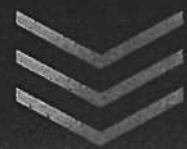




Submission to the Joint Select Committee of Parliament



Prepared by the Child Development Agency
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BACKGROUND

At the end of 2012, the child population (persons 0-18 years of age) stood a little over eight hundred and thirty-six thousand (836,000) or thirty point eight percent (30.8%) of the total population. Children born in Jamaica today have more than a 97% chance of surviving beyond age five, and almost a 100% chance of enrolling in school up to the secondary level and will go on to live on average, over 73 years. Children and their families are the main constituents served under the Child Care and Protection Act.

In 2004, the Government of Jamaica with the help of civil society organizations and International Development Partners made some progress in its effort to protect and fulfil the rights of children. Steps were taken to establish a policy framework, guided by the principles of the Convention on the Rights of the Child (CRC) and reinforced by a national commitment to the Millennium Development Goals (MDGs), several of which are either directly or indirectly relevant to the welfare and wellbeing of children.

2.1 CHILD DEVELOPMENT AGENCY

The Child Development Agency (CDA) is an Executive Agency under the portfolio of the Ministry of Education, Youth and Information with the mission to be an extraordinary organization providing quality services for children, families and team members.

The Agency's mandate is to provide care and protection to children (0-18 years) deemed in need of care and protection (specifically those children who have been abused, abandoned, neglected or experiencing behavioural challenges) by the Courts, and those who are awaiting the outcome of court proceedings. This entails investigation and assessment of children brought into care, and, the administration of programmes designed to provide a stable and nurturing living environment for the children.

The Agency delivers the following programmes and services:

1. Improving outcomes for children in State care
2. Supporting family-based child care options; Adoption, Foster Care, Family Reintegration and Supervision Order
3. Independent living programmes
4. The Licensing and monitoring of Residential Child Care Facilities
5. Investigating child abuse

6. Child Participation activities

7. Data management and research activities

As at December 31 2016 there were approximately 4,600 children in the child protection system with 58 percent being cared for under the Living in Family Environments (LIFE) Programme (i.e. Foster Care, Family Reintegration, and Home on Supervision Order placements) and the remainder of 42 percent living in Residential Child Care Facilities (Children's Homes or Places of Safety).

There are fifty-eight (58) children's homes and places of safety across the island for which the Agency has oversight responsibility. The Agency manages nine (9) of these facilities: five (5), Places of Safety¹ (1) transitional facility and three (3) Children's Homes².

2.2 SITUATIONAL ANALYSIS

A range of factors predispose children to crime and violence in Jamaica and it can be argued that this social problem is rooted in the neglect and abuse of children. At the macro level, the rights of children are often abused either willfully or through ignorance of such rights. Additionally, legislative and regulatory mechanisms are not always enforced.

- As at December 31, 2014, there was an estimated 811 200 children (412 300 boys) in the population, which represents approximately 29.8 per cent of the total population.
- The 5,612 persons who were murdered in Jamaica over the past three (3) years are fathers and mothers of Jamaican children.
- Approximately 70 percent of children have reported seen someone beaten up, and approximately 61 percent of children have seen someone being stabbed or shot.
- On average, 10 in every 1000 children are the subject of a child abuse and maltreatment report that were referred to the CDA by the OCR.
- As at December 31, 2016, 6 in every 1000 children in Jamaica reside in the child protection system. Total population is approximately 4600 children.

¹ This is temporary or short-term institutional care which caters to children who are awaiting (a) Court appearance, (b) Foster care placement, (c) Children's Home placement or (d) Home on Trial placement.

² Place of residence of a child benefiting from alternate care and are usually accommodated for an extended period. Usually these children are unable to be placed with relatives or in the Foster Care programme.

- In 2014, approximately 8,000 children and families access the services of Child Development Agency through its network of offices island-wide.
- The Child Development Agency continues to be concerned about the high levels of child abuse and neglect in the society, with over 40,000 reports of child abuse, neglect, and/or children in need of care and protection made to the Office of the Children's Registry since 2007.
- Our Mobile Mental Health Unit assessed approximately 400 children, 50% were referred for further screening which highlighted the need for psychological treatment.
- 6 in 10 children have reported being bullied with close to 70% of such action occurring on the playground.
 - The CDA, in collaboration with other government and Civil Society partners, commissioned a study to assess and identify the intervening variables that contribute to bullying. This research seeks to provide guidance to practitioners by developing profiles of both the bully and victim, developing an integrated response mechanism designed to bring awareness to the issue at a national level, and contributing to the elimination or reduction of incidents within all spaces. This is the first study of its kind in Jamaica and was initiated after the CDA conducted an internal study among children in the child protection system and found that over 70.0 percent of respondents were impacted negatively by the act of bullying or had participated in bullying.

