

**REPORT OF THE JOINT SELECT COMMITTEE APPOINTED TO COMPLETE THE
REVIEW OF THE SEXUAL OFFENCES ACT ALONG WITH THE OFFENCES AGAINST THE
PERSON ACT, THE DOMESTIC VIOLENCE ACT AND THE CHILD CARE AND
PROTECTION ACT**

1. ESTABLISHMENT, COMPOSITION AND TERMS OF REFERENCE OF THE COMMITTEE

Members of the Honourable House are reminded that on the 6th day of December, 2016 the Minister without Portfolio in the Office of the Prime Minister, having obtained suspension of the Standing Orders moved the following resolution:

WHEREAS pursuant to section 40 of the Sexual Offences Act, said Act must be reviewed within five years of its date of commencement;

AND WHEREAS there is concern as a result of trends in violence towards women, children, the disabled and the elderly;

BE IT RESOLVED that this Honourable House appoint a Special Select Committee comprising the following Members:

Honourable Delroy Chuck - **Chairman**
Honourable Olivia Grange
Honourable Floyd Green
Mrs. Marisa Dalrymple-Philibert
Dr. Lynvale Bloomfield
Ms. Lisa Hanna
Ms. Denise Daley

to sit jointly with a similar committee to be appointed by the Senate to:

(i) Complete the required statutory review of the Sexual Offences Act;

(ii) Consider and review existing legislation which purport to, among other things, protect women, children, the disabled and the elderly from violence and abuse, being the Sexual Offences Act, the Offences Against the Person Act, the Domestic Violence Act and the Child Care and Protection Act, with particular emphasis on the offences and punishment under these legislation with regard to:

- (a) The murder of pregnant women;
- (b) The assault of women, children and the elderly;
- (c) Sexual offences against women, children and the elderly;
- (d) Such other violent crimes against women, children, the disabled and the elderly as may be deemed necessary for the review.

(iii) To make recommendations for legislative amendment, not restricted to the stated legislation under review, for the better administration of justice and the effective protection of these special groups, as the Committee deems necessary.

Members of the Honourable House are also reminded that on the 16th day of December, 2016, the Minister of State in the Ministry of National Security and Acting Leader of Government Business, the Senate moved the following resolution:

WHEREAS pursuant to section 40 of the Sexual Offences Act, said Act must be reviewed within five years of its date of commencement;

AND WHEREAS there is concern as a result of trends in violence towards women, children, the disabled and the elderly;

BE IT RESOLVED that this Honourable Senate appoint a Special Select Committee comprising the following Members:

Sen. the Hon. Kamina Johnson Smith
Sen. Ransford Braham
Sen. Sapphire Longmore
Sen. Mark Golding
Sen. Sophia Frazer-Binns

to sit jointly with a similar committee to be appointed by the House of Representatives to:

(i) Complete the required statutory review of the Sexual Offences Act;

(ii) Consider and review existing legislation which purport to, among other things, protect women, children, the disabled and the elderly from violence and abuse, being the Sexual Offences Act, the Offences Against the Person Act, the Domestic Violence Act and the Child Care and Protection Act, with particular emphasis on the offences and punishment under these legislation with regard to:

- (a) The murder of pregnant women;
- (b) The assault of women, children and the elderly;
- (c) Sexual offences against women, children and the elderly;
- (d) Such other violent crimes against women, children, the disabled and the elderly as may be deemed necessary for the review.

(iii) To make recommendations for legislative amendment, not restricted to the stated legislation under review, for the better administration of justice and the effective protection of these special groups, as the Committee deems necessary.

Members of this Honourable House are further reminded that on May 5, 2017, a motion was moved replacing Senator Ransford Braham with Senator the Honourable Parnel Charles Jr.

Members of this Honourable House are also reminded that on Friday, November 10, 2017, a motion was moved replacing Senator Mark Golding with Senator Donna Scott Mottley.

2.0 BACKGROUND

The Joint Select Committee, in keeping with the mandate given to us by the Senate and the House of Representatives, undertook the required statutory review of the Sexual Offences Act and simultaneously reviewed the Offences against the Person Act, the Domestic Violence Act, the Child Care and Protection Act and the Sexual Offences Act from the perspective of the protection which they offer to women, children, the disabled and the elderly from violence and abuse.

Members of your Committee and the persons/entities who participated in our deliberations were of the opinion that the review of the four Acts was overdue and a necessary undertaking, and that the recommendations made should seek to address the realities currently being experienced in the Jamaican society.

We took note that the review of the four Acts originally arose from a Private Members Motion tabled by then Opposition Senator Johnson Smith in 2013 which was unanimously supported by both sides of the Senate.

We also took note that a review of the four Acts had been undertaken by a previous Committee in 2014, which was unable to complete its work prior to the general elections held in 2016.

During our deliberations, we sought and received information from some critical players such as the Child Protection and Family Services Agency (which is a merger between the Child Development Agency and the Office of the Children's Registry), the Office of the Children's Advocate (OCA), the Ministry of Health and the Centre for the Investigation of Sexual Offences and Child Abuse (CISOCA), to assist us in understanding many of the issues surrounding violence against the vulnerable groups mentioned; and how such matters were treated by the respective responsible entities including the courts, the police and persons in the medical profession.

In order to ensure full participation of the citizenry in this review, your Committee invited written comments on the Acts through a Public Notice and various other means of communication. We subsequently received submissions from:

- *The Centre for the Investigation of Sexual Offences and Child Abuse (CISOCA)*
- *The United Nations Country Team*
- *The JCHS Advocate (the Jamaica Association of Full Gospel Churches, the Jamaica Union of Seventh Day Adventists, the Jamaica Evangelical Alliance, the Church of God in Jamaica, the*

Independent Churches of Jamaica, the Jamaica Pentecostal Union and the Jamaica Coalition for a Healthy Society)

- ***The Jamaica Community of Positive Women (JCW+)***
- ***Decarteret College***
- ***SISTREN Theatre Collective***
- ***Jamaicans for Justice***
- ***The Tambourine Army***
- ***Equality for All Group***
- ***Jamaica Youth Advocacy Network***
- ***Jamaica LANDS***
- ***The Voices for Equal Rights and Justice (VERJ)***
- ***The Association of Women's Organizations of Jamaica***
- ***The Very Rev. Fr. Sean C. Major-Campbell JP***
- ***The National Council for Persons with Disabilities***
- ***Jamaica AIDS Support for Life (JASL)***
- ***Love March Movement***
- ***Jamaica Family Planning Association***
- ***Ms. Jodi Ho Lung***
- ***Ms. Javanna Haughton***
- ***Marcus Garvey African League***
- ***Ms. Sophia Williams***
- ***Mr. Garth Barnett***
- ***The People's National Party Women's Movement***
- ***The Office of the Director of Public Prosecutions***
- ***The Ministry of National Security/Department of Correctional Services***
- ***The National Association for the Family***
- ***The Diocese of Jamaica & the Cayman Islands***
- ***The Office of the Children's Advocate, and***
- ***The Child Protection and Family Services Agency***

A number of the abovementioned individuals/entities appeared before your Committee to orally present their views and provide further clarification/elucidation for the benefit of Members. Other entities which had been asked to submit their comments on the four Acts either did not respond, declined the offer or asked us to rely on their submission made to the Joint Select Committee in 2014.

We commenced our deliberations on January 18, 2017 and held nineteen (19) meetings in consideration of the matters before us.

Among the issues which sparked intense debate were: (i) the proposal to broaden the current definition of rape to include other forms of penetration; (ii) the issue of marital rape; (iii) the proposal to increase the age of consent to 18 years and the need for the inclusion of a close-in-age group exception in respect of children under the age of 16 years who engage in consensual sexual activity with each other; (iv) the proposal to make provision for abortion in certain specified instances, (v) the proposal to align the penalty

for forced anal penetration with that of forced vaginal penetration (rape) to recognize that forced anal penetration was as serious an offence as rape, as well as the proposal to treat forced anal penetration as an element of grievous sexual assault to achieve this, and (vi) the consequences that could possibly flow from making any amendments to the provisions relating to abortion and buggery in terms of the protection that the respective provisions received under the Savings Law Clause in the Constitution of Jamaica.

3.0 FINDINGS & RECOMMENDATIONS

A. General Observations

Many of the individuals/entities who made submissions to your Committee highlighted the need to update the language used in the legislation to be more in line with modern phraseology. They suggested the use of gender-neutral language throughout the different Acts and to ensure that the terminologies used were in sync with those found in more updated legislation such as the Disabilities Act as well as legislation in other jurisdictions.

There was also a call for the sensitization of the critical players such as health care professionals, police officers, judges, lawyers, jurors, and court personnel who interface at different levels with persons who are victims of violence, particularly sexual violence, as there was need to elevate their level of awareness and eliminate the negative stereotypes and traditional beliefs and practices in respect of the treatment of issues such as rape and other forms of sexual violation.

Persons who made submissions and Members of your Committee were also concerned about the increase in the incidents of domestic violence, which not only affected the spouses involved but also the children who witnessed, or are victims of, these acts of violence. We were concerned not only about the physical trauma which were visible, but also about the deeper, invisible emotional and psychological trauma which could not be healed as easily as the physical wounds. We were also concerned about the rising number of deaths resulting from incidents of domestic violence.

B. GENERAL RECOMMENDATIONS

In our deliberations on the Sexual Offences Act, the Child Care and Protection Act, the Domestic Violence Act and the Offences against the Person Act, your Committee recognized that some of the recommendations for amendments to existing provisions or for new provisions would have general applicability to most if not all the four Acts under review, and in some cases, to different sections of the same Act. These are as follows:

Aggravating Circumstances

Violence against vulnerable groups

Your Committee expressed concern about the particularly heinous nature of some acts of violence, including sexual violence, perpetrated against the most vulnerable groups in the society and felt that the law should provide for stiffer penalties to send a strong message to the perpetrators of these acts, and for victims to feel that justice has been done. *We therefore accepted the recommendation to insert a provision in the Sexual Offences Act to provide that where there are vulnerable victims of rape and grievous sexual assault (vaginal and anal), defined as a child under twelve years old, a person with a physical or mental*

disability, or an elderly person over 70 years old, this should be treated as an aggravating factor, which would carry a mandatory minimum sentence of twenty years.

Murder of a pregnant woman

Your Committee held extensive discussions on whether to include an offence in the Offences Against the Person Act to deal with the murder of a pregnant woman. We carefully weighed the impact of including such a provision, such as the issue of whether it could be clearly stated that two lives had been taken, the common law concept of whether the foetus was a person for the purposes of the law, and whether the woman would have had to be known to be pregnant or had to be visibly pregnant. We looked at what obtained in other jurisdictions and found that in some jurisdictions, crimes committed against pregnant women were treated as an aggravating factor in terms of sentencing and at times there were nuances to be taken into account such as whether the person was visibly pregnant or whether the offender had been aware of the pregnancy. We also learnt that there were instances in which provision was made for vulnerable persons including pregnant women, the elderly, children and persons who had a specific type of disability. *Your Committee therefore agreed with the suggestion that section 20 of the OAPA, which deals with grievous bodily harm, be amended to expressly include the victim's known or visible pregnancy as an aggravating factor, in determining the sentence. It was further agreed that the aggravating sentencing factor should not only cover pregnant women, but also vulnerable persons such as the elderly, persons with disabilities and children.*

Sentencing

There was also a suggestion that for sexual offences including cases involving aggravating factors, the sentences should run consecutively rather than concurrently. This proposal arose from a concern expressed that the sentences were generally too low, particularly for cases where heinous acts were committed against persons, and that in many cases, these sentence were not reflective of the egregious circumstances of these cases. It was also expressed that such an approach would send a signal of the seriousness with which the Parliament views these offences. It was felt that the existence of the plea bargaining regime further compounded the issue, in that many victims felt they have not received justice where the perpetrators received discounted sentences in instances where they opted to plead guilty. *Your Committee was however of the view that this should be left to the discretion of the presiding judge, having considered the nature and circumstances of each case.*

Provisions in law which are protected by the Savings Law Clause (Section 13(12)) of the Constitution of Jamaica

Your Committee held extensive discussions on the need to recognize forced anal penetration as an offence and to align the penalty for this offence with that of forced vaginal penetration to recognize that the forced penetration of the anus of a male or female was as serious and heinous as the offence of rape.

We wanted to include a maximum penalty of life imprisonment for forced anal penetration, and sought to achieve this by recommending that non-consensual anal penetration be treated as an element of grievous sexual assault, with an expressed intent that this should not be construed as impliedly amending or repealing any provision in the Offences Against the Person Act, since this would be a different offence from buggery.

We were advised that taking this approach may not have the desired effect, because any attempt to amend the law so as to recognize a difference between consensual and forced anal penetration could be interpreted as impliedly amending the buggery law, thereby creating the possibility that that provision could lose the protection under the Savings Law Clause and could therefore be open to challenge. The Lambert Watson case as well as a recent case in India where a similar approach was taken were used as examples to highlight this risk. We also learnt that amending the law in this manner would also be incompatible with the current policy position of the Government that the provisions related to buggery should be put to a referendum with other matters of broad public divide.

