proffered by Jivonne John and supported in some respects by Erica John, Lloyd Wilson, Chantelle John and Claude Junior Sandy is that:

- Jivonne John spoke to Nazim Christian when he was in his house that evening and Nazim Christian told him *“I get shoot in meh leg boy I get shoot in meh leg”* but he did not say who shot him.
- A number of police officers and soldiers then came into Jivonne John’s house and beat him. They then took him outside where he continued to be beaten about his hand, head, face, belly, chest and legs. The beating lasted for about one hour in all that day.
- After Jivonne John was taken from his home, he was placed on the road, and a gun was placed near his head and in his mouth and someone said *“yuh dead”*.
- Jivonne John identified Sgt. Roy #12260, PC Baldwin #16389, PC Steele #14508 and PC Bentick #16416 as four of the police officers who beat him that day. These were men he had seen before that day.

- Nazim Christian was also taken from the house and brought outside. Whilst he was being escorted into the yard, he too was being beaten. Whilst being beaten, Nazim Christian said “*all yuh would kill meh I know all yuh go kill meh*”.
- The gun that was near Jivonne John’s head was removed and Sgt. Roy #12260, PC Baldwin #16389, PC Bentick #16416 and two other police officers Jivonne John did not know, formed a semi circle around Nazim Christian and PC Bentick #16416 took the gun and shot Nazim Christian “*by he belly*”.
- Erica John testified to seeing PC Bentick #16416 shoot Nazim Christian. She had seen PC Bentick #16416 before that day.
- Erica John also testified to the fact that the day after the incident PC Bentick #16416 apologized to her for beating her son and explained that he had shot Nazim Christian because Nazim Christian had had shot his friend.
- After getting shot Jivonne John heard Nazim Christian say “*all yuh wah kill meh boy, all yuh really wha kill meh boy*”. After that Nazim Christian crouched down to the ground.
- After this a “red skinned police” hit Jivonne John with a gun across his forehead and said “*yuh see too much*”. Jivonne John was then handcuffed and after being slapped about his face, he was taken to the bottom of Constitution Hill and placed to lie down.

- Whist lying down at the bottom of Constitution Hill, soldiers began to beat Jivonne John. They told him he “*shoot police*”. Jivonne John told them that he did not shoot any police and they had the man who they say had shot the police. With this the soldiers start to jump on Jivonne John’s back and head and they put his fingers on the culvert and stamped on it.
- Jivonne John’s friend Rodney Claude Sandy came out and said that he was the one who had called them and he asked the men why they were beating Jivonne John. The police started to beat Rodney Claude Sandy as well.
- Some officers then came down the steps with Nazim Christian who was bleeding from his belly. Jivonne John saw them throw Nazim Christian in a jeep and an attempt was made then to choke him by mashing his throat. Jivonne John never saw Nazim Christian again after that day.
- After being beaten, Jivonne John and Claude Junior Sandy were taken to the Besson Street Police Station. Hours after this, Jivonne John obtained medical attention at the Port of Spain General Hospital.

The second version of the events is that proffered by Sergeant Roy #12260, PC Baldwin #16389, PC Steele #14508 and PC Bentick #16416 and supported in some respects by various police officers and soldiers who testified to being on the scene that day. It is that:

- On the 4th May 2005, at about 6:45PM there was the sound of gunshots in the area of the Siparia Hill and people were seen scampering for safety. Sergeant Roy #12260 left the Outpost with PC Baldwin #16389, PC Steel #14508 and PC Bentick #16416 and headed towards the Siparia Hill.
- On the way there they met Kirkland Sayers who had blood running from the area of his right forearm. He said that Nazim Christian had shot him. He also told them that Nazim Christian was wearing a white jersey and a three quarter pants.
- The men separated and Sergeant Roy #12260 and PC Steele #14508 went in the direction of Belgrade Street, and PC Baldwin #16389 and PC Bentick #16416 headed in the direction of Marquette Street. Upon hearing gunshots being fired however, Sergeant Roy #12260 and PC Steele #14508 made their way to Marquette Street. When they got there a man in a three quarter pants and a white jersey was running toward them. He pointed a gun in their direction and Sergeant Roy #12260 heard a loud explosion and he also saw a flash emanate from the gun.
- Sergeant Roy #12260 became fearful for his life and resorted to using his gun to “neutralize or subdue him” by firing at him. He did this because in his view his life was in danger. The man turned and started running away from Sergeant Roy #12260 and PC Steele #14508 and went toward PC Bentick #16416. Sergeant Roy #12260 saw the man point his gun in the direction of PC Bentick #16416 and he heard another explosion. He also saw PC Bentick #16416 fire at the man.