2.3 OUR CLIENTS

The CDA offers a range of services to children (0-18 years) who are declared, by the Courts, as in need of care and protection; children remanded to Places of Safety who are awaiting the outcome of Court proceedings; and families experiencing difficulties raising their children. More specifically, the CDA caters to:

1. Children who are at risk of being or are being abandoned, abused and/or neglected
2. Children in the care of the State
3. Parents and/or guardians of children in need of care and protection
4. Children with special needs

5. Parents and/or guardians of children with special needs
6. Children experiencing behavioural challenges
7. Parents and/or guardians of children experiencing behavioural challenges
8. Foster parents
9. Prospective adoptive parents

2.4 STRATEGIC OBJECTIVES

The Agency has identified five (5) major strategic areas around which services will be coordinated and delivered to children, their families and which will guide our relationship with allied partners.

1. To safeguard children from becoming at risk through advocacy and public awareness of child rights and children's issues (**Advocacy for Children's Rights**).
2. To provide needs based intervention (s) for children who have been abused, are being abused or are likely to be abused. (**Intervention for Children at Risk**).
3. To ensure safety, security, growth and development of the children and young people entrusted to the care of the Agency.
4. To ensure the delivery of quality service through effective leadership, staff empowerment, and systems modernization (**Ensure the Delivery of Quality Service**).
5. To establish effective governance and accountability systems to ensure compliance with all relevant legislation, policies and procedures at all levels of operations. (**Effective Governance**).

2.5 PROGRAMMES AND SERVICES

In safeguarding children from becoming at risk through child rights advocacy and public education; and in ensuring the safety, security and wellbeing of those identified as at risk of neglect, abuse, trauma, disability or any other factor, the CDA delivers the following programmes and services:

1. Intake and Investigation Services

The CDA receives and investigates reports of abuse, neglect and abandonment.

2. Programme Development and Management

a. Residential Child Care Facility management / monitoring

b. Living in Family Environment

- i. **Foster Care-** A process that enables persons, who are not the biological parents of a child in residential care to raise and provide a nurturing environment for his/her physical, spiritual and emotional growth and development.
- ii. **Family Reintegration (aka Home on Trial) -** Reuniting and rehabilitating a child and his/her family, after a period of separation.
- iii. **Supervision Orders-** the Court issues an order for a child to be placed with a family member under the supervision of a Children's Officer.
- iv. **Adoption:** The legal process of transferring the parental rights of a child's biological parents to one who is desirous of creating a new and permanent parent/child relationship.

3. Placement Management

4. Court Services

5. Adoption Services

6. Case Management

7. Licensing & Regulatory Services

- a. Institution Monitoring
- b. Institution Inspection

8. Monitoring Police Lockups-

the CDA monitors all lock-ups to determine if children have been charged for a criminal offence or simply being held for suspicion of committing an offence and under what conditions they have been detained.

9. Social interaction planning (primary prevention)

10. Counselling Services

11. Overseas Investigation

2.6 RESPONSE MECHANISMS

1. Intake Services

The CDA Intake desk was established in 2004 to act as the first point of contact for clients with the Agency in matters relating to child abuse. Clients are generally referred to as any person, inclusive of but not limited to children, parent/guardian, family member, concerned citizen, prescribed person (teachers, doctors, police), and allied agencies. At the Intake Service, clients are interviewed; responses are documented on prescribed tools, and an assessment is done to determine the risk profile or severity of the matter being reported to inform the best course of action.

- The Agency received and processed approximately 3,791 cases (1,744 males and 2,047 females) at its Intake Services Desk island-wide since January 2015.
- Cases reported are either treated in office, referred to allied agencies for psychosocial interventions, investigated by the Agency and referred to the Courts for action where there is a clear case that a child, who is the subject of the report is in need of care and protection.

2. Investigation of Cases of Abuse

The Child Development Agency's Investigation Unit was established as a direct response to the need to have a team dedicated to investigating reports of child abuse from the Office of the Children's Registry (OCR). As such, the CDA's Investigation Unit was established in June 2008 with six (6) officers working out of the Agency's headquarters; focusing on the parishes of Kingston, St. Andrew, St. Catherine and Clarendon. The team was expanded in 2009 to address growing demand in St. James (Western) and St. Ann.