A similar consideration arises in relation to any amendment of the existing law concerning abortion.

Your Committee considers that rather than have this be the subject of a recommendation coming from the Committee, it ought to be considered by Parliament as a whole.

The Treatment of Persons with Disabilities

Recommendations were made to your Committee for persons with disabilities to be given special consideration in the four Acts under review. Specific recommendations were made for the definitions of “child” and “adult” to be adjusted to treat with scenarios in which offences were committed against or committed by persons who had a chronological age of an adult but the developmental age of a child. In these instances, your Committee was of the view that instead of adjusting the definitions of “child” and “adult”, which might create unintended anomalies in other sections of the Acts, adjustments should be made to the applicable sections to treat with these vulnerabilities.

We were also asked to make adjustments to the penalty sections of the four Acts to ensure that persons convicted of offences against persons with disabilities would be given significantly higher penalties to reflect the vulnerability of the victims. Your Committee addressed this concern by making provision for these cases to be treated as aggravating circumstances, to which appropriate penalties would be applied.

C. SPECIFIC RECOMMENDATIONS

The Sexual Offences Act

Your Committee completed our review of the Sexual Offences Act and has the honour to present our findings and recommendations.

Your Committee was generally alarmed at the heinous nature of some of the acts of sexual violence perpetuated against our women and men, and the most vulnerable persons in the society including our children, the disabled and the elderly. We sought to address this by not only focusing on the sexual offences themselves but also the changes that could be made in the penalties applied when persons were convicted of sexual offences to ensure that these penalties served as a deterrent to other persons who continue to perpetrate these crimes.

Section 1 - Short Title

Section 1 refers to the short title of the Act. *Your Committee recommended that no change is necessary to this section.*

Section 2 - Interpretation

This section outlines the definitions that used in the Act.

“adult” and “child”

Concerns were expressed to your Committee that the current definitions of “adult” and “child” did not recognize the fact that there were persons with intellectual disabilities (PWID), who were adults based on their chronological age, but had the developmental age of a child. Although we accepted that persons with mental/developmental impairment should be given special consideration, we did not believe that this should be achieved by amending the definitions. We also considered the fact that referring to an adult with an intellectual impairment as a child would be insensitive. *We therefore agreed that the definitions of “child” and “adult” should remain unchanged.* Consequently, these terms would continue to be defined using the chronological age, and any variation therefrom would be classified as vulnerabilities.

“consent”

It was recommended to us that section 2 should be amended to include a specific definition of ‘consent’, similar to the definition used in the Canadian legislation. We noted however, that an interpretation of whether or not consent has been given was determined by the court, based on the facts presented in a particular case. *Your Committee decided that a definition of “consent” should not be included in the Act, but rather, consent should continue to be determined by the court, based on the nature and circumstances of each case.*

“grievous sexual assault”

Your Committee did not accept the recommendation to remove the term ‘grievous sexual assault’ from the Act and encapsulate its definition under the definition of ‘rape’.

“intellectual disability” and “mental disorder”

Concerns were raised that the current definition of “mental disorder” was outdated and included the term “mental retardation” which was deemed to be offensive and derogatory. It was submitted further that the term “mental retardation” has been replaced by the term “intellectual disability” in more modern definitions, and that the condition of “intellectual disability” should therefore be adequately defined in the law. In considering these proposals, your Committee made reference to the definitions in the Mental Health Act and the Diagnostic and Statistical Manual of Mental Disorders (DSM) -5 used in the medical field. In order to address the concerns raised, *your Committee agreed that the definition of “mental disorder” should be modernized to reflect the narrative found in the DSM-5.*

“sexual activity”

Your Committee did not accept the proposal to insert a definition of this term into the Act.

“sexual grooming”

Your Committee did not agree that a definition of sexual grooming was required in the Act.

“sexual intercourse”

Your Committee agreed that the definition of “sexual intercourse” should remain unchanged.

PART II. Rape, Grievous Sexual Assault and Marital Rape

This Part of the Act sets out the circumstances in which rape, grievous sexual assault and marital rape are deemed to be committed.

Section 3 - Rape

The current definition of rape speaks to sexual intercourse between a man and a woman without the consent of the woman, and involves the penetration of the vagina with the penis. Several recommendations were made for the definition to be adjusted to incorporate other forms of penetration such as anal penetration without consent and penetration of the vagina or anus with an object. One of the main concerns raised was that the penalty for penetrating the anus of a male or female without consent should be the same as the penalty for penetrating the vagina without consent, thereby carrying a maximum penalty of life imprisonment. Your Committee considered all the implications of making any adjustment to the definition of “rape” and decided that wide public consultation and perhaps a referendum might be required before any amendment is made to this section of the Act. *Your Committee therefore decided that the definition of rape should remain unchanged.*

Section 4 - Grievous Sexual Assault

Your Committee considered the numerous concerns raised that although the forced penetration of a person’s anus, whether male or female, was as heinous and traumatic as the forced penetration of the vagina, there was a disparity in the sentences for both acts. Those who made submissions on the issue noted that the maximum penalty for penetration of the vagina without consent was life imprisonment whereas penetration of the anus without consent carried a maximum penalty of ten years under Offences Against the Person Act. They therefore recommended that this anomaly in the sentences be addressed through an amendment to the Sexual Offences Act. During our deliberations on this issue, Members were of the view that the issue of forced penetration of the anus without consent could be treated as an element of grievous sexual assault, which should be punishable by life imprisonment.

Your Committee has not recommended that section 4 be amended in light of the reasons set out in respect of the Savings Law Clause on page 6 of this Report.

Section 5 - Marital Rape

Concerns were raised that based on the current formulation of section 5(3), rape could not occur within the context of a marriage unless the conditions set out in this provision were met. This was viewed as placing married women in a disadvantageous position when compared to other women in relationships. The overwhelming argument was that a woman who was forced into sexual intercourse should be recognized as being raped irrespective of her marital status and whether the perpetrator was her husband. Members agreed that once a woman has withheld her consent to sex in a relationship, irrespective of whether this occurred in a marriage, it should be considered as rape. *We therefore recommended that Section 5 of the Act be deleted.*

Section 6 - Penalty for rape and grievous sexual assault

It was brought to your Committee's attention that matters involving grievous sexual assault could be tried at either the Parish Court or the Supreme Court level, and questions were raised concerning whether this bifurcation should be allowed to continue. Your Committee was told that based on the wide range of activities that were covered under the offence of grievous sexual assault, which carried with them varying degrees of gravity, it might be beneficial to allow a Prosecutor the latitude to bring proceedings either in the Parish Court or the Supreme Court depending on the nature and circumstances of the case. *We therefore did not accept the proposal that this was an anomaly in the Act which needs to be corrected.*

Concern was however raised about the disparity in sentencing, in that, for the matters tried within the jurisdiction of the Parish Court, the maximum penalty was three years as opposed to the maximum penalty of fifteen years for matters tried at the Supreme Court level. *Your Committee agreed that in keeping with recent developments, the maximum penalty for grievous assault matters in the Parish Court should be increased from three to five years. This amendment would be applicable to section 6(1)(b) and section 6(1)(d)(ii).*

PART III. Incest

Section 7 - Incest

Members of your Committee were generally concerned about the prevalence of incest in the society, and the failure of the law to recognize that incest could not only be committed between a male and a female but that there were several instances in which male family members were involved in incestuous relationships with each other and similarly, female family members were also involved in similar acts. We were particularly concerned about those cases which involved vulnerable persons, such as grandparents with dementia or young children, being forced or coerced to engage in incestuous activities.

Your Committee agreed that section 7 of the Act should be added to the Schedule of the Child Diversion Act in order to include the child offender in an incest case. This would ensure that provision was made to address the circumstances in which a child perpetrated the act of incest against another child.

Your Committee did not believe that the categories of persons under section 7 should be expanded to include first cousins.

Your Committee reviewed recommendations made for section 7 to be made gender-neutral, since incest could be perpetrated by a male or a female, and for the provision to be amended to recognize same sex incestuous relationships.

Your Committee had recommended that section 7 should be made gender neutral and that another provision should be inserted into the section to state that all the activities listed under the amended section 4(1) between members of a family would also be considered as incest. It should however be noted that accepting these recommendations could possibly impact other provisions in law which were protected by the Savings Law Clause in the Constitution. Members were therefore of the view that the decision as to whether or not to amend section 7 in this manner should be taken by the Parliament.

Your Committee looked at the possibility that one of the parties in an incestuous relationship might have been introduced to the act when that person was below the age of 16 years and therefore, could not be regarded as a willing participant, but rather, as a victim. *We agreed that if one of the parties was below 16 years old, that person should not be charged with the offence of incest but should be dealt with under the Child Diversion Programme. It was noted that the Schedule under the Child Diversion Act was expanded to include this.*

PART IV. Sexual Offences Against Children and Indecent Assault

Section 8 - Sexual touching or interference

Your Committee discussed at length whether the list of offences under section 8 should be expanded to include (a) indecent exposure of an adult's genitals to a child or the inducement by an adult for a child to expose his/her genitals to another child, (b) displaying pornography to a child, (c) using a child to produce pornography, (d) viewing of the child's genitalia in a sexual way and (e) touching the child's genitalia in a sexual way. *We decided that the term "sexual organs" should be used instead of "genitalia" in keeping with the language used in the Child Pornography (Prevention) Act which spoke to sexual organs in terms of genitals, breasts, pubic area or anal region. Your Committee further agreed that a comprehensive provision should be included in the Sexual Offences Act to deal with the various issues related to indecent exposure by an adult to a child and touching of a child's organs in a sexual way.*

Section 9 - Sexual grooming of child

Your Committee was made aware of the practice whereby adults would often use various available means of communication to gain the trust of our children, with the intent of luring or grooming them into sexual activities. We learnt that this was done not only by strangers but by family friends and persons involved in relationships with the parents of these children such as common law spouses and step-parents. Members were of the view that every effort should be made, legislatively and otherwise to protect our children from falling prey to this type of activity.

Concerns were raised that grooming was not only done through face-to-face contact with children but also through the internet, social media and various forms of digital communication. *Your Committee agreed to amend the language in section 9 to capture the different means by which persons could engage a child in order to groom that child, including digital communication and social media.*

Your Committee, in reviewing this section, felt that the intent of the provision was that the offence of sexual grooming could be committed not only by an adult but by *any person*. *We therefore took the decision to change the term "adult" to "person" in section 9.*

Section 10 - Sexual Intercourse with person under sixteen

Your Committee held extensive discussions on whether the age of consent should be increased from 16 years to 18 years, taking into consideration all the implications of accepting or rejecting this proposal. *Your Committee, by majority, agreed to retain the age of consent as 16 years; but the minority expressed their strong support for raising the age of consent to 18 years.*

After a lengthy discussion, *your Committee recommends that it was necessary to include in section 10 a close-in-age group provision*, to prevent children within a certain age band from being criminalized in circumstances where they willingly engaged in sexual activity with each other. We were of the view that the intent of the provision was to protect young girls from predatory conduct by older men.

In relation to the close-in-age provision, some Members felt that it should be narrowly cast at two (2) years, but a majority felt that a four-year rule was appropriate.

Your Committee therefore agreed that:

- i. the age range for the close-in-age exception should be four years;*
- ii. where both parties are under 16 years old, they would be sent to Child Diversion or such other order under the Child Care and Protection Act;*
- iii. in respect of children under the age of 12 years old, (who cannot commit an offence under the law), a provision should be included in the Child Care and Protection Act, such as provision for the Children's Court to make an appropriate order under the Act; and*
- iv. for persons up to the age of 19 years, the options would be Child Diversion, counseling, probation or other available remedy.*

Your Committee agreed that in relation to section 10, the Sex Offender's Registry provision should not apply to anyone who has been channeled into the Child Diversion scheme.

Your Committee also discussed the question of whether the Marginal Note to section 10 should be amended but decided that no change was necessary.

New Provision regarding “Predatory Sexual Assault”

Your Committee considered at length a proposal to include a new offence in the Act to address the circumstances where an adult sexually violates a child of tender age, who could clearly not consent to sex, such as a two-year old or a five-year old child. Suggestions were also made for the offence to be named “rape”, “statutory rape”, “sexual molestation”, or “child rape”. Members agreed that where children of a tender age or other vulnerable victims were sexually violated, the serious nature of this act should be reflected in the sentence given to the perpetrator upon conviction. *We agreed that a new offence should be inserted in section 10 of the Act called “Predatory Sexual Assault” to provide that: “Any adult who engages in sexual intercourse, or anything amounting to grievous sexual assault, with a vulnerable victim (defined as a child under the age of 12 years or someone with a mental disorder), is guilty of predatory sexual assault”. It was further agreed that persons convicted of such offence should be sentenced to a maximum of life imprisonment.*

Section 11 - Householder etc., inducing or encouraging violation of child under sixteen

No recommendations were made by your Committee.