- The man turned around and once more headed toward Sergeant Roy #12260 and PC Steel #14508. At this point Sergeant Roy #12260 said “*police stop*”. The man did not stop and instead pointed his gun in the direction of Sergeant Roy #12260 and fired at him. This prompted Sergeant Roy #12260 to return fire and with this, the man ran east and disappeared into the yard of a two storey concrete structure he later learned belonged to Erica John.
- Sergeant Roy #12260 then heard PC Baldwin #16389 say “*oh gawd ah get shoot*”. Sergeant Roy #12260 then gave PC Steel #14508 instructions to take PC Baldwin #16389 away from the scene and he also instructed PC Bentick #16416 to summon assistance.
- About ten to fifteen minutes after Sergeant Roy #12260 saw the man who had shot at them lying on the roadway. His name was Nazim Christian and he was bleeding about his body. At this point Inspector Housend gave instructions that the man be taken to receive medical attention and PC Jordan #15458 gave Sergeant Roy #12260 a chrome and brown revolver with the markings “Jaguar” written on it and said that he had found it in the possession of the injured man.
- All four police officers denied being part of any semi circle around Nazim Christian that day and they also denied witnessing PC Bentick #16416 shoot Nazim Christian. Additionally, PC Bentick #16416 denied shooting Nazim Christian.

THE CASE FOR MURDER

- 1. Eyewitness recognition evidence from Jivonne John that he saw PC Bentick #16416 in the company of Sergeant Roy #12260 and PC Baldwin #16389 shoot Nazim Christian whilst Nazim Christian was injured, unarmed and barely able to stand up.**

This evidence was assessed against the backdrop that in Jivonne John's first statement it is recorded that he said he could not identify any of the police men or soldiers who were on the scene on the 4th May 2005 because there were too many of them and at the material time, the area was dark and he could not see faces clearly.

The Court also considered that Jivonne John testified at the Inquest that he never said this to the police man who was recording his first statement. Jivonne John testified on oath at the Inquest that he told the police officer recording his first statement and his second statement that he could identify some of the police men and some of the army men who had beaten him that day and, furthermore, he would also be able to identify the police officer who had shot Nazim Christian.

The evidence of recognition was also assessed against the backdrop that Jivonne John said the police officer did not read over the first statement he gave and he initially said that the police officer recording the second statement read it back to him. Then he maintained that he could not recall whether the police officer recording the second statement read it over to him after it was prepared.

This in turn was also balanced against the fact that the officers recording the statements of Jivonne John testified on oath at the Inquest that they made a true record of what he told them.

This Court forms the view that the reliability of the recognition eyewitness evidence which comes from Jivonne John would depend on the view taken by a tribunal of fact as to whether they believe that he really did tell the police officers recording his statements that he could identify some of the police officers who beat him and the police man who shot Nazim Christian and as such the police officers who recorded his statements were part of a “cover up”. Or, alternatively if this evidence from Jivonne John is a recent fabrication and therefore little reliance if any can be placed on it.

2. Eyewitness recognition evidence from Erica John that she saw PC Bentick #16416 shoot Nazim Christian whilst Nazim Christian was injured, unarmed and barely able to stand up.

This evidence was assessed against the backdrop that according to the contents of Erica John’s statement to the police it is recorded that she said that she could not identify the police man who shot Nazim Christian. On oath at the Inquest, Erica John said that she had never said so. Erica John agreed that the statement was read over to her and she signed it after but maintained that she had never told him that and if it was in the statement the police officer reading back the statement to her did not read that part to her.

This in turn was balanced against the fact that the officer recording the statement of Erica John testified on oath at the Inquest that a true record was made of what she said.

This Court forms the view that the reliability of the recognition eyewitness evidence which comes from Erica John would depend on the view taken by a tribunal of fact as to whether they

believe that she really did tell the police officers recording her statement that she could identify the police man who shot Nazim Christian and as such the police officer who recorded her statement is part of a “cover up”. Or, alternatively if this evidence from Erica John is a recent fabrication and therefore little reliance if any can be placed on it.

