

36/20

Ministry Paper NO.

## NATIONAL CHILD DIVERSION PROGRAMME

1. The Honourable House is asked to note the activities of the National Child Diversion Programme in fulfillment of the operationalization of the Child Diversion Act, 2018.

### BACKGROUND

2. The National Plan of Action for Child Justice (NPACJ) 2010-2014 was approved by Cabinet and tabled in Parliament in November 2011. Its objective was to provide a framework for the development of policy and legislation, the mobilization and allocation of resources, and the design of programmes aimed at reforming the Child Justice system in keeping with Jamaica's obligations as a signatory to the Convention on the Rights of the Child.
3. The National Child Diversion Concept Paper and Draft Policy was developed to ensure that the Strategic Objectives outlined in the NPACJ were implemented. The Concept Paper was approved by Cabinet and tabled in Parliament in 2012.

### THE CHILD DIVERSION ACT AND THE NATIONAL CHILD DIVERSION PROGRAMME

4. The drafting of a Child Diversion Policy in 2014 resulted in the development of legislation which treats with children in conflict with the law. Consequently, in January 2018, Cabinet granted approval for the tabling of a Bill for Child Diversion in Parliament, which was enacted as the Child Diversion Act, 2018. The Act came into effect on December 31, 2019 following publication in the Gazette.
5. "Child Diversion" is the process of implementing measures for dealing with children, alleged as, accused of, or recognized as having infringed the penal law without resorting to formal judicial proceedings. It is considered to be in the interest of individuals, and to further the "public interest" to use 'alternative measures' to deal with these categories of offenders. Diversion of children provides greater benefit, in most cases, to the offender, victim and the society than would the formal criminal process.
6. The approaches to be utilized in Child Diversion will build on mediation and restorative justice practices which go beyond the retributive justice approach to crime as obtains under the current Justice System. The Child Diversion Act seeks to formalize and expand diversion in Jamaica as a means of halting the criminal path of child offenders while safeguarding the society.
7. The broad goals of the National Child Diversion Programme are:
  - a. To reduce the number of children who are charged with offences and consequently as a result exposed to the formal criminal justice system;
  - b. To increase the use of diversionary programmes that are expected to rehabilitate children as a response to crime and wrongdoing;

- c. To mandate State agencies and encourage non-governmental and community-based organizations to become active participants in providing services and programmes to children;
  - d. To protect the rights of the child in keeping with international instruments and protocols to which Jamaica is a party;
  - e. To empower communities to take a more active role in dealing with child offenders who show antisocial behaviour; and
  - f. To reduce the number of children who are institutionalized in lockups and correctional centres due to minor criminal offences
8. In keeping with the Act, the following integral activities have already been undertaken to implement the Programme:
- Establishment of the Child Diversion Office (CDO) and appointment of public officers (Section 4);
  - Thirteen Child Diversion Committees – one for each parish (one committee for the parishes of Kingston and St Andrew) (Section 6) finalized;
  - Establishment of a National Oversight Committee (Section 8); and
  - Establishment of a Mentorship Programme (Section 16).

#### **CHILD DIVERSION OFFICE**

9. The function of the Child Diversion Office (CDO) is primarily, in consultation with the National Oversight Committee and the Child Diversion Committees to: advise the Minister of Justice on matters of policy relating to children in conflict with the law and child diversion; monitor the operation of child diversion in the justice system and the supervision of child diversion programmes; and where children are referred to the Child Diversion Committees, the CDO is required to develop, approve, administer and supervise child diversion programmes and other programmes for the prevention of child delinquency and for rehabilitation of children in conflict with the law based on the evaluation, knowledge, advice and recommendations of the Child Diversion Committee of each parish.
10. The current staff of the CDO includes a Child Diversion Consultant, Child Diversion Coordinator, Clinical Psychologist and fourteen (14) Child Diversion Officers assigned by Parish to facilitate and treat with the referrals expected in the child diversion processes to be carried out in the Programme. These fourteen Child Diversion Officers work from either an independent Child Diversion Office in the Parish or from the Parish Justice Centre which includes the Child Diversion Office (see **Appendix 1** for list of Address and Contact information for each Parish Office).

#### **The National Child Diversion Oversight Committee (NOC)**

11. The National Child Diversion Oversight Committee NOC was established to monitor and report to the Minister of Justice on the implementation of child diversion in Jamaica; review compliance with the provisions of the Act, and advise and make recommendations to the

Minister on child diversion and treatment generally of children in conflict with the law. The NOC, which was recently approved by Cabinet, comprises the following persons:

- (a) Mrs Sancia Bennett Templer, Permanent Secretary, Ministry of Justice (**Chairperson**)
- (b) Mrs Diahann Gordon Harrison – Children’s Advocate
- (c) Mrs Rosalee Gage-Grey – Chief Executive Officer, Child Protection and Family Services Agency (CPFSA)
- (d) Mrs Ruth Carey Lewis, Child Diversion Consultant
- (e) Mrs Claudeth Hamilton – Director of Juvenile Services, Department of Correctional Services (DCS)
- (f) Senior Superintendent Karina Hood, Jamaica Constabulary Force (JCF)
- (g) Dr Judith Leiba, Director, Child & Adolescent Mental Health, Ministry of Health and Wellness (MOHW)
- (h) Ms Barbara Allen, Chief Technical Director, Ministry of Education, Youth and Information (MOEYI) and
- (i) Ms Antoinette Richards, Community Development Specialist, Planning Institute of Jamaica (PIOJ).