Section 12 - Custody of children under sixteen

Your Committee felt that because of the specific offence involved, the provision in section 12 should speak to the seduction or prostitution of a *child*, who should be someone below the age of 18 years. *We therefore recommended that the section be amended to speak to “a child under the age of eighteen years” instead of “a boy or girl under the age of sixteen years”, to align with the Child Care and Protection Act.*

Your Committee also agreed that the Marginal Note to section 12 should be amended to state: “Seduction of children under eighteen”.

Section 13 - Indecent Assault

Your Committee noted that there was no definition of “indecent assault” in the Act and also considered whether the Act should expressly stipulate the circumstances in which the offence of ‘indecent assault’ would be tried in the Parish Court or the Circuit Court. We were of the view that the nature and gravity of the act would determine in which court a matter would be tried, *but did not believe that section 13 should be amended to reflect this.*

Sections 14 and 15

Your Committee recommends that no changes are necessary to these sections.

Section 16 - Violation of person suffering from mental disorder or physical disability.

Your Committee agreed that the term “suffering from” in section 16 was outdated and inappropriate, and *recommends that the reference to “suffering from” should be deleted and the language of section 16 (1) and (2) should be modified by using more appropriate terminology.*

Your Committee discussed the issue of whether provision should be made in the Act to recognize persons who, because of their intellectual disability, might not have the mental capacity of an adult despite having the chronological age of an adult. We were therefore asked to consider amending the definition of the age of the victim in section 12 of the Act to include persons with intellectual disabilities (PWID). During our deliberations on the proposals, we recognized that the person with intellectual disability could either be the victim or the offender, and that provision should be made to address both circumstances. We eventually *decided to include a separate, comprehensive provision in section 16 of the Act to state that (i) persons with an intellectual disability who committed an offence would be treated as if they were a person under the age of 16 years, and (ii) in cases where the person with an intellectual disability was a victim, the offenders would be dealt with as if they had assaulted or interfered with a child under 16 years.* This amendment would ensure, among other things, that if a person with an intellectual disability was over the age of 16 years, and was convicted of an offence, he would be treated as if he were under 16 years and dealt with through Child Diversion.

Sections 17, 18 and 19

No changes were recommended to these sections.

20 – Abduction of child with intent to have sexual intercourse, etc.

Your Committee noted that no provision has been made in section 20 to recognize persons who were intellectually impaired, given the possibility that these persons might appear to be older as a result of various medications being taken. After further discussions, *your Committee agreed that section 20(2) should be amended to provide that if the person was physically or intellectually disabled or had some other impairment and did not appear to be a child, the offender should have as a defence that he reasonably believed that the person was not vulnerable or was intellectually capable.*

Sections 21 and 22

Your Committee recommended no changes to these sections.

Section 23 – Living on earnings of prostitution.

During our deliberations, your Committee considered the case for decriminalizing the activities surrounding prostitution or sex work, in order to, among other things, promote safe sex practices, and remove the stigma associated with prostitutes and prostitution. We also carefully considered the effect that the current provision might have on a number of affected persons including the dependents of sex workers and the persons who might be prosecuted for being found in the company of these persons. *Your Committee wishes to indicate that we have no recommendation on this matter at this time.*

Upon close examination of section 23, we recognized that the provision was intended to specifically target persons such as pimps and human traffickers and it is therefore *recommended that the definition and operation of section 23(1) should be restricted to the prostitutes themselves, the pimps and human traffickers.*

PART VI - Capacity, Consent, Evidentiary Matters, Anonymity of Complainant

Section 24- Abolition of common law presumption of incapacity

Your Committee considered including a provision in the Sexual Offences Act for child offenders to be treated either under the Diversion mechanism or the Child Care and Protection Act, but *decided that no change should be made to section 24.*

Sections 25 and 26

Your Committee decided not to amend these sections.

Section 27 - Restriction of evidence at trial for rape and other sexual offences

Your Committee spent some time discussing the recommendation to remove the discretion of the Judge to allow evidence of sexual history in trials for rape and other sexual offences. We also considered a proposal for section 27 to expressly provide that in proceedings in respect of rape or other sexual offences under this Act, no evidence should be adduced and no question should be asked in cross-examination in relation to the sexual behaviour or activity, or reputation of the complainant, whether with the accused or any other person, other than the sexual activity that formed the subject matter of the charge. *In the end, your Committee agreed that no change should be made to this provision, as these matters should be left to the discretion of the Judge.*

Section 28 – Anonymity of complainant, etc.

Your Committee considered whether to amend section 28 to provide for *in camera* trials in circumstances where a victim or complainant was fearful of having his/her identity exposed or of being in the same room as the accused. We agreed that *no change was necessary to the section*, particularly since these matters were covered by the Evidence (Special Measures) Act which had provisions for taking evidence by video conferencing and live streaming, among others.

Section 29 - Sex Offenders Register and Registry

Your Committee examined the concern as to whether the existence of a Sex Offender Registry deprived persons of any benefits and *decided that no change should be made to the provision to deal with this concern.*

Your Committee agreed to adjust section 29 to empower the Court to make an order restricting contact of sex offenders with vulnerable persons as defined under the (Registration of Sex Offenders) Regulations.

Section 30 – Particulars of every conviction to be furnished to Registry

A proposal was made to your Committee that the law should authorize the inclusion of persons convicted of sexual offences in foreign jurisdictions in the Sex Offender Registry. During our deliberations on this proposal, we observed that in instances where this type of regime existed, there would either be an international agreement or treaty, or the respective States would have agreed to have certain protocols or procedures to allow for it to take place. We noted also that if these persons had been deported to Jamaica, such information would be shared with the Ministry of National Security, however, in cases where the persons had not been deported but relocated to Jamaica on their own, there would be no State-to-State sharing of that information. *Members agreed that the Act should be amended to create an obligation for persons who have relocated to Jamaica and have been convicted of a sexual offence abroad or knew that they have been listed on a Sex Offender Register abroad, to report to the relevant Authorities so that they could be listed on the Sex Offender Registry in Jamaica.* This meant that persons who have relocated to Jamaica and knew that they were sex offenders but failed to report to the Authorities would commit an offence for failing to report. In making this recommendation, Members recognized that this provision could only be enforced if the relevant Authorities received information about the conviction(s).

Your Committee also observed that the wording of section 30 suggested that it would only apply to persons with multiple convictions, thereby excluding first-time offenders. After further discussions, *your Committee decided that the Regulations and the First Schedule should be amended to speak to first-time offenders, including persons convicted abroad for sexual offences for the first time.*

Your Committee also discussed the recommendation for section 30(3) (b) to be amended to reflect that the registration of a child should only be ordered in extreme cases such as where the offender was a repeat offender, or where extreme violence was used. *We noted the concerns but recommend that no change be made.*

In our discussions we also considered whether to remove the ten year expiration period provided for in section 30 and allow the duration of time that a person remains on the Sex Offender Registry to be determined on a case-by-case basis. We felt that ten years was sufficient time within which to make an assessment of the person and *therefore recommended no change to address this concern.*

Section 31 – Superintendent of correctional institution to furnish information.

A submission was made that section 31(9b) be amended to grant the Superintendent the authority to instruct sex offenders to supply blood, prior to their release, to facilitate the completion of Form 3.

Your Committee did not believe that the section should be amended and therefore, no change was made.

Section 32 - First report by offender

Committee Members considered the recommendation made for the Act to be amended to recognize that there might be other conditions under which the failure to report was beyond the offender's control, *but did not accept this recommendation*. We noted that what was included in section 32 was a strict liability offence, and there was no need to create a defence to the failure to report as required under the law.

Section 33 - Subsequent obligation to report

A recommendation was made for Section 33(1)(c) to be amended to provide that sex offenders' reporting period to the Registration Centre would be reduced from "eleven months to a year" to "*five to six months*". It was felt that the time period for reporting to the Centre after the initial report was too long and should therefore be shortened. *Your Committee accepted this recommendation*.

Sections 34 and 35

No changes were recommended to these sections.

PART VIII - Miscellaneous

Sections 36 and 37

Your Committee did not recommend any changes to these sections.

Section 38 - Regulations

Your Committee examined the following proposals for changes to be made to the Regulations. We accepted these recommendations and further recommended that a comprehensive review of the Regulations should be done, taking into consideration these recommended changes:

(i) Regulation 2 - The definition of a "Vulnerable Person" in regulation 2 of the Sexual Offences (Registration of Sex Offenders) Regulations should be aligned with the definition of a "Person With A Disability" under section 2 of the Disabilities Act.

(ii) Regulation 8 - It was brought to our attention that Regulation 8(2)(a) of the Sexual Offences (Registration of Sex Offenders) Regulations, 2012 required the Registry to record and maintain in the Register, as is appropriate in relation to each sex offender, the particulars set out as Tier 1 information and Tier 2 information in the First Schedule. Tier 2 requires inter alia, the sex offender's fingerprints to be recorded and maintained. It was recommended that Tier 2 information in the First Schedule of The Sexual Offences (Registration of Sex Offenders), Regulations 2012 be amended to remove the requirement for the fingerprinting of sex offenders and replace it with the Criminal Records Office (CRO) Number. We were told that generally, convicted offenders were fingerprinted by the Police and were assigned a Criminal Records Office (CRO) Number. Since the fingerprints of convicted sex offenders were already stored at the Criminal Records Office, it would be a duplication and inefficient use of resources for the Registry to obtain and store fingerprints of the registrants. Furthermore, fingerprints could be easily obtained from the

Criminal Records Office if required. It was also suggested that having the CRO Number could be more helpful in monitoring the sex offenders, particularly in instances where offenders commit offences in other names in an attempt to disguise their true identity. Under the proposed amendment, all the offences committed by an offender in different names would be linked to his unique CRO Number.

The Omission of the Particulars of Parent/Guardian of Victim (Minors) in Tier 3 Information

(iii) **Regulation 10** - Your Committee was told that Regulation 10(2) of The Sexual Offences (Registration of Sex Offenders) Regulations, 2012, states that for the purpose of access, the information concerning a sex offender specified in the First Schedule should be divided into three categories, that is, Tier 1 Information, Tier 2 Information and Tier 3 information; and may be subjected to regulations 11 and 13. This may be obtained in writing under the supervision or direction of the Registrar. Tier 3 information is the particulars of the victim that are kept in the register. The recommendation was made to us that Tier 3 of the First Schedule be amended to include contact information of parents/guardians in instances where the victim is a minor. The rationale given was that since a victim who was a minor did not have full legal capacity; the contact information of the parents/guardians of the said child was necessary for administrative purposes in the best interest of said child.

(iv) It was recommended that there was need for clarity in terms of guidance in determining “legitimate interest” in information on sex offenders where the applicant was not explicitly entitled under Regulations 12(2) and 13 of the Sexual Offences (Registration of Sex Offenders) Regulations.

(v) It was also recommended that there should be clear guidelines for determining “legitimate interest” in Tier 1 information on a sex offender by the Registrar under Regulation 12(2) where the applicant is a society, corporation or association falling outside of the designated entities entitled to that information under Regulation 11(1)(a-f).

(vi) **Regulation 16** - Regulation 16(1) requires a reporter (persons at the Court or the correctional institutions who give the information to the Registry), as soon as is reasonably practicable after the reporter becomes aware of the information giving rise to the obligation to make a report, to submit the report to the Registry by hand or by any other means (including electronic means) as may be approved by the Minister. Upon receipt of a report the Registrar pursuant to Regulation 16(3) shall cause the particulars of every conviction for a specified offence committed after the coming into operation of Part VII of the Act that is required to be furnished to the Registry by the Registrar of the Supreme Court, the Clerk of the Circuit Court of the Registrar of the Court of Appeal pursuant to section 30(1) of the Act shall be in the form set out as Form 2 in the Second Schedule. It was recommended that the Regulations be amended so that the *Jamaica Sex Offender Registry Court Transmitted Form (FORM 2)* would include: *date of birth, sex, age, current and previous address, Criminal Record Office (CRO) number, current and previous convictions and Particulars of the Victim to be Kept in the Register.*

(vii) It was further recommended that *aliases be added to the form*, given that in Jamaica, persons are often known in their communities by their aliases rather than by their given names. Currently, the Court Transmittal Form, which gives the authority to register the sex offender, excludes the bio data and other critical information. This additional data would assist in the proper identification of the offender. Additionally, there was need to have current data on the victim to promptly obtain same from the court. As a consequence, it was also being recommended that the Court Transmittal Form be formally amended to

include TIER 3 information. Information on the victim would facilitate notification to the victim of the offender's release from a correctional institution and whether the offender would be residing or returning to the said community of the victim.