3. The evidence from Erica John that PC Bentick #16416 spoke to her the next day and said this: “...Nazim, he say, shoot his partner in his hands and that is why he take it on his responsibility to shoot Nazim...”.

This was evidence which came out for the first time in the Inquest. Erica John admitted that she never told any of the police men this as she was told by then Deputy Commissioner of Police Gilbert Reyes that she did not have to go into the shooting of Nazim Christian if she did not want to.

Additionally the Court balanced this evidence against the fact that then Deputy Commissioner of Police Gilbert Reyes testified on oath that he never told Erica John that she did into have to mention the shooting of Nazim Christian in her statement.

This Court forms the view that the reliability of this evidence which comes from Erica John would depend on the view taken by a tribunal of fact as to whether they believe that she really omitted this evidence for the reason advanced or whether this is a recent fabrication and therefore little reliance if any can be placed on it.

4. Evidence of injury contained in the Post Mortem Examination Report

There is evidence of a 1.0cm entrance wound over the front of the upper abdomen, 1.0cm left of the midline and 56cm below the top of the head. The bullet path of the direction of the bullet or the trajectory is slightly from right to left (outward), from top to bottom and front to back with penetration and perforation of the abdominal cavity, intestines, mesentery (attachment tissues of intestines) and the vertebral column (back bone). Additionally, a distorted copper jacketed bullet was recovered from the muscles over the back, 2.0cm left of the midline and 64cm below the top of the head.

This supports the evidence of Jivonne John who testified that when Nazim Christian was shot he was facing the shooter and he was in a crouching position and not lying on the ground. It also supports Erica John who testified that when Nazim Christian was shot the gun that was used to shoot him was not pointed up or down but straight.

THE CASE FOR SELF DEFENCE

- 1. The testimony of Sergeant Roy #12260**
- 2. The testimony of PC Baldwin #16389**
- 3. The testimony of PC Bentick #16416**
- 4. The testimony of PC Steele #14508**
- 5. The Evidence of injury contained in the Post Mortem Examination Report**

PART 3
FINDINGS

Findings pursuant to the Coroners Act Chap. 6:04

Section 10(1)

I am required to find, so far as has been proved, the cause and circumstances of the death of Nazim Christian. I understand this to encompass who the deceased person was and when, where and how he came by his death.

As a result of considering all of the evidence which came out during the course of this inquest, I am able to make the following findings:

IDENTITY OF THE DECEASED

The deceased person was Nazim Christian.

PLACE OF DEATH

He died en route to the Accident and Emergency Department, Port of Spain General Hospital and was certified dead on arrival at that institution.

DATE OF DEATH

He died on a date unknown between the 4th May 2005 and the 5th May 2005.

CAUSE OF DEATH

The cause of death was injury sustained from multiple gunshot wounds.

Section 28

Findings Relating to Sergeant Roy #12260, PC Bentick #16416, PC Baldwin #16389 and PC Steele #14508

Section 28 of the Coroners Act Chap. 6:04 provides that:

“If, during the course or at the close of any inquest, the Coroner is of opinion that sufficient grounds are disclosed for making a charge on indictment against any person, he may issue his warrant for the apprehension of the person and taking him before a Magistrate, and may bind over any witness who has been examined by or before him in a recognisance with or without surety to appear and give evidence before the Magistrate”.

The test for the charging question set out in **section 28 of the Coroners Act Chap. 6:04** requires a coroner to consider whether “sufficient grounds are disclosed for making a charge on indictment”.

What then are “sufficient grounds” in the context of an inquest? The learning set out in **Jervis on the Office and Duties of Coroners**¹ at **para 13-31 to 31-32** suggests that the answer to this question is once a case to answer has been made out. This is what is stated:

¹ Matthews, P, *Jervis on the Office and Duties of Coroners with Forms and Precedents*, 12th edn, Sweet and Maxwell Limited, London, 2002.