- CDA receives approximately 1200 cases monthly and completes approximately 1000 monthly. There are currently 3000 cases under investigation in various stages of completion with a caseload of approximately 110 cases assigned to each officer.
- At the end of March 2015, there were over 6,000 backlogged cases (cases prior to December 2014) for which the investigation process was uninitiated.
- To date, the team has been able to clear 67% of the backlogged cases; bringing the number of backlogged cases from over 6,000 cases to just over 2,000 cases.
- The Agency received over 12,000 reports from the Office of the Children's Registry for investigation between January 2015 and December 2015. The

CDA, in fulfilling its mandate provided an update to the Registry on some 11,808 cases; which comprises updates on 7,788 new cases and 4,020 backlogged cases. Efforts to further reduce the number of backlogged cases and respond to at least 75% of all new reports from within the stipulated timeframe continues.

- CDA has forged a partnership with the University of Technology to provide third year students in child development related courses to assist with investigations. We also utilized practicum students.

2. Children and Family Support Unit

The primary prevention programmes of the CDA are geared toward realizing a reduction in the number of children entering the child care and protection system. To this end, the Agency established a Children and Family Support Unit (CFSU), which directs interventions for children whose circumstances do not necessitate the involvement of the Courts. The programme demonstrates the CDA's continued commitment to maintaining children in their families.

- The CFSU provided psychosocial support and interventions for children and their families during the year in the South East, Western Regions and Southern Regions. During 2015, the team served approximately 5171 children and their families; of that number, twenty-four (24) or less than 1 % were brought before the Court for care and protection issues which mean that 99 percent of the children served were maintained in their families.
- The work of the Unit has resulted in net savings to the GOJ of over J\$123,528,000.00 per month as the intervention provided prevented the need for those children to be brought before the court for care and protection matters.
- **First Responders**
 - Provide support to families facing emergency situations eg. Fire, violence and death in the community.
- **Multi-Agency Project**

- Since the multiagency response programme begun in 2010, 98% of the over 3000 cases handled by the team stationed at CISOCA offices.

3. Psychological Assessment & Treatment of Children

The Mobile Mental Health Services and Unit (Smiles Mobile) became operational in March 2014 under a project funded by UNICEF and the European Union and have been subsumed under the operations of the CDA and is supported by the Ministry of Health and Department of Correctional Services. Since its rollout, the team has carried out psychological screening of children in children's homes and correctional centre.

- Since the start of the year, the Smiles Mobile team, comprising two Psychologists, one Social Worker and a part time Psychiatrist provided psychosocial intervention for 498 children across 10 facilities in the South East Region.
- The Smiles Mobile's team has carried out screening, assessment and intervention for close to 600 children in the South East Region.
- Over 20 children received counselling during the St. Catherine Child Protection Committee symposium. Interventions provided included screening, assessment, counselling and referrals to other relevant agencies.
- Individual and group counselling sessions conducted by the CDA Intake Services Desk amounted to close to 3,500 and 1,000 respectively. The Clinical Psychologist team provided psychological assessment and treatment of clients served for the period.

4. Child Protection Committees (CPC)

The Child Development Agency is working with a wide cross-section of civil society and government bodies towards the establishment of child protection committees at the national and parish levels. The operations have been reviewed in an effort to address certain gaps in the response mechanisms. A Dipstick Survey was done and the results are being used to guide the areas of focus for the CPCs. The Committees provide an additional

layer towards eliminating, if not minimizing, the impact of violence against children and identifying risk factors in order to put programmes in place to address these.

- There are currently six (6) CPCs in operation. The Agency achieved measured success in the establishment of Child Protection Committees in six parishes namely; St. James, Westmoreland, Clarendon, St. Catherine, St. Ann & Hanover.
- Over 110 individuals from the six (6) parishes were exposed to training on the CCPA, Child Abuse Identification and response, introduced to the Jamaica Child Protection system and the role of each partner within the Child Protection Committee framework.

5. Monitoring of the Residential Child Protection Sector

The institution monitoring function of the Agency is guided by the principles and provisions of the (a) Child Care and Protection Act CCPA; (b) the Child Care and Protection (Children's Homes) Regulations (2007); and (c) the Guidance on Standards of Care for Residential Child Care Facilities, which is developed to amplify the provisions of the Regulations; (d) the Institution Monitoring Guidelines and institution monitoring instrument, and (e) other protocols and guidelines governing action within the child protection sector, for example, Guidelines on the Management of Critical / Serious Cases, the Management of Absconding and the Administration of Medication.