Concerns were expressed about the general administration of the Sex Offender Registry and the manner in which it was being operated. Concerns were raised that some State entities were either being denied access to the Registry or found it difficult to access pertinent information, and were therefore hampered from carrying out their functions effectively. Whereas it was understood that it might not be practical or desirable to allow general access to information on the Registry, certain critical Government entities should be allowed access. *Your Committee therefore recommended that the Minister of National Security undertakes a thorough review of the administration and operation of the Sex Offender Registry.*

First Schedule

We were told that offences committed under section 3 of The Child Pornography (Prevention) Act were currently excluded from the list of the Specified Offences in the First Schedule of the Sexual Offences Act, 2009. It was therefore recommended *that the offences committed under section 3 of The Child Pornography and Prevention Act be included in the First Schedule of the Sexual Offences Act.*

Members agreed that teenagers who have been convicted of various sexual assaults should be removed from the Sex Offender Registry. *We therefore recommend that section 10 should be removed from the First Schedule of specified offences.*

Second Schedule

We were informed that the Sex Offender Release Notice (FORM 3) which was found in the Second Schedule of the Regulations should be amended to replace the requirement for 'prior convictions' with '*all convictions*'. We were informed also that the words 'prior convictions' were being subject to different interpretations by different persons. In order to eliminate that misinterpretation, it was recommended that the word 'prior' be replaced with the word '*all*'.

Recommendations for new provisions/offences to be inserted into the Sexual Offences Act

The following were additional recommendations made to the Sexual Offences Act:

In-camera hearings - Your Committee was asked to consider making provision for in camera trials for particular vulnerable groups such as children, persons with disabilities and the elderly. We were told that because of the sensitivity of sexual crimes, victims who were fearful of their identities being publicized should be allowed **in camera** trials. It was also proposed that victims should also be allowed the possibility of video conferencing as a medium of testimony should they feel uncomfortable being in the same room as the accused. *Your Committee agreed that since there was a constitutional guarantee for a public hearing and provision was already made in other statutes such as the Criminal Justice (Administration) Act and the Child Care and Protection Act for trials involving certain categories of offences to be held in camera, it was not necessary to make any amendment to the Sexual Offences Act to provide for in camera trials for matters involving vulnerable persons as this might contravene the constitutional provision for public hearings.*

It was observed that currently, the Criminal Justice (Administration) Act only made provision for the offences under sections 3, 4, 5, 10, 13, 16 and 18 of the SOA to be held *in camera*, and did not cover the offences outlined in sections 7, 8, 9 and 16 of the Sexual Offences Act (SOA). *It was recommended and your Committee agreed that the offences in these sections should also be covered by the Criminal Justice (Administration) Act.*

Spouse compellability - Your Committee accepted the recommendation that in circumstances where the victim of a sexual offence was a child, the spouse of the accused should be a compellable witness. This would not only apply to the offences specified in the First Schedule but to all sexual offences against children. Your Committee further recognizes that in view of this recommendation, amendments would have to be made to the Evidence Act.

Trial by Judge sitting without a jury - Recommendations were made for Judge-only trials of sexual offences against a child, that is, an option should be provided, accessible by special leave of the Court, for sexual offences against a child to be tried by a Judge alone. We were told that this was justified by the lack of requirement for consent in these cases and may be reserved for cases in which medico-legal and other evidence confirmed that the perpetrator had sexual intercourse with the child. *Your Committee did not accept this recommendation*, as it was felt that in these types of cases, the assessment of a jury was important.

The Child Care and Protection Act

We received a number of recommendations which stakeholders believed would greatly improve the Child Care and Protection Act (CCPA) and its general application. We have the honour to present our recommendations below:

Section 1 - Short title

Your Committee agreed that no change is necessary to this section.

Section 2 – Interpretation

“child”

Your Committee considered whether the definition of “child” should be expanded to accommodate a person with an intellectual or developmental disability. We recognized that making such an amendment would create anomalies, and that a person’s mental or developmental ability was usually taken into account when cases were decided in the courts. *Your Committee therefore agreed that the definition of “child” should not be changed to accommodate this concern. Instead, amendments should be to the various sections of the Act where this was applicable, to take into consideration persons with mental disorders.*

Your Committee did not recommend adding specific references to a child's sense of racial, ethnic, individual or cultural identity as it was felt that this was already adequately captured in the catch-all provision in section 2 (2) (e) as one of the factors to be taken into consideration when looking at what was in the best interest of the child.

Your Committee accepted the proposal that section 2(2)(f) should be expanded to include continuity in a child's education.

Your Committee took the decision to insert a new, comprehensive provision into section 2(2), numbered as paragraph (i) to capture: 'such other factors that may impact the child's best interest'. This amendment would allow the Judge to take into consideration a range of other factors/circumstances that might not be listed, in making a determination as to what was in the best interest of the child.

Section 3 - Objects of Act

Your Committee agreed that for the purposes of consistency with the provisions in the Disabilities Act, section 3(c)(ii) should be amended to include intellectual and sensory differences.

It is recommended that section 3 (c)(iii) be amended to speak to 'any disability', to cover disabilities that a child might be living with, as defined under the Disabilities Act.

Your Committee concluded that the provision in section 3(d) should cover a broader range of issues than could be covered by the term "special needs". *We recommended that the section be modified to state: "special needs and circumstances of children in conflict with the law".*

PART I. - Care and Protection of Children

Sections 4 and 5 - Representation by Children's Advocate and Establishment of Children's Register.

Your Committee carefully examined a proposal for the Act to stipulate the mandate for the Child Development Agency, which has a major responsibility for children who are in need of care and protection, and for the implementation of key aspects of the Convention on the Rights of the Child (CRC). We considered whether this omission should be addressed, given that the Act already specified the Office of the Children's Advocate (OCA) and the Office of the Children's Registry (OCR), but did not make any reference to the Child Development Agency. *Although we accept that the amendment to the legislation would have to be made, we noted that there has been a merger between the Child Development Agency and the Office of the Children's registry to form the Child Protection and Family Services Agency (CPFSA). We are therefore of the view that any adjustment to the law should be done after full drafting instructions are received with regard to this merger.*

Section 6 - Duty to report need for care and protection.

Your Committee discussed at length whether there was any merit to expanding the list of prescribed persons under this section to include Ministers of Religion, Attorneys-at-Law, members of the Constabulary Force, Coaches, Community Workers who work directly with children, Youth Workers, Animators and other persons working with clubs and voluntary organizations that target children. After a very lengthy discussion, *we decided to add “coach” to the list of prescribed persons in section 6 (1) (c).*

Your Members examined the recommendation for professionals to have indemnity from prosecution (from any form of legal or administrative sanction or other action) for simply executing their duty of care toward a child. We recognized that this was a separate issue from the indemnity provided under section 6 (6) which relates specifically to the duty to make a report to the Children’s Registry. *We decided to include a broad provision in this section to provide indemnity to professionals such as medical practitioners who have an obligation to exercise a duty of care in the execution of their duties, in the best interest of the child.*

Concerns were raised by Committee Members that the use of the word ‘information’ in subsection (2) might impact the ability of the Registry to obtain needed information because persons might be of the view that they did not have sufficient proof to make reports to the Registry in cases where they suspected that children were in need of care and protection, including cases of suspected child abuse. We contemplated amending the provision to refer to “information and reasonable grounds”, but were advised that such amendment would result in a higher threshold to be met, and if tested or challenged, could create additional problems, and could result in a reluctance on the part of individuals to provide information to the Registry. *We therefore agreed that the provision should remain unchanged*, and that the concern would be best addressed through education. We were also of the view that the Registry would have a duty to act in a reasonable and responsible manner when reports were received.

Your Committee did not accept that section 6(7)(c) should be expanded to include the uncontrollable child who has become aggressive and rebellious and did not respond favourably to counselling or restorative measures. We were advised that there was no reporting obligation in respect of controllability.

Your Committee examined the option of inserting a provision in the law requiring reporting entities to refer reports promptly and *agreed to amend the Act accordingly, using the proposed wording in the 2016 Child Care and Protection (Amendment) Bill as a guide which stated that the entities should transmit reports “forthwith” to the Registry.*

Your Committee deliberated on a recommendation made to us for the list of entities to which the Registrar referred reports of child abuse in section 6(7) to be expanded to include *the Government agency responsible for children (the CPTSA), the Jamaica Constabulary Force through the branch responsible for child abuse, CISOCA and the Children’s Advocate.* We observed that this was the list of entities that had been included in the 2016 Child Care and Protection (Amendment) Bill, and *recommended that the Parliament should re-examine and discuss the amendments proposed in that Bill as soon as possible.*

Section 7 - Assessment and investigation of reports to the Registry.

Your Committee discussed whether section 7(1) should be amended to include a mechanism that would clearly identify matters dealing with care and protection which should be referred to the CPFSA and other types of matters which ought to be referred the Office of the Children's Advocate (OCA) or other entities based on the outcomes by the Office of the Children's Registry (OCR). *We decided that no amendment was needed to the legislation to address this.*

It was recommended that a new Section 7 (1) (c) should be inserted into the Act to provide that, in cases of a serious nature, to fast track the response time, depending on the urgency of the report, and recognizing the emergence of child killers in our society (juvenile delinquents under the age of eighteen who are hardened criminals, who have committed numerous crimes, including murder), the police should be immediately consulted for intervention and apprehension of such child, so as to help protect the plaintiff (parent or guardian) from harm. Your Committee acknowledged the seriousness of this issue and agreed that every effort should be made by the responsible agencies to ensure that these particular cases involving offences against children and child killers are escalated appropriately and treated with the required level of urgency. *We agreed and therefore recommended that this issue should be dealt with administratively, but we were undecided as to whether it should also be dealt with through an amendment to the legislation. Accordingly, we further recommend that the Parliament should take a decision on whether a legislative amendment was also required either in this section or other appropriate section of the Act to create a duty on the part of the respective agencies to respond expeditiously to these reports, with the required level of care and sensitivity.*

Section 8 – Circumstances in which a child is in need of care and protection

Your Committee considered at length a proposal to expand section 8 to specifically capture children who live in homes where they witnessed domestic violence or abuse and this affected the child, taking into consideration the statistics presented to us that children who grew up witnessing and experiencing violence are 40% more likely to become perpetrators or victims of violence in adulthood. *We took the decision that instead of amending section 8, a provision should be added to the Second schedule to deal with the circumstances in which a child witnessed domestic violence or abuse in the home and was affected by this, or where any offence under the Second Schedule has taken place and the child was not necessarily the victim.*

Members also considered whether section 8 (1) should be amended to specifically include child asylum seekers and refugees of undetermined status as children "in need of care and protection". We noted that this was covered under section 8(1)(b) only in circumstances where they were not being cared for. After further discussions, *your Committee concluded that this issue was outside of our remit.*

Your Committee also reviewed the proposal to amend section 8 to recognize that there are caring parents who are not necessarily unfit but are unable to exercise proper care for their *child because of that child's aggressive and rebellious behaviour and/or that child's association with bad or criminal company thereby rendering the parent powerless to act on disciplinary matter.* We were of the view that this concern was addressed in other sections of the Act and *no amendment was necessary to section 8.*

Section 9 – Cruelty to children.

Your Committee considered a recommendation made for a provision to be included in the Act to prohibit corporal punishment in all public institutions and places of safety. Members agreed that children should be free from all forms of corporal punishment, but recommend that corporal punishment should be prohibited in all schools, places of safety, public places and public institutions. We were of the view that the ban should extend to places such as Sunday schools, the Cadet Corps, the Boys Scouts, Summer camps, service clubs and other places where children could be found. Members advocated for a total ban on corporal punishment, but conceded that a policy position would have to be developed on that issue before that approach could be taken. *We therefore recommended that a provision should be inserted into this section or other appropriate section of the Act to indicate that corporal punishment should be prohibited in all schools, public institutions for the care, instruction or guidance of children who were in the care of the State, and in all public places. We also agreed that the sanction to be imposed for breach would be a fine or such order as the court deems fit.*

Your Committee considered whether the definition of 'ill-treatment' should include emotional and psychological ill-treatment and whether there was need to update other terms used in the section such as 'mental derangement'.

Your Committee recommended that the vague term 'unnecessary suffering' in section 9(1) should be removed and replaced with a more appropriate term that would also cover the issue of emotional abuse.

Your Committee agreed to expand section 9(3) to create an offence for omissions or failure to act under section 9 (1), which were deliberately calculated and would lead to the injury of the child. We recognized that such a provision had also been included in the 2016 Child Care and Protection Bill to address the problem of parents/guardians deliberately exposing or placing their children in danger.

Section 10 – Prohibition against sale or trafficking of children.

Your Committee considered an amendment to double the sentence in section 10 of the Act, *but resolved not to do so* because this had already been done through an amendment made to the Trafficking in Persons Act in 2018, when the sentence was increased from 10 to 20 years. That amendment was also applicable to section 10.

Section 11 - Warrant to search for and remove child

Your Committee agreed that no change is necessary to this section.

Section 12 – Detention of child in place of safety.

Second Schedule.

Your Committee accepted the recommendation to substitute the term “detained” in Section 12(2) with the term “accommodated”, which was felt to be a more suitable language.

We also agreed to adjust the marginal note to section 12 to remove the word “detention” and replace it with “accommodation”.