“The Coroners Act 1887 required the inquest, in case of a finding of murder or manslaughter, to name the person(s) found to have committed the homicide, and the inquisition operated as an indictment of the person(s) so charged, who would be committed for trial on the inquisition at the next assizes. This was never the law in relation to any other offence involving killing. But in 1977 the power of the inquest in effect to charge a person with homicide was abolished, and further amendments removed the other surviving distinctions in coroner’s law between murder, manslaughter and infanticide on the one hand, and other homicide offences on the other. So since 1977 the inquisition has played no direct role in the criminal process. The conclusion of unlawful killing, which was then introduced, was not intended to indicate even a prima facie case of criminal liability. Instead it was introduced in order to enable the judgment-neutral fact of *how the deceased came by his death* to be recorded. By concentrating on the deceased rather than any alleged perpetrator (who in any event could not be named), it was hoped to turn the verdict into a purely factual record.

Yet logically it is difficult to state that a person has been the victim of a crime without first being satisfied that a crime has been committed. Public perception has accordingly been that unlawful killing is a judgmental, and not merely a factual, conclusion. Although the establishment in civil proceedings of the fact of the crime is only required to be achieved to the civil standard, i.e. the balance of probabilities, the English courts after 1977 established the rule that the conclusion of unlawful killing could not be reached unless the coroner or jury was satisfied to

the criminal standard of proof, i.e. beyond reasonable doubt. Prior to 1977 this would have been nonsense. At most, a finding of murder or manslaughter by an inquest operated to charge a person, not to convict him. And a grand jury, or (later) examining magistrates, did not have to be satisfied of guilt beyond reasonable doubt before committing for trial. A case to answer was sufficient. Other common law jurisdictions have accordingly held that the civil standard is enough, thus avoiding the English error". (emphasis mine)

It follows that once a coroner is satisfied on the evidence before him that there is a case to answer in respect of an indictable offence a coroner's warrant may be issued in respect of that offence.

According to Dixon CJ in **May v. O'Sullivan 92 CLR 654 at pages 656 to 657**, a case to answer is a prima facie case.

The test to be applied in determining whether there is a case to answer, or, a prima facie case in respect of an indictable offence can be found in **R v. Galbraith [1981] 1 WLR 1039**. The test was set out at page 1042 paragraphs B-D by Lord Lane CJ in this way:

“(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the judge comes to the conclusion that the

prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case. (b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.... There will of course, as always in this branch of the law, be borderline cases. They can safely be left to the discretion of the judge”.

According to **Blackstone 2012 at paragraph D16.53**, the first limb of the test set out in *R v. Galbraith (supra)* of whether there is “no evidence that the crime alleged has been committed by the defendant” refers to there being no evidence to prove an essential element in the alleged offence. Further at **paragraph D16.54** of the same text, it is stated that the second limb of the test set out in *R v. Galbraith (supra)*:

“...inevitably involves the court considering the quality and reliability of the evidence, rather than its legal sufficiency, and therefore involve(s) the court carrying out the assessment of evidence and witnesses that would otherwise be the exclusive prerogative of the jury... The court is empowered by the second limb of the Galbraith test to consider whether the prosecution's evidence is too inherently weak or vague for any sensible person to rely on it. Thus, if the witness undermines his own testimony by conceding that he is uncertain about vital

points, or if what he says is manifestly contrary to reason, the court is entitled to hold that no reasonable jury properly directed could rely on the witness's evidence and therefore (in the absence of any other evidence), there is no case to answer... It (i)s for the judge to assess the evidence and, if it (i)s 'self-contradictory and out of reason and all common sense', then he could properly conclude that it (i)s 'inherently weak and tenuous' within the meaning of the second limb of the Galbraith test. Moreover, in forming his judgment, he could take into account both internal inconsistencies in a witness's testimony and inconsistencies between one prosecution witness and another".

The approach to be taken is then summarized at **paragraph D16.56** of the said text as this:

“(a) If there is no evidence to prove an essential element of the offence, a submission must obviously succeed.

(b) If there is some evidence which, taken at face value, establishes each essential element, the case should normally be left to the jury.

(c) If, however, the evidence is so weak that no reasonable jury properly directed could convict on it, a submission should be upheld. Weakness may arise from the sheer improbability of what the witness is saying, from internal inconsistencies in the evidence or from its being of a type which the accumulated experience of the courts has shown to be of doubtful value.

(d) The question of whether a witness is lying is nearly always one for the jury, but there may be exceptional cases (such as Shippey [1988] Crim LR 767) where the inconsistencies are so great that any reasonable tribunal would be forced to the

conclusion that the witness is untruthful, and that it would not be proper for the case to proceed on that evidence alone”.