12. The National Oversight Committee deliberately includes stakeholders from entities involved in the delivery of service to children, in order to foster linkages, policy coherence and action with their respective organizations.

#### **Child Diversion Committees**

13. Thirteen Child Diversion Committees (CDC) (one for each parish with a single committee for the parishes of Kingston and St Andrew) were also recently approved by Cabinet (see **Appendix 2** for membership composition of each CDC). The role and functions of the Committee are primarily, *inter alia*, to advise the Child Diversion Office (CDO) on all matters relating to child diversion in the parish including individual child diversion programmes and to make recommendations to the CDO for the development, administration and supervision of diversion programmes for each child referred to the CDC. The CDCs also make recommendations to the Minister and the CDO for the development of policies for child intervention programmes, prevention of child delinquency and the rehabilitation and treatment of children in conflict with the law.

14. The membership of the CDCs include, among others, education officers, guidance counsellors, persons qualified in child psychology or a registered medical practitioner qualified in child psychiatry and officers of the Child Protection and Family Services Agency (CPFSA).

#### **Other Activities**

15. Prior to the appointment of the National Oversight Committee and the Child Diversion Committees, other activities were undertaken such as collaboration and agreement with several stakeholders who have a direct role in the implementation of the National Child Diversion Programme. Consequently, Ministries, Departments and Agencies have supported the

activities under the Child Diversion Programme including the integration of child diversion in their current policies on children. In particular, the Jamaica Constabulary Force (JCF) has revised its Child Interaction Policy, to include the Child Diversion Act to ensure the process was operational at police stations across the island. The JCF was also provided with Child Diversion Referral Forms and Child Diversion Registers distributed to 180 Police Stations.

16. A Child Diversion Mentorship Programme was also developed, and 434 mentors were approved and trained across the island to give support to the National Child Diversion Programme. All Mentors were asked to complete an application form that required details including their demographic information, academic qualifications, voluntary and work experience, and character references. It also required the submission of supporting documents to corroborate the information provided. After submitting the completed application form each suitable candidate was interviewed and assessed using a standard instrument. Upon the completion of a satisfactory interview, all candidates were required to consent to background checks to ensure that those to be given access to our children were confirmed as respectable, law-abiding citizens.
17. Persons interested in becoming mentors may access the application form from the website of the Ministry of Justice.
18. The members of the Child Diversion Committees were also trained in the *National Child Diversion Curriculum* to equip them for working in the Child Diversion Programme. Over 1000 other stakeholders, such as representatives of the Jamaica Constabulary Force, the Department of Correctional Services and faith based and community based organizations, and Justices of the Peace, among others, were also sensitised under the *National Education on Child Diversion Campaign*, carried out from June 2019 to March 2020. This campaign has been stymied due to the Coronavirus Disease (COVID-19) spread and impact on the island. However, face-to-face sensitization sessions are still ongoing with the necessary physical distancing protocols being observed while the Ministry is also putting arrangements in place to provide virtual training and sensitization sessions.
19. The Child Diversion Act also requires the Ministry to establish agreements/Memoranda of Understanding (MOU) with service providers and trained counsellors, etc. that offer rehabilitation and resocialization services to children in conflict with the law. Accordingly, arrangements are being finalized with the National Council on Drug Abuse (NCDA), Women's Centre of Jamaica Foundation and the HEART/NSTA Trust. These programmes are critical to the success of the Child Diversion Programme.

## **REFERRALS**

20. The Ministry of Justice, through its Child Diversion Officers, have received referrals from the Jamaica Constabulary Force and the Courts for offences such as malicious destruction of

property, sexual intercourse with person under 16 years and simple larceny. With the appointment of the National Oversight Committee and the thirteen (13) Child Diversion Committees, the Child Diversion Office will be better able to implement rehabilitative activities for children who engage in anti-social behaviour.

**CHILDREN DEEMED TO BE “UNCONTROLLABLE”**

21. With the implementation of the Child Diversion Act, 2018, there is now a viable opportunity for appropriate treatment for children deemed uncontrollable.
22. Under Section 34 of the Act, in relation to a child brought before the Court as a child in need of care and protection under the *Child Care and Protection Act* or as a child offender or otherwise, the court may make an order under subsection (2) (in respect of the child if satisfied that it is expedient to do so. Consequently, children deemed ‘uncontrollable’ can be referred to a Child Diversion Committee for participation in a diversion programme.
23. Although being “uncontrollable” is not a child diversion offence, a Police Officer through the Clerk of Court (Prosecutor) may recommend to the Judge that a child so classified, be allowed the opportunity for rehabilitation by way of a Child Diversion Referral Order.
24. The Honourable House is asked to note the foregoing.



Delroy Chuck, QC, MP  
Minister of Justice  
July 13, 2020



**Contact Information - Child Diversion Officers**

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- 7. Mrs. Devonique Barrett-Jones**  
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**10. Ms. Donja-Lee Dacres**  
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**13. Mr. Garey Gardner**  
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- Ms Geraldine Palmer
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- Rev. Dr. Robert Daley
- Ms Callesha Braham
- Inspector Patrick Thomas
- Mrs Merlene Smith-Miller
- Mr Eric Vassell
- Mrs Cordelia Yolanda Hall-Cunningham, JP
- Mrs Judith Brown
- Mrs Alicia Bailey Malcolm

### **Saint James**

- Mr Leroy Grey, JP
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