Members discussed the issue of developing Regulations for Places of Safety and Emergency Foster Care Systems, where the regulations should be used as a basis for a new and varied type of Place of Safety, to include facilities which provide therapeutic treatment to children with special mental health and behavioural issues. We also considered whether Sections 12 and 91 should be amended to refer to these regulations. We endorse the use of these therapeutic types of treatment in Places of Safety that could afford to offer them, *but do not recommend that such stipulation should be included in the legislation.*

Section 13 - Power to bring child needing care or protection before court
Your Committee decided not to amend this section.

Section 14 – Powers of court.

Your Committee decided to amend section 14 to expand the court’s ability to make a Parental Order to bind parents over for the good behaviour of the child, and that the penalty for breaching or failing to comply with the Parental Order would be for parents to be sent to parental seminars. This amendment would address situations such as those in which there was need to target parents of children who were brought before the Children’s Court for offences that would not have been committed had there been proper parental guidance.

We also agreed to expand the list in section 14(2) to provide that in circumstances where weak parental capacity was demonstrably responsible for child endangerment, the court should be empowered to mandate parenting education where it would accelerate critical skill-building, and serve the best interest of the child.

Sections 15 and 16

Your Committee agreed that no amendments are necessary to these sections.

Section 17 – Power to hear case in absence of child.

Your Committee examined the proposal to reference, in the CCPA, the amendments to the Evidence Act which provide that evidence could be taken via video-recording and/or live link technology evidence. This would mean that if the child could not be present in court, his/her evidence should be taken via these means. *We decided not to amend the Act as there was already provision in the Evidence (Special Measures) Act to facilitate this.*

Sections 18 and 19

No changes were recommended to these sections.

Section 20 – Evidence of child of tender years.

Your Committee contemplated whether to amend, in section 20, the references to the rule of corroboration for children under the age of 14, to align them with amendments to the Evidence Act and the age of criminal responsibility. This would allow a child witness to give evidence from the age of 12, the same age at which a child was deemed in law to be sufficiently mature to be held accountable for his/her actions. *We agreed that no amendment is necessary* because an amendment which had been done to section 31 of the Evidence (Amendment) Act has effectively deleted section 20 of the CCPA.

Section 21 - Order to submit to medical examination

Your Committee agreed that no change should be made to section 21.

Section 22 – Disease testing of convicted offender.

Your Committee accepted the recommendation that the offences listed in section 22(1)(a) should now be aligned to the Sexual Offences Act (SOA) and that the Fourth Schedule should also be amended to reflect these changes. We note that this adjustment should have been a consequential amendment when the Sexual Offences Act was passed.

Section 23 – Disposal of case by order of court

Your Committee deliberated on a proposal that the CPFSA should assume responsibility for the transporting of children in need of care and protection to court while child offenders should be transported by either the Department of Correctional Services (DCS) or the Jamaica Constabulary Force (JCF) depending on which organization had custody of the child offender. We agreed that the CPFSA should have primary responsibility for transporting the children in need of care and protection to ensure that their needs were adequately met and that they were not transported along with child perpetrators or were not forced to be in the same space as the child perpetrators in the police station or court. However, Members felt that provision should be made for them to be transported by the constable in situations where the children's officer could not perform that task. *We therefore agreed that the provision should be redrafted to indicate that the primary officer for transporting children in need of care and protection would be the children's officer, but in the event that the person was not available, then the constable or an appropriate person should take the children to court.*

Section 24 – Power of parent or guardian to bring child before Court.

Your Committee discussed at length the term “unable to control” and whether it could be replaced by more appropriate terms such as “exhibiting chronic behavioural tendencies”, “chronic adverse behavioural challenges/problems”, and “a child deemed to have behavioural issues”. *We agreed that the term “unable to control” should be deleted and substituted with a more appropriate terminology.*

In examining the question of whether there should be a complete repeal of the provision related to children beyond control, your Committee noted that the Child Diversion process which was being established as an alternative to the formal court system for children, might not be the solution for treating with children who had serious behavioural problems. We were also told that section 24 should be expanded to include the need for the Court to be guided by a psychologist prior to making a determination as to the specific order that would be relevant to the child in question. It was felt that the legislation should be strengthened by ensuring that adequate measures are put in place for the timely, professional assessment of children who present with what appears to be serious behaviour problems to ensure appropriate diagnosis, treatment and

placement, if necessary. *Your Committee therefore recommended that prior to making an Order in respect of a child, a mental health professional should be consulted by the court in determining the appropriate Order to be made, where practicable.*

We discussed a recommendation that section 24 should be amended by removing from the books the provision for the uncontrollable child to be placed in a correctional facility, through a correctional order, and instead provide for a more therapeutic approach be devised for these children. We were of the view that removing the option of the court to make a correctional order would limit the capacity of the court. We also noted that a correctional order could also include a therapeutic order. *Your Committee did not accept this recommendation.*

PART II. - General Provisions for Care and Protection of Children

Sections 25 and 26

Your Committee agreed that no change should be made to these sections.

Section 27 - Duty to provide care for child.

Your Committee agreed that under section 27(1) of the Act, the duties of parents should be expanded to include non-material provisions such as safety and supervision.

Members were concerned about the implication of the provision at section 27(2) which makes provision for persons, who are financially unable to provide for a child, to apply to the Minister for assistance, should it become widely utilized. *We did not however recommend any change to the provision.*

Section 28- Duty to secure education of child.

During our deliberations on a recommendation to remove sixteen (16) years of age as the upper limit because children were now in high schools beyond that age, your Members suggested that children up to the age of eighteen (18) years should be enrolled in the formal school system, other educational or training institution or home schooling. *We therefore recommended that section 28(1) be amended to provide that between the ages of 4 and 18 years, the State or parents have an obligation to ensure that children receive some form of intellectual stimulation or improvement, either in school or other appropriate form of educational instruction.*

Section 29 - Contributions

Your Committee did not support the recommendation for section 30 to be amended by inserting a penalty for the breach of a contribution order without good cause as the normal rules for breaching a Court order would apply.

Sections 30 to 33

Your Committee agreed that no changes are necessary to these sections.

Section 34 – Restriction on employment of child over thirteen

Your Committee carefully examined a recommendation that the age at which children were excluded from the labour force should be increased and aligned to the age that parents should keep their children in school. A suggestion was also made for the reference to 13 years to be deleted and the provision amended to speak to the child *under the age of 15 years*. *Members did not accept this recommendation*, based on concerns that it might have the unintended consequence of preventing children aged fourteen years from being able to do light work, such as weekend or holiday work.

Sections 35 to 38

Your Committee agreed that no changes are necessary to these sections.

Section 39 – Prohibition on employment in nightclubs, etc.

Your Committee accepted the recommendation that this provision should be expanded to include the prohibition of employment of a child in massage parlours; betting, gaming and lottery activities and the promotion of any parties at which it was likely that alcohol would be consumed or smoking of any substance was likely. We also recommended that the provision should be extended to include any place where there was tobacco and immoral and indecent activities.

40 – Prohibition of sale of intoxicating liquor or tobacco products to child.

Your Committee recommends an expansion of section 40 to add other mind altering substances (such as marijuana (ganja)). This should be aligned to new developments in local legislation and any international treaty obligations which Jamaica might have.

We also decided that the section should be expanded to include other examples of supplying children with those substances (e.g. free distribution at parties and events) outside of commercial sale within an establishment. Additionally, we recommended that the use of the term “tobacco products” in the Act should be aligned to the statutory definition in the Public Health (Tobacco Control) Regulations, thus covering e-cigarettes.

Your Committee further recommended that the matters in section 40(1) should be brought to the attention of the police.

Section 41 - Begging

Arising out of the discussions on a recommendation that the offences under Part II of the Act, such as begging, should be included in the Second Schedule of the CCPA, concern was raised about the need to clarify in the Act that it would not be an offence if persons solicited donations as part of fundraising and other charitable efforts, given that this was also a form of begging. *Your Committee agreed that a proviso could be inserted into section 41 of the Act to indicate that it would not be an offence where the child was involved in an organized fundraising or other charitable activities.*

Sections 42 to 61

Your Committee agreed that no changes are necessary to these sections.

Section 62 – Rights of child in places of safety, etc.

Your Committee agreed to insert a new provision to indicate that the rights under Section 28(1) should also relate to children with disabilities, in respect of their right to have an education that was appropriate to their needs. This is in recognition of the need to make provision for children with disabilities including a learning disability and visual impairment.

Members of your Committee were also concerned about children in places of safety *and recommend that the Act should be amended to make it explicitly clear that proper arrangements should be made for all children in places of safety to have proper, appropriate education.*

Sections 63 to 66

Your Committee agreed that no changes are necessary to these sections.

Section 67 – Bail or detention of child.

Your Committee examined a recommendation to make provision in this section for the completion of a psychological assessment before detaining a child or sending him/her to a juvenile detention centre. *We were of the view that this matter should be left to the determination of the Children's Advocate and therefore, do not accept this proposal.*

A recommendation was made for Section 67 (2)(a) to be modified to include a requirement that the Children's Advocate should be informed by the police in the circumstances outlined in the section and that the Children's Advocate should be given specific recognition in this provision as being able to give certain directives to the Department of Correctional Services. This would ensure that once the Children's Advocate has been informed of such a situation, he/she would be empowered to direct that the child be brought before the court. *Your Committee accepted this proposal.*

Section 70 – Notice to appropriate officers of charges against child

Your Committee did not make any amendment to this section.

Section 71 – Constitution of, procedure in, and appeal from, Children's Courts

Third Schedule

Your Committee examined the recommendation that subsection (10) should be amended to specify that the Social Enquiry Report should be mandatory, not only for children who admit guilt, but for all young adults up to the age of 23 years, who were charged under the *Sexual Offences Act*, and the *Domestic Violence Act*. This would mean that if a person who was charged under the *Domestic Violence Act* or the *Sexual Offences*

Act was an adult, there should be a Social Enquiry in cases where that person was not older than 23 years. We were however concerned about the practicality of the recommendation, given the inadequacy of social workers, **and agreed that it could not be accepted.**

Sections 72 to 77

Your Committee agreed that no amendments were necessary to these sections.

Section 78 - Restriction on punishment

We discussed a proposal made for section 78(1) to be amended to remove the possibility of sentencing children to life imprisonment as this violated Article 37(a) of the Convention on the Rights of the Child. ***We did not accept this proposal,*** noting that based on the scheme of the Diversion Act, a consequential amendment has been made to the Parole Act to provide that a child offender would be eligible for parole upon his/her successful completion of a child care plan.

Your Committee reviewed a proposal for Section 78(2), (5) and (6) to be repealed thereby removing the possibility of incarcerating children in adult correctional facilities. Although we agree that children should not be housed in adult correctional facilities, we recognize that there were children who were serial killers for example, who would need to be housed in maximum security institutions. ***Your Committee therefore recommended that section 78 be reworded to provide that as a general rule, no child should be detained in an adult correctional institution, save and except in exceptional cases.***

Your Committee did not accept the recommendation for the age limit in section 78(2) and (5) to be increased from 14 years to 17 years. Members acknowledged that children between 14 and 17 years old could commit serious offences and the court should have the option of detaining such children for life, given that they cannot be sentenced to death because of their age.

Section 79 - Restriction on committal to juvenile correctional center.

Your Committee did not accept a recommendation made to remove the special authority under Section 79 to detain children under 12 years in juvenile correctional centers, despite them being below the age of criminal responsibility. We were of the view that in the circumstances outlined in section 79, the child would have committed a violent act, and might have even taken another life, and could therefore not be housed in a children's home jointly with other children who might be placed at risk.

Sections 80 and 81

Your Committee did not recommend any changes to these sections.

Section 82 - Provisions relating to committal to fit person.

Discussions were held on the recommendation to expand the list of persons empowered to apply for a variation of a fit person order, made pursuant to Section 82(5) to include parties with a direct and substantial familial or statutory interest in the child's welfare. ***Members agreed to amend section 82 to include parents, guardians, the Office of the Children's Advocate and the CPFSA as appropriate persons who could also make the application.***

Sections 83 to 93

No amendments were made to these sections.