From this it is clear that the second limb of the test in *R v. Galbraith (supra)* involves the taking into account of the standard of proof in criminal cases in evaluating whether there is a prima facie case. The concept of the evidential burden being a function of the persuasive burden is something which is expressly stated in Canadian authorities. So in the case of **R v. Charemski** [1998] 1 SCR 679 (SCC), McLachlin J stated at paragraph 35 that it would be impossible to decide whether a reasonable jury could convict in a criminal case without considering the standard of proof. As she put it:

“...‘sufficient evidence’ must mean sufficient evidence to sustain a verdict of guilty beyond reasonable doubt, merely to refer to ‘sufficient evidence’ is incomplete since ‘sufficient’ always related to the goal or threshold of proof beyond reasonable doubt”.

Accordingly, McLachlin J found that the case could not go to the jury unless there was evidence in the record upon which a properly instructed jury could rationally conclude that the accused is guilty beyond reasonable doubt.

In **R v. Fontaine** [2004] 1 SCR 702 (SCC), the unanimous court accepted this position by holding the view that a judge could take into account the criminal standard of proof in a criminal case in evaluating whether there is a prima facie case. Fish J, set out the matter at paragraphs 11-14 and paragraph 78 in the following way:

“11. An “evidential burden” is not a burden of proof. It determines whether an issue should be left to the trier of fact, while the “persuasive burden” determines how the issue should be decided.

12. These are fundamentally different questions. The first is a matter of law; the second, a question of fact. Accordingly, on a trial before judge and jury, the judge decides whether the evidential burden has been met. In answering that question, the judge does not evaluate the quality, weight or reliability of the evidence. The judge simply decides whether there is evidence upon which a properly instructed jury could reasonably decide the issue.

13. This evidential standard, unaltered in substance for at least a century, appears in the case law variously attired: “a reasonable jury acting judicially”, “a properly instructed jury acting judicially” and “a properly instructed jury acting reasonably” (Cinous, at para. 62); “the jury, properly instructed and acting honestly and reasonably” (R. v. Capson, [1953] 1 S.C.R. 44, at p. 48); “a reasonable jury acting judicially and properly instructed” (R. v. Thibert, [1996] 1 S.C.R. 37, at para. 1).

14. These are only some of the phrases, equivalent in substance though different in form, that appear in the governing cases. I intend no departure from that venerable and unbroken line of authority in saying that the evidential burden is discharged if there is some evidence upon which a properly instructed jury could reasonably decide the issue. Similar expressions that appear throughout are likewise meant to describe a single concept, the “evidential burden” in a criminal trial...

78. In each instance, the decisive question is whether there exists an evidential foundation on the issue of guilt. The evidential burden, on that issue, as we have seen, is a function of the persuasive burden and the persuasive burden, which is borne by the Crown, can only be discharged by proof beyond a reasonable doubt".
(emphasis mine)

It seems that this interpretation of the evidential burden being a function of the persuasive burden is an interpretation which is evident in American and English jurisprudence. According to Nadeau J in **R v. Masterson** 72 WCB (2d) 667 at paragraph 8, "American and English authorities are to the same effect: see McCormick on Evidence (5th ed. 1999), vol. 2, at p. 417; Cross and Tapper on Evidence (9th ed. 1999), at p. 138."

A coroner's warrant may therefore be issued in respect of an indictable offence once:

- There is some evidence which, taken at face value, establishes each essential element of the offence
- There is evidence in the record upon which a properly instructed jury could rationally conclude that the accused is guilty beyond reasonable doubt.

I am of the view that:

- There is some evidence which, taken at face value, establishes each essential element of the offence of murder and,

- There is evidence in the record upon which a properly instructed jury could rationally conclude that Sergeant Roy #12260, PC Bentick #16416 and PC Baldwin #16389 are guilty of murder beyond reasonable doubt.

I have considered the following evidence which is on record at this Inquest:

1. During cross examination of Jivonne John, this is what unfolded:

“Q: Out of the officers who surrounded Christian, when he was shot, did you see Roy surrounding him?”

A: Yes, sir.

Q: Did you see Steel surrounding him?

A: I can't recall, sir.

Q: Did you see Baldwin surround him?

A: Yes, sir.

Q: Did you see Bentick surround him?

A: Yes, sir.

Q: So, out of the four, which one didn't surround or which one you can't recall?

A: The red-skin one, sir.

Coroner: The what?