Additional Recommendations

A number of recommendations were made for additional offences and penalties to be included in the Child Care and Protection Act:

- a) Your Committee was of the view that the proposals for the fine for mandatory reporting of child abuse to be increased to \$500,000.00 and for stiffer fines to be imposed for cruelty to children had already been addressed in section 9 of the Act. *We therefore recommended that no change is necessary.*
- b) A recommendation was made for a separate offence to be established for “neglect of children”, as distinct from “cruelty to children” in Part 1 of the CCPA as well as a defence, and that this should be linked directly to the parents. The Committee learnt that a specific amendment had been included in the 2016 Bill to amend the Child Care and Protection Act to address this issue, including a provision for parents to be enrolled in parental classes. *Your Committee recommends that this formulation should be adopted to address the concern. An amendment would therefore be made to indicate the following: “(a) Require the child’s parent or guardian to – (i) enter into a recognizance to exercise proper care and guardianship; (ii) undertake and complete such classes or courses of study, in responsible parenting, offered by the National Parenting Support Commission or such other entity accredited by the Minister for that purpose, as the Court considers fit;”. The Committee agreed to adopt this formulation.*
- c) Your Committee examined the recommendation that provision should be made for specifying the number of years to be served before the eligibility of parole, in considering life imprisonment for a child offender. *Members were of the view that it was not necessary to amend the Act to address this concern.*
- d) *Your Committee agreed with the proposal to incorporate a new provision (perhaps immediately following section 30) to empower the Court to order family visitation with a child who is the subject of any fit person order or correctional order.*
- e) *Your Committee accepted a recommendation that the name of the Child Development Agency should be changed to “Child Protection Agency”. We noted that this recommendation had already been addressed as the name of the entity has been changed to the Child Protection and Family Services Agency (CPFSA).*
- f) Your Committee discussed the proposal to provide residential and non-residential, non-punitive therapeutic facilities and/or services for children who display anti-social or violent behavior but have not committed a crime. *We supported this recommendation, which was linked to section 24 of the Act, but felt that since it was an administrative matter, it should not be included in the legislation. We recommended that no change should therefore be made to the Act.*

- g) A recommendation was made that the Act should specifically provide for the use of transitional/re-integration programmes for children coming to the end of a correctional order, including bringing the child before the Court for a Fit Person Order where necessary. This was intended to address the existing problem within the child protection system, where children below the age of 18 years who were in the juvenile correctional facilities, were often released without a plan regarding how they would survive or follow-up being done to monitor their progress. We were told that programmes existed through the Department of Correctional Services (DCS) to monitor child offenders upon release, and therefore, *we did not recommend any change to the Act to deal with this issue.*
- h) *Your Committee wishes to record our support for the recommendation that there was need for transitional, reintegration programmes including halfway houses for children who were nearing release.* We note however that provision has already been made for this in the Child Diversion Act.
- i) Your Committee examined the proposal that an assessment should be done at the point of transferring a child to an adult facility, with a view to exploring the potential for parole or conditional release for children who were deemed to have been fully rehabilitated at that point. We were told that this proposal has already been included in the Child Diversion Act. *We therefore did not recommend any change to the Child Care and Protection Act to address it.*
- j) Your Committee reviewed the proposal that the Act should promote the more routine and diversified use of recognizance [release] orders, to provide a systematic approach to identifying parental commitments related to returning the child into the home. *We agreed however that this was an administrative matter which could not be placed in the legislation.*
- k) Your Committee supports the suggestion that the Act or Regulations should provide for the identification on a case-by-case basis of visitation standards and commitments for parents having children in the care or custody of the State. *We recommended that this proposal should be dealt with under the Regulations given the level of details that would be needed.*
- l) A proposal was made that foster care regulations should be developed, including a foster parent registration system, standards and protocols for children in foster care as well as reporting mechanisms for breaches of standards, legal rights of foster parents and children relative to the rights of the biological parents, and the duties of CDA officers towards foster parents and/or foster children. *Your Committee accepted this proposal and recommended that the necessary adjustment be made to the appropriate Regulations.*
- m) *Your Committee agreed that the Regulations should be amended to incorporate the following guidelines:*
- i. *Quarterly schedule of programmes;*

- ii. *Educating children in schools wherever possible;*
 - iii. *Special standards for Residential Child Care Facilities with children with disabilities and other special needs;*
 - iv. *For youth aging out of the system, promoting the use of independent living facilities and other exit plans and strategies;*
 - v. *Mandating homes to maintain updated personal records including annual photos of children in their care; and*
 - vi. *Licensing homes to provide services to “adult children” who are deemed physically or develop-mentally incapable of caring for them-selves.*
- n) Your Committee discussed in great detail a proposal that a new, separate provision should be inserted into the Act to specifically make it an offence to harbour a missing child. We observed that section 69 of the Offences Against the Person Act included an offence for receiving and harbouring a child as well as child stealing, whereas section 58(2) of the CCPA dealt with harbouring or concealing a child who had run away while in the care of the State. We considered at length whether, in light of these two provisions, a separate offence of harbouring a missing child should be included in the Act. We determined that section 69 of the OAPA could be adjusted to make reference to “any child” instead of a “child under the age of fourteen years”, so that the provision would also cover a missing child. We also felt that section 69 should be redrafted to clearly state the intent of the provision, which was to deal with two separate grounds on which the offence could be committed. *We therefore recommended that section 69 of the Offences Against the Person Act be amended by deleting the words “under the age of fourteen years”. We also recommended that the provision be redrafted to make it clear that it was dealing with two separate offences of child stealing, and receiving and harbouring a child.*
- o) Your Committee was also of the view that all provisions relating to children and the protection of children should be consolidated into one piece of legislation rather than having different provisions in separate legislation. On that basis, *we recommended that the provisions in the amended section 69 of the Offences Against the Person Act should be deleted from this Act and incorporated into the Child Care and Protection Act.*
- p) Your Committee considered a proposal to widen the sanctioning options against the perpetrators of offences against children. We recognized that provision had been made for this in the 2016 Bills to amend the Child Care and Protection Act and the Criminal Justice (Administration) Act, and *recommend that these Bills be revisited by the Ministry of Justice to determine whether the sentences could be increased.*
- q) **Rights of the Child in Juvenile Correctional Facilities and Remand Centres** - A recommendation was made that a provision should be inserted into Part IV of the Child Care and Protection Act to list the rights of children who were deemed to be in conflict with the law and were being housed in juvenile correctional facilities and remand centres. It was proposed that these rights should be similar to those listed under section 62 of the Act in respect of children in places of safety. Your Committee agrees that the rights of children should be protected generally in all

institutions including juvenile correctional institutions, but recognizes that based on the nature of the crimes committed by some children in juvenile correctional facilities and remand centres, some of those rights might have to be abridged in order to maintain order in those facilities to which they have been committed. *We therefore recommend that, using the listing in section 62 of the Act, a provision should be included to incorporate the rights that would appropriately apply to remand centres and juvenile correctional facilities, while ensuring that the provision was not in conflict with the provisions of the Corrections Act and Regulations. We also recommend that consideration be given to whether such provision should be placed either in the Corrections Act or Regulations instead of the Child Care and Protection Act, given the nature of the issues to be addressed.*

- r) Your Committee reviewed a proposal to enshrine in the Act the right to equal protection and non-discrimination, *but felt that no change should be made to the Act* because these were rights guaranteed to all persons under the Constitution and any change made to the Child Care and Protection Act would affect the constitutional provision.
- s) Your Committee agreed that the offences of kidnapping, incest, child labour and all the offences under Part II of the Act should be included in the Second Schedule of the Child Care and Protection Act.

The Offences Against the Person Act

The following recommendations were made with respect to the Offences Against the Person Act:

Sections 1, 2, 3 and 4

Your Committee agrees that no changes are necessary to these sections.

5 – Persons suffering from diminished responsibility.

Concerns were raised that the language in section 5, which had been lifted verbatim from section 2 of the UK Homicide Act, 1957, was archaic, offensive and not reflective of the modern definitions on mental health. Your Committee reviewed the terms “suffering from...”, “abnormality of mind”, and “arising from a condition of arrested or retarded development” which had been specifically identified. Although we were in favour of modernizing these terms, we were concerned that updating the language might have the unintended consequence of changing the scope of the provision, or the substance of the defence. We learnt that precedent for updating the language in the law had been set in other jurisdictions such as Australia, and the United Kingdom, and that comparisons made of the older version of the law and the updated version have thus far revealed that the updated language had not changed the substance of the defence. Instead, it was believed that the reformed language has allowed the defence to keep abreast of advances in the medical field concerning mental illnesses. We were also informed that there was case law on some of the more modern provisions, which used terms such as “mental impairment” and “abnormality of mental functioning” instead of “abnormality of mind”, and “arising from a recognized medical condition” instead

of “arising from a condition of arrested or retarded development”. After further discussions, *your Committee wishes to indicate that we support the modernization of the language without changing the substance of the law.*

Questions were also raised about the use of the term “suffering from diminished responsibility” in the Marginal Note, but your Members were of the view that this was a well-known, well-used terminology in criminal law which had been interpreted by the courts over many decades. *We recommend that the term “suffering from diminished responsibility” should remain unchanged.*

Section 20 - Shooting or attempting to shoot or wounding with intent to do grievous bodily harm

During our deliberations on a recommendation to include an offence in the Offences Against the Person Act to deal with the murder of a pregnant woman, your Committee looked at what obtained in other jurisdictions and discovered that in some jurisdictions, crimes committed against pregnant women were normally treated as an aggravating factor in terms of sentencing and at times there were nuances to be taken into account such as whether the person was visibly pregnant or whether the offender had been aware of the pregnancy. Alternatively, provision was made for vulnerable persons including pregnant women, the elderly, children and persons who had a specific type of disability. *Your Committee therefore agreed with the suggestion that section 20 of the OAPA, which deals with grievous bodily harm, be amended to include expressly a pregnant woman as an aggravating factor, in determining the sentence. It was further agreed that the provision should not only cover pregnant women, but also vulnerable persons such as the elderly, persons with disabilities and children.*

Section 28 - Abandoning or exposing child whereby life endangered

While considering the suggestions made for section 28 to be amended to capture a broader range of circumstances, your Committee observed that all the elements in section 28 of the Offences Against Person (OAPA) were covered under section 9 of the Child Care and Protection Act (CCPA), which was a modern provision that covered both abandonment and exposure. Research done to assist us in determining why section 28 had been retained after the enactment of the Child Care and Protection Act, did not provide any clear rationale on the matter. We noted that section 9 of the CCPA also gave prosecutors the option of pursuing the matter in the Parish Court or the Circuit Court. After a lengthy discussion, *your Committee agreed to the deletion of section 28.*

Sections 29 to 38

Your Committee agreed that no changes are necessary to these sections.

39 - Summary jurisdiction to try common assaults.

Your Committee examined the concern raised that Persons With Intellectual Disabilities (PWID) were more likely to be physically abused by family and community members because of their disability and must be protected by law from such abuse. Members also raised questions as to whether the proposal would cover only the intellectual aspects of impairment of judgement, or whether other aspects of mental disability would be recognized. We noted that although the capacity of the victim (intellectual or physical) was of no

moment in section 39, which dealt specifically with the *mens rea* and *actus reus* of the person who carried out the act, it could be made an aggravating feature in terms of the penalty. After careful consideration, *your Committee agreed that section 39 should be amended by increasing the penalty.*

Section 40 - Aggravated Assaults on women or children

Members observed that section 40 only covered women and boys below the age of 14 years, which was reflective of the realities at the time of the enactment of the provision, but felt that the provision should be broadened to cover other categories of vulnerable persons. *Your Committee therefore agreed that section 40 should no longer be limited to females or a male child below the age of 14 years but should be amended to speak to aggravated assault on vulnerable persons.*

Your Committee further agreed that the category of “vulnerable persons” would include women, children including (boys under 14 years of age), the elderly and persons living with a disability as defined under the Act, save in circumstances where the age is not a relevant factor.

Members were also of the view that the penalty should be increased, to send a strong signal that assault against vulnerable persons would be treated as aggravated assault. *Your Committee therefore agreed that the penalty in section 40 should be increased.*

Sections 41 to 68

Your Committee agreed that no changes are necessary to these sections.