Mr. John: I could point.

Mr. Khan: The second one?

Mr. John: The second, one yes.

Mr. Khan: That is Steel”.

2. During the cross examination of Erica John this is what she said:

“Q: ...PC Steel, do you know him the brown-skinned one?

A: By seeing him but...

Q: How many times you saw him?

A: I can't remember how many times I see him.

Q: But you know his face?

A: Yeah, I know his face.

Q: Was he one of the officers who surround?

A: I don't think so, I don't know.

Q: You don't think so, you don't know?

A: No...

Q: ...Those four gentlemen seated there, out of those four; do you remember seeing any of them in the circle that day?

A: No.

Coroner: Not the first one?

Ms. John: What?

Coroner: Not the first...

Ms. John: Only the last...

Coroner: Apart from him...

Ms. John: Apart from him I can't remember seeing them.

Coroner: So those three men were not in the circle?

Ms. John: I wouldn't say they were not there but I can't remember seeing those men there

Coroner: Okay. And for the sake of clarity, the last one at the end, you're saying, what did you see him do that day?

Ms. John: if I saw him that day?

Coroner: Yes, what did you say, you saw him...

Ms. John: That is in the road, when they throw over Nazim in the road. He raise him up and then they circle him.

Coroner: Yes?

Ms. John: And then a policeman hand another police, hand him the gun, and then she shoot him.

Coroner: So you said you saw him shoot?

Ms. John: Yes".

In light of this, I make the finding that

- There is no evidence in the record upon which a properly instructed jury could rationally conclude that PC Steele #14508 is guilty of murder beyond reasonable doubt.

Findings Relating to Deputy Commissioner of Police Gilbert Reyes, Retired Senior Superintendent of Police Leon Anthony and Retired Inspector Winston Stuart

Deputy Commissioner of Police Gilbert Reyes

According to Erica John, Deputy Commissioner of Police Gilbert Reyes asked her if she wanted to leave out the part of the events of the 4th May 2005 where she saw the police shoot Nazim Christian because she had told him that *“killing Nazim was not my interest. My interest is my yard and my son”*. Then later on in cross examination Erica John said this:

“A: After speaking to him and telling him what happened on that day, for instance I saw the policeman shoot Nazim. He asked if I would like to give a statement? I told him, yes. I told him that am not interested in the killing of Nazim Christian, that is not my problem that is not what I come here to him for, I am not interested. My hand did break, big so, I show him my hand. I say I am interested in my hand and my son and he turn to me and tell me, well, if I want, I can leave tat out of the statement. The killing of Nazim Christian. That is when I tell him I not interested”.

Q: So, assuming but not admitting that is what you told him, Deputy Commissioner Reyes never told you not to say anything about the shooting?

A: He didn't say it like that. “Don't say anything about the shooting.” After I tell him I am not interested in the shooting, the killing of Nazim Christian, he tell me then, if I want I could leave that out from the statement... he told me if I want, I don't bound to talk about that...I told him I was not interested... and the mere idea I tell him I was not interested, he tell me, I could leave out that....up to now I am not interested in the killing of Nazim Christian, where I see the police I am not interested... If you didn't cite me to come here I wasn't even self coming here...”

Retired Senior Superintendent of Police Leon Anthony

On the 5th May 2005 at about 12:30PM, Retired Senior Superintendent of Police Leon Anthony recorded a statement from Erica John. She told him what happened and he wrote. After he was finished writing he read that statement back to her and she signed it as being true and correct. Erica John admitted that she herself never read over the statement before signing it.

It came out whilst Erica John was being cross examined that recorded in her statement was this: *“I cannot identify the policemen who shot Nazim in his belly”*. Upon hearing this she told the Court *“no I never said so”*. This prompted Mr. Khan to ask her if the police man read that part over to her when he was reading over the statement to her before she signed it. Erica John said that he did not. According to her:

“A: ... I talk what I see, and what happen, and not because I talk whey I see they kill Nazim, that was not my interest, but that is what I see...”

Retired Inspector Winston Stuart

This officer recorded Jivonne John’s first statement. This is how the evidence unfolded:

“Q: In the first statement, did you tell the police that it was so dark and things was happening there, you can’t identify people who beat you, nor the police who shoot Nazim? Did you tell them that?

A: I don’t think so, no.

Q: You don’t think so?

A: No.