69 – Child Stealing

In keeping with a decision taken by Members during our review of the Child Care and Protection Act that all provisions relating to the care and protection should be housed under one legislation, *your Committee agreed to relocate the provisions of section 69 to the Child Care and Protection Act (CCPA). Consequently, section 69 has been deleted from the Offences Against the Person Act.* The following are the recommended changes that have been accepted to improve the existing provisions which have been moved to the CCPA:

a. Your Committee reviewed a proposal made that persons with an intellectual disability should be included in section 69. Members considered whether an intellectual disability could be included as an aggravating factor in sentencing, or whether it was possible to include a new provision in the Act to deal strictly with persons who might be adults, but due to intellectual impairment, were vulnerable to being stolen or might not be aware that they have been stolen, coerced or deceived into being taken away and abused etc. We noted that there was also an abduction simpliciter provision in the Sexual Offences Act and looked at the practice in other jurisdictions and found that some had enacted provisions to deal broadly with the stealing or kidnapping of vulnerable persons. *Your Committee was of the view that where the victims are vulnerable, that is, pregnant women, children, etc., the sentence should be reflective of the vulnerability of the victim, and recommends that the Parliament takes a decision on this matter.*

b. It was suggested that section 69 should be amended by removing the reference to a “*child under the age of fourteen years*” and replacing it with a reference to *all* children. Your Committee was informed that the age ranges used in the Offences Against the Person Act were reflective of the situation that existed prior to the enactment of the Child Care and Protection Act, and should subsequently have been changed to reconcile with the definition of a child as provided for in that legislation. We therefore contemplated replacing all the references in the OAPA to a “child under the age of 14 years” with “a person under 18 years”, but recognized that this might have implications for some sections of the Act for which that definition might not be appropriate. *We therefore recommended that for the purposes of the OAPA, “a child means a person under 18 years, unless otherwise specified”.*

c. *Your Committee agreed that the reference to “... the father of an illegitimate child...” in the proviso to section 69 should be changed to “...the father of the child”.*

Section 70 - Kidnapping

It was recommended that there be an increase in the age below which a child’s consent to action amounting to kidnapping could not be considered independent of his/her parent’s will under section 70(3) of the Offences Against the Person Act by aligning it with the legal “age of consent” to sexual activity. *Your Committee agreed that no amendment should be made to section 70.*

Section 71 - Bigamy

Recommendations were made for (i) the removal of this section from the Act or (ii) for it to be amended to provide that bigamy should be legal in cases where all the parties had a contractual arrangement. *Your Committee agreed that no change should be made to the provision.*

Sections 72 & 73 - Administering drugs or using instruments to procure abortion and Procuring drugs, etc., to procure abortion

The issue of abortion was discussed extensively. On the one hand it was recommended that provision should be made in the Act to allow for abortions under certain circumstances including pregnancy by rape, incest, for children under 16 years of age and within certain parameters such as a definition of the stage of the foetus after which abortion would be illegal. On the other hand, it was proposed that the life of the child should be spared as opposed to the death of the child and possibly the mother due to the risks associated with abortion. Consequently, a recommendation was made for a compassionate approach in changing the law as it related to cases of rape and incest to give support and counseling to the victim, who could find adoptive parents if she did not wish to keep the baby. We weighed these recommendations against advice from the Attorney General’s Chambers that any changes to the law relating to the life of the unborn could have another implication, in that it could possibly lose its protection from the Savings Law Clause of the Constitution. Your Committee also noted that a Joint Select Committee had been established in 2010 specifically to deal with the issue of abortion, which had prepared a draft report but had not finalized it for Tabling in Parliament. *Your Committee therefore recommended that the Parliament considers reconstituting the Joint Select Committee that deliberated on this matter or determine the method by which the draft report which had been prepared could be reviewed and submitted to Parliament.*

Additionally, having learnt that in respect of matters relating to abortion, the medical profession has been operating on the basis of a set of protocols that were developed by the Ministry of Health, we considered whether it was possible that further promulgation of this Ministry of Health's policy or existing protocols could expand the circumstances within which one could consider lawful abortions, to mitigate the need to amend sections 72 and 73 of the Act.

Sections 74 & 75

Your Committee agreed that no changes are necessary to these sections.

Section 76 & 77 - Unnatural Crime and Attempt.

Your Committee discussed at length a number of recommendations made in respect of sections 76 and 77 of the Act.

Although several proposals were made for these sections to either be removed from the Act or amended to recognize consensual sexual relationships among adult men, there were also calls for the sections in question to be retained, with increases in the existing penalties. Recommendations were also made that the crime of buggery should be limited to forced sexual activities and should be covered under the Sexual Offences Act. We also received a recommendation that due care and sensitivity should be taken in circumstances where Persons With Intellectual Disabilities either committed offences under these sections or were themselves victims, given the societal influences and the openness of sexual activities which influenced children and some adults with intellectual disabilities.

During our deliberations, we sought to address the existing anomalies in the penalties for forced anal penetration by the penis as against rape, which we believed were equally egregious and therefore deserved the same level of treatment. We were however constrained in our attempt to increase the penalty for forced anal penetration by the penis in section 76 by seeking to treat the offence as an element of grievous sexual assault, having been advised that any amendments made to these provisions posed the risk that they could possibly lose the protection in the Constitution. We were also of the view that it might be best to put this issue to a referendum, to have wide public input on the final decision taken, and that public education should be a vital part of the process. *Your Committee recognizes the sensitive nature of these provisions and the risk of an amendment to correct the existing anomaly in the penalties for grievous sexual assault and rape being deemed to remove the protection of the Saving Laws Clause and, therefore, recommended that the Parliament addresses the issue in a more fulsome manner in terms of the constitutional impact.*

78 – Proof of carnal knowledge.

Your Committee considered a recommendation that the proof of carnal knowledge should be deemed complete by the proof of intent, where the bare bodies were exposed, or partially exposed, as interpreted to mean foreplay in preparation for sexual activity. It was also recommended that the term of imprisonment should be 5 years, but *your Committee agreed that no change should be made to section 78.*

Sections 79

- Outrages on decency

Several recommendations were made for amendments to section 79 of the Act. Among other things, concerns were raised as to why the provision did not recognize that an act of gross indecency could also be committed by females, and that the provision also appeared to threaten the privacy of individuals, which was a fundamental human right recognized in the UN Declaration of Human Rights. Concerns were also expressed that when private acts of intimacy between two men are criminalized by the State, the very existence of the law subjects homosexual persons to discrimination both in the public and in the private spheres. On the other hand, there were calls for the penalty in this section to be increased and from the crime to be upgraded to a felony rather than a misdemeanor. However, in keeping with the previous discussions on other provisions of the Act, such as section 76, your Committee was mindful that any amendment to this section might possibly impact the efficacy of the Savings Law Clause.

Sections 80 to 85

Your Committee agreed that no changes are necessary to these sections.

Recommendations for New Offences and Provisions

The following additional recommended changes were proposed in respect of the Offences Against the Person Act:

a) Willfully and knowingly transmitting sexually transmitted diseases including HIV

Following a recommendation made for a new offence to be inserted into the Act to deal with the case where someone willfully and knowingly transmitted HIV and/or other infections to another, your Committee acknowledged that there was a deficiency in the law in relation to the deliberate or intentional spreading of HIV and other sexually transmitted diseases. We noted that this type of offence existed in other jurisdictions such as Canada (grievous sexual assault under the Canadian Criminal Code) and the United Kingdom (grievous bodily harm under the UK Offences Against the Person Act), and referenced case law such as *Guerrier, 1998* and *Mabior, 2014* from Canada as well as *R. v. Golding* from the United Kingdom. We also made reference to the George Flowers case involving a Jamaican who had infected a number of women with HIV while living in Canada, and fled to Jamaica, resulting in an extradition request being made to the Jamaican authorities for him to return to Canada to face charges. *Your Committee agreed that the Act should be amended to make it a criminal offence for someone to willfully or recklessly infect a partner with any sexual transmissible disease that can inflict serious bodily harm to that partner.*

b) Stalking

While reviewing a suggestion that a new offence of stalking should be created in the OAPA, your Committee discovered that there was in fact no general, substantive offence of stalking in either the OAPA or the Sexual Offences Act (SOA). We felt that this omission should be addressed and therefore *decided to insert a new, substantive offence of stalking in the OAPA, which should be formulated using the provision in the UK Protection from Harassment Act, 1997 as a guide. The marginal note for this offence would be "Stalking".*

The Domestic Violence Act

Overview

Members of your Committee were concerned, generally, about the treatment of the issue of domestic violence including intimate partner violence. We felt that although domestic violence was clearly one of the sources of violence in Jamaica, which has resulted in the deaths of not only spouses/partners but also children and other family members, there appeared to be a general reluctance to openly recognize that this form of violence exists and that it has far reaching impact on the affected persons as well as the society as a whole.

We noted, with sadness, that there appeared to be a cultural and social acceptance of acts of domestic violence, even by the victims themselves in some instances, and that persons did not appear to be seized of the gravity of this issue. We were particularly concerned about the unseen, emotional and psychological scars that were often inflicted on the victims as well as those who witnessed domestic violence, such as our children. We also felt that the effects of psychological and emotional abuse suffered by victims could be more damaging than the injuries suffered from physical violence. We were also concerned about the attitude of some agents of the State, such as the Police who were often accused of taking a hands-off approach in dealing with reports of domestic violence, and those in the judiciary who were at times accused of not handing down sufficiently high sentences in cases involving domestic violence, particularly those which resulted in the death of the victims. We were also concerned about the appropriate remedies that could be provided to victims of psychological or emotional abuse.

Your Committee also looked at statistics from **the Jamaica Women's Health Survey, 2016**, which revealed, among other things, that in respect of the national prevalence for *Violence against women by partners*, 25.2% of Jamaican women reported having experienced physical violence by a male partner, 7.7% have been sexually abused by their male partner, 28.8% have suffered emotional abuse, and 8.5% of the women reported having experienced economic abuse. The lifetime prevalence of intimate partner violence (physical or sexual violence against Jamaican women) was 27.8%.

The Domestic Violence Act was passed in 1995 and came into force on May 6, 1996. The scheme of the Act is to seek to protect victims of domestic violence through the provision of certain remedies such as protection and occupation orders. The Act does not seek to make domestic violence a criminal offence, but rather, criminalizes the breach of these orders. The Act does not provide a definition of the term "domestic violence", nor is the term used throughout the legislation. Instead, the Act outlines the circumstances in which an application could be made for the aforementioned orders.

Based on the submissions made to your Committee, it would appear that the level of protection afforded to the victims of domestic violence were inadequate. We learnt that provisions for ensuring that protection and occupation orders were enforced were inadequate as there was no provision for victims who feel threatened or were being threatened in circumstances where the orders have been breached to obtain any form of immediate relief such as the temporary removal of the accused from the situation and no provision to prevent anticipated violence against victims in instances where it was clear that this was likely to occur. Your Committee also found that there was need to widen the categories of persons who make applications

for orders on behalf of victims of domestic violence, the need to make the penalties for breaching the orders under the Act more severe, as well as to widen the range of orders to increase the level of protection afforded to victims of domestic violence. Concerns were also raised about the need to strengthen the institutional framework and arrangements for the more effective operation of the Act. Particular concern was raised about the varying use of Domestic Violence Act by the Family Courts in the different parishes as well as the need to address the issue of enforcement, particularly in cases where orders were breached.

Having reviewed the proposals made to the Domestic Violence Act, your Committee wishes to present our findings and recommendations:

Specific Recommendations

Section 1

Your Committee considered a recommendation for the terminology “**domestic violence**” to be replaced by “**intimate partner violence**”, in keeping with what obtained in other jurisdictions. We were advised that although both terms were used interchangeably in some jurisdictions, the term “domestic violence” included intimate partner and other types of family violence; and that the recommended name change could have the unintended effect of limiting the scope of the persons who could be considered under the Domestic Violence Act (DVA). ***We did not accept this recommendation.***

Section 2

Your Committee examined the proposal that a definition of “domestic violence” should be inserted into the Act to provide: “domestic violence”: *“Physical abuse, sexual abuse, emotional or psychological abuse, and financial abuse by a person against a spouse, child or any other member of a household dependent. A protection order may be granted once an application is made against persons committing the act of domestic violence against a prescribed person”*. It was further suggested that this definition was accompanied by the following additional definitions:

***“emotional or psychological abuse”** means a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a prescribed person including— (a) persistent intimidation by the use of abusive or threatening language; (b) persistent following of the person from place to place; (c) depriving that person of the use of his property; (d) the watching or besetting of the place where the person resides, works, carries on business or happens to be; (e) interfering with or damaging the property of the person; (f) the forced confinement of the person; (g) persistent telephoning of the person at the person’s place of residence or work; (h) making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person; and (i) in the case of a child: - (i) seeing or hearing the physical, sexual or emotional or psychological abuse of a relative; or (ii) being placed at risk of seeing or hearing that abuse occurring.*

***“financial abuse”** means a pattern of behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person’s access to financial resources, the effect of which is to hinder the applicant’s financial independence or ability to maintain a child or dependent or to ensure financial dependence on the respondent.*

“sexual abuse” means: - (a) the commission of or attempt to commit any act that would amount to an offence under the Sexual Offences Act; or (b) sexual contact of any kind that is coerced by force, threat of force or intimidation of any kind.”

Members acknowledged that there was currently no definition of the term “domestic violence” in the Act and that the term was not used throughout the legislation. However, we were of the strong opinion that there is now the need to recognize in the legislation, that domestic violence exists and should be recognized for what it is, which is a type of abuse that does not only includes physical violence but also other forms of abuse such as emotional and psychological abuse. Domestic violence was also a major source of violence in Jamaica, which in some cases, has led to the death of the victim. ***We therefore agreed to the inclusion of a specific definition of “domestic violence” in the Act, using the recommended definition as a guide, to recognize the physical, sexual, emotional and psychological aspects of domestic violence. We were also of the view that domestic abuse could include situations in which persons used various other means such as exposing intimate pictures of their former partners to the public to inflict reputational and emotional harm on the victims and using third parties or accessories to harass or inflict harm on the victims.*** We also acknowledged that there might be instances in which the proposed elements of “financial abuse” were present, but were uncertain as to how “financial abuse” could be clearly established as a form of domestic violence, particularly in the context where there was one breadwinner in a household and spending activities had to be prioritized. We therefore felt that the definition of “financial abuse” needs to be given further consideration.