Q: Or you never tell him that?

A: I did never tell him that.

Q: So if it is written down here that the first police said that you told him. ‘I cannot identify them. There was too much of different police and soldiers in the area and at the time, the area was dark, only streetlight. And I did not see any of their faces clearly... You tell them that?’

A: No, Mr

Q: And yuh can’t identify the shooter?

A: No, sir.

Q: So, now this police who took this statement would be putting lies in here?

A: As far as it is, yes, sir...”.

Section 28 of the Coroners Act Chap. 6:04 states that

“If, during the course or at the close of any inquest, the Coroner is of opinion that sufficient grounds are disclosed for making a charge on indictment against any person, he may issue his warrant...”.

I am of the view that this speaks to the issuing of coroner’s warrants if sufficient grounds are disclosed for making a charge on indictment against a person if they are criminally responsible for the death of the subject matter of the Inquest.

I form this view after having regard to the guidance offered by Nathan J in the case of **Harmsworth v. State Coroner [1989] VR 989 at 995** where he stated that a Coroner does not have general powers of inquiry or detection; the inquiry must be relevant “in the legal sense to the death or fire”. According to Bryson J in **Quinlan v. Deputy State Coroner [2000] NSWSC**

431 at para 1. “an inquest is not an occasion for investigating offences or untoward behavior or events which do not bear upon the manner and cause of death”.

With this in mind I make no findings as per section 28 of the Coroners Act Chap 6:04 in respect of Deputy Commissioner of Police Gilbert Reyes, Retired Senior Superintendent of Police Leon Anthony and Retired Inspector Winston Stuart. To issue warrants for perverting the course of public justice would be beyond the scope and breadth of my jurisdiction as Coroner in holding this Inquest.

PART 4

CONCLUDING REMARKS

According to Her Ladyship Madam Justice Joan Charles in the matter of **Civil Claim No. CV 2010-00456 #14074 PC Gary Moore and #14930 PC Sifontes v. Her Worship Ms. Nalini Singh Coroner, St. George West County, Port of Spain and The Director of Public**

Prosecutions at para 44:

“It is important both from the point of fairness to the persons of interest in the inquest and the interest of the public to ensure that a full and proper inquiry be held by examining all material witnesses on oath, as well as receiving the evidence of persons of interest to the enquiry such as the Claimants”.

I have called witnesses I consider to be material witnesses and I was therefore able to conclude that the evidence at the close of this Inquest supports a charge of murder against Sergeant Roy #12260, PC Bentick #16416 and PC Baldwin #16389.

In concluding I wish to humbly adopt the sentiments expressed by His Lordship Mr. Justice Peter Rajkumar in the matter of **Claim No. CV2010-04502 Ijah Oba Brathwaite v. The Attorney General of Trinidad and Tobago at paras. 132-136:**

“132 In a series of recent cases several different courts have awarded exemplary damages ranging up to \$100,000.00, in an effort to send a signal that complaints of incidents of brutal violence... are occurring with alarming frequency. Yet matters based on allegations of excessive use of force... continue unabated... .

133 The time for accountability in relation to such incidents has long passed. There are many incidents like this one where findings have been made that excessive force has been used... The courts award damages. In some cases the courts award aggravated or exemplary damages. Presumably the damages are paid. But the incidents do not cease. Remarks made by the courts in several such matters appear to have been ignored, and there is every indication, from the repetition of like incidents, that the perpetrators face no consequences.

134

135 Failure to act upon findings of a court that servants or agents of the state are acting in an unlawful manner has implications for every citizen of this country. If servants of the State are permitted to act unlawfully, with impunity and without consequences, then it should come as no surprise when unlawful actions are repeated.

136 Accountability is a critical and fundamental feature of democracy...".
(emphasis mine)

Finally, I wish to place on record my thanks to my court staff, Corporal Gonzales, Corporal Levine, Corporal Maharaj and now retired Corporal Samuel for their assistance in this inquest. I

also take this opportunity to thank Mr. Israel Khan SC, Mr. Ulrick Skerritt as well as Mr. Wayne Rajbansee for their invaluable contributions to this inquest.

All manner of persons who have had anything to do at this court before the Coroner for this County touching the death of Nazim Christian, having discharged your duty may depart hence.

I now declare this inquest closed.

.....

Her Worship Ms. Nalini Singh
St. George West County Coroner.