Section 3 - Power of the court to grant protection order or occupation order

Your Committee reviewed the proposal that section 3 of the Act should be expanded to offer protection (from each other) to persons who shared a visiting relationship and that the Act should be amended to provide for the protection of all parties following the termination of a visiting relationship. ***We did not accept this recommendation***, because provision had already been made in section 3 (2) (c) of the Act for an application for a protection order to be made by someone who was in a visiting relationship.

Your Committee accepted a recommendation for the list in section 3(2)(b) to be expanded to include the Children’s Advocate as one of the persons who could make an application for protection orders in instances where the victim or potential victim was a child. We also agreed that section 3(2)(b) and section 3(3) should be amended to allow any person, whether or not a member of the household, to apply for a protection order on behalf of a child with the leave of the court.

However, upon closer examination of the foregoing proposals, Members felt that ***section 3(2)(b) should not be restricted to a child but to any abused person. We therefore recommended a further adjustment to section 3(2)(b) to reflect this.***

During our discussion, Members were also concerned that there might be circumstances under which an abused spouse might not be able to make the application for the protection or occupation order on his/her own and in such instances, would need the assistance of other persons such as an entity that was legitimate and adequately resourced to bring these proceedings, (for example the Bureau of Gender Affairs and the Women’s Resources Outreach Centre) to be able to make the application on their behalf. We therefore ***recommended that section 3 be expanded to give the Minister residual power to include entities such as the Bureau of Gender Affairs and the Women’s Resource Outreach Centre as persons who could seek protection orders, on behalf of an applicant.***

Section 4 - Application for protection order

Section 4(1)(e) outlines one of the grounds on which an application for a protection order could be made. There were concerns about the increasing use of various forms of technology to harass and molest persons, such as those covered under section 9 of the Cybercrimes Act. Your Committee was therefore asked to consider amending Section 4(1)(e) to provide for acts of molestation that include text messaging, and other medium utilizing a computer such as emails and social media. It was also recommended that the Act be amended to include provision for offences using electronic devices. Whereas we acknowledged that this concern needs to be addressed, we noted that this was already covered under the Cybercrimes Act and were unsure of whether it could be brought within the contest of the Domestic Violence Act as one of the grounds on which a person could obtain a protection order. *We therefore recommend that further consideration of this recommendation is required.*

Your Committee accepts the recommendation to extend the possible restrictions on respondents from protection orders under Section 4 (1) to account for additional patterns of abuse. We were, however, unable to itemize the different patterns of abuse that should be included at this time, as wider consultations would be needed to obtain further details on this matter.

Your Committee considered the proposal for section 4(1) to be amended to include the following:

“1) Application may be made to the Court for a protection order to –

- (a) prohibit the respondent from entering or remaining in the household residence of any prescribed person; or*
- (b) prohibit the respondent from entering or remaining in any area specified in the order being an area in which the household residence of the prescribed person is located; or*
- (c) prohibit the respondent from entering the place of work or education of any prescribed person; or*
- (d) prohibit the respondent from entering or remaining in any particular place; or*
- (e) prohibit the respondent from molesting a prescribed person by –*
 - (i) watching or besetting the household residence, place of work or education of a prescribed person;*
 - (ii) following or waylaying the prescribed person in any place;*
 - (iii) making persistent telephone calls to a prescribed person;*
 - (iv) using abusive language to or behaving towards a prescribed person in any other manner which is of such nature and degree as to cause annoyance to, or result in ill-treatment of the prescribed person;*
 - (v) damaging any property owned by, or available for the use or enjoyment of the prescribed person, or any property in the care or custody or situated at the residence of the prescribed person; or*
 - (f) prohibit the respondent from taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant, as the case may be; or*
 - (g) prohibit the respondent from causing or encouraging another person to engage in conduct referred to in paragraphs (a) – (f); or*
 - (h) direct the respondent to return to the applicant specified property that is in his possession or under his control; or*
 - (i) direct the respondent to pay compensation for monetary loss incurred by an applicant as a direct result of conduct that amounted to domestic violence; or*
 - (j) direct the respondent to relinquish to the police any firearm licence, firearm or other weapon which he may have in his possession or control and which may or may not have been used; or*
 - (k) provide such further and other orders as the Court may deem appropriate in the circumstances’.” We record our support for section 4(1) to be revised and expanded in line with the above recommendation, where appropriate.*

Your Committee supported the recommendation for section 4 (2) to be amended to widen the threshold to be met for obtaining Protection Orders. It was felt that the present requirements limited the circumstances under which an order may be given for the use of or threat to use violence, the cause of physical injury or mental injury and the likelihood that the same may be done again or if same would be done in the best interest of the child.

Your Committee agreed that section 4(2) to be replaced by the following: "On hearing an application under subsection (1), the court may make a protection order if it is satisfied that the respondent has engaged in domestic violence".

Section 5 - Breach of protection order

We considered the proposal that the penalty for breaching a protection order should be increased from \$10,000.00 to \$150,000.00 and from 6 months imprisonment to one year. *Your Committee agreed that the fine should be increased from \$10,000.00 to \$500,000.00. In light of the current practice not to use both, your Committee also agreed that the reference to "both fine and imprisonment" should be removed and replaced with "or imprisonment".*

Section 7 - Application for a grant of occupation order

Your Committee closely examined the recommendation that Section 7 (3) should be replaced with: *"The Court may make an order under subsection (2) only if the court is satisfied that: (a) the respondent has engaged in domestic violence; or (b) such an order would be in the best interest of a child"*. We observed that this new formulation would allow the court to take into account a person's past conviction for domestic violence in making the order. While some persons supported this approach, others were of the view that past convictions in the absence of any new incident should not be used to obtain an order under this section. *Your Committee recommended that a more fulsome review of this proposal should be undertaken prior to taking a decision on whether the provision should be reformulated.*

Proposal to Criminalize Domestic Violence - A recommendation was made for domestic violence to be criminalized and prosecuted in the Family Court under the authority of the Domestic Violence Act. It was further recommended that a new provision should be inserted into Part III of the Act as follows: *"Any person who commits an act of domestic violence is guilty of an offence and is liable on summary conviction before the court to a fine not exceeding three hundred thousand dollars or a term of imprisonment not exceeding three years or to both. (2) Any person who attempts to commit an act of domestic violence is guilty of an offence and is liable on summary conviction before the Court to a fine not exceeding two hundred thousand dollars or to term of imprisonment not exceeding two years or to both."*

In deciding whether or not to accept these proposals, we took a number of factors into consideration. Members noted the fact that domestic violence not only included physical violence but other elements such as emotional and psychological abuse which might be more difficult to prosecute in the courts and that further thought would need to be given to whether protection orders would be the appropriate remedy in such circumstances. We also considered the fact that whenever physical violence was involved, charges could be brought under the Offences Against the Person Act as assault, assault occasioning grievous bodily harm, wounding with intent, unlawful wounding, and rape (including marital rape), and other offences under the Sexual Offences Act.

We were therefore of the view that instead of seeking to criminalize domestic violence, the Act should be strengthened by: (i) increasing the current penalties in the Act for breach of protection orders, (ii) adjusting the penalties for breach of protection orders to include not only a fine but also the imposition of a brief custodial sentence to allow the accused to regain calm as well as to provide temporary relief to the victim while he/she awaited the outcome of the criminal trial in respect of the breach, (iii) making provision for persons who breached the orders to be assessed by an appropriate professional to identify the root causes of the person's behavior so that an order could be appropriately fashioned to not only remedy the issue of the breach but also ensure rehabilitation of the particular individual, (iv) instead of waiting for the breach of the order, widening the range of protection orders to include interim orders to prevent anticipated violence against victims in circumstances where the risk of such imminent violence was clear, (v) strengthening the institutional framework to support the practical application of the provisions in the Domestic Violence Act such as the operations of the Family Court and the enforcement aspects carried out by Members of the Jamaica Constabulary Force when orders were breached.

Your Committee therefore recommended that the Domestic Violence Act should be amended to provide for enhanced protection orders which would provide a range of remedies not only for breach of the protection orders but also for anticipated breaches of the orders. Members also recommended that the remedies under these enhanced protection orders should be proportionate, to remove the risk of them being deemed to be unconstitutional, particularly in circumstances where a custodial order would be imposed. Additionally, it was recommended that a wider cross section of persons should be able to apply for these protection orders and in appropriate cases, the orders should be sufficiently wide or impactful to ensure that anticipated violence was prevented.

Additional Recommendation

Based on the myriad of concerns raised about the deficiencies in the various sections of the Domestic Violence Act, and the level of consultations that would be required to adequately address these concerns, *your Committee was of the view that a separate, Joint Select Committee of Parliament should be established to carry out a comprehensive review of the Act on its own, to ensure that the legislation as well as the institutional and social framework necessary for the successful implementation of all aspects of the legislation could be dealt with.*

4.0 ACKNOWLEDGEMENTS

Your Committee wishes to express sincere gratitude to all those individuals and organizations that made written submissions and oral presentations or participated in the deliberations. A special recognition to the staff of the following entities: the Legal Reform Department, the Office of the Parliamentary Counsel, the Attorney General's Chambers, and the Legal Services Unit of the Ministry of Justice for the technical guidance given to the Committee throughout its deliberations. Your Committee thanks specially Mrs. Rosemarie Beckford for up-to-date Minutes and the initial draft of this Report.

Your Committee is also grateful to the media, who covered the meetings and reported the proceedings to the public. Your Committee is also grateful to the Minister and staff of the Ministry of Justice for hosting some of the meetings of the Committee and for the very kind courtesies that were extended during those meetings. To the Clerk to the Houses and her staff, a special thank you for the invaluable assistance and kind courtesies extended during the meetings.

*Houses of Parliament,
December, 2018*

Appendix 1

ATTENDANCE **Nineteen (19) Meetings**

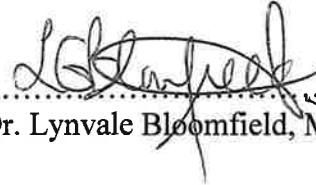
Member	Present	Absent	Apology(ies)
Hon. Delroy Chuck, M.P. – Chairman	19	0	0
Hon. Olivia Grange, M.P.	10	9	5
Hon. Floyd Green, M.P.	13	6	2
Mrs. Marisa Dalrymple-Philibert, M.P.	7	12	2
Dr. Lynvale Bloomfield, M.P.	13	6	1
Ms. Lisa Hanna, M.P.	5	14	4
Ms. Denise Daley, M.P.	11	8	1
Sen. the Hon. Kamina Johnson Smith	12	7	6
*Sen. Ransford Braham	0	2	1
*Sen. Hon. Parnel Charles, Jr.	8	9	2
Sen. Sapphire Longmore	10	5	0
*Sen. Donna Scott Mottley	7	4	2
Sen. Sophia Frazer-Binns	15	4	2
*Sen. Mark Golding, M.P	6	2	2

- Sen. Ransford Braham could only have attended a maximum of two (2) meetings.
- Sen. Hon. Parnel Charles Jr. could only have attended a maximum of seventeen (17) meetings.
- Sen. Donna Scott Mottley could only have attended a maximum of eleven (11) meetings.
- Sen. Mark Golding could only have attended a maximum of eight (8) meetings.

SIGNATURE OF MEMBERS



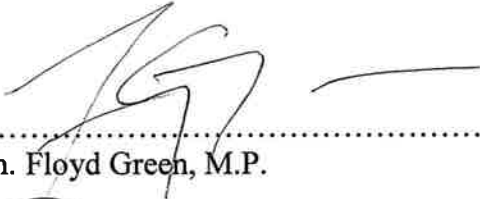
Hon. Delroy Chuck, M.P. – Chairman



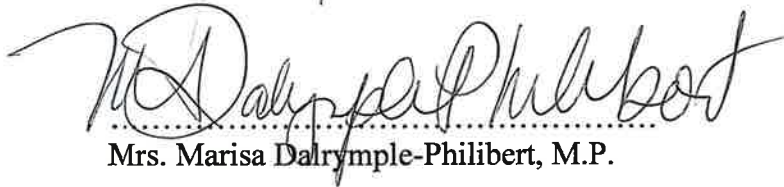
Dr. Lynvale Bloomfield, M.P.



Hon. Olivia Grange, M.P.



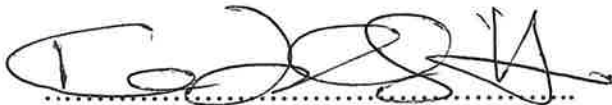
Hon. Floyd Green, M.P.



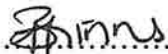
Mrs. Marisa Dalrymple-Philibert, M.P.



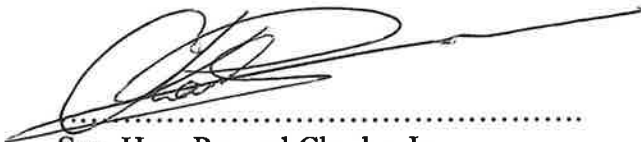
Sen. Donna Scott Mottley




Sen. Hon. Kamina Johnson Smith



Sen. Sophia Frazer-Binns



Sen. Hon. Parnel Charles Jr.



Sen. Sapphire Longmore