Monitoring officers operate within a framework that sets out the basic guidelines regarding the quantity, frequency and category of visits to be made on a monthly basis. The framework also stipulates the method and timelines for conducting field investigations, preparation of and submission of reports. The framework also allows for the officers to track follow-up on any matter done by telephone.

There are currently six (6) Children's Officers who have been assigned the duties as an Institution Monitoring Officer. Each Monitoring Officer is assigned a specific number of homes to monitor, and a number of days per quarter for special assignments which include: training sessions, group and individual sessions with children and the investigation and

reporting of critical incidents involving children in both RCCFs and LIFE placements (children in Foster Care and Family Reintegration). The number represents a predetermined ratio taking into account time required for all other work activities including visits to the near 60 institutions and to carry out administrative functions which include the preparation of and filing of reports outlining their findings and recommendations, and to holding briefing sessions with all relevant personnel. These activities are not reflected in the monitoring report instruments.

The monitoring team is required to conduct announced and unannounced visits to sites, and participate in annualized audits and inspection. Announced or unannounced visits can also be conducted on week nights, weekend or on holidays to ascertain the following:

- To follow up on implementation of recommendations made on last visit.
- To observe physical condition of children (including signs of neglect, abuse).
- To receive & follow-up on complaints from children.
- To review & monitor records of children (periodic checks of children's files).
- To discuss with administration and staff concerns about management of care in the facility.
- To observe condition of physical plant amenities and equipment.
- To identify issues relating to standards of care which require immediate intervention and/or follow up action.
- To monitor log books such as discipline, absconding, critical incident, medical, visitors, daily admissions and discharges and investigate any matter arising.
- To report on the number of absconders (cross check with Absconding Reports).
- To report on the number of new placements.
- To report on capacity.
- To observe the level of engagement and programmatic activities being executed within the homes.

Outside of the visits to the homes, the team of six (6) Institution Monitoring Officers are required to receive, investigate, assess and record findings and to make recommendations

pertaining to critical / serious case incidents involving children in State care irrespective of their placement category.

6. Visits to Police Lock Ups and the Removal of Children from Police Lock Ups

The Agency's Officers made physical visits and on average 1001 telephone contacts to police stations island-wide to identify children in lock-ups and take actions as necessary. Some actions involve the removal of children from lock-ups, making contact with family members and facilitating the separation of children from adults. There is also the daily review of Detention and Courts lists which are received from the Jamaica Constabulary Force by the Agency.

- Removal of children from police lock-ups and to design child-friendly spaces in police lock-ups. The refurbishing and/or development of these child-friendly spaces are underway at five police lockups in the first instance.
- Collaboration between the justice, security and child protection system has strengthened the response mechanism which has seen a drastic reduction of the number of children held in police lockups. On average 11 children are in Police custody. The Child Development Agency, the primary agency in Jamaica with responsibility for child protection, continues to monitor the physical spaces and reports produced by our police on a daily basis to ensure that the rights of children who come in contact with the law are upheld.
- Between January and December 2015 the Agency's team made 1,188 visits to police stations and lockups island-wide to ascertain if children are being held at these sites, reasons, conditions under which they are being held and to intervene in instances where their rights are being violated.

7. Multi-Agency Strategic Development for Child Protection Programme

This programme comprises of agencies such as the police through the Centre for the Investigation of Sexual Offences and Child Abuse (CISOCA), the CDA, OCA, OCR, Women's Centre (being operated by CISOCA, CDA) and at least five other MDAs. This Programme, which is part of the overall mechanism to respond to the needs, reduce

incidents of re-traumatizing victims and diverting children from the Justice System, continues with a 95% success rating.

- Since the start of the year, over 754 children were served in the parishes of Clarendon, Manchester, St. James, Westmoreland, Hanover, Kingston and St. Andrew. Of the 754 children served, over the period, 98 percent or 739 children were maintained in familial setting while intervention into their matters continued.

8. Adoption Services

Since January 2016, persons wishing to adopt a child now access application and instruction forms via the CDA website (www.cda.gov.jm). Applications are sent to a centralised office; the Adoption Unit. A project team was assigned to clear case backlog for the period 2012-2014. Additionally, adoption officers who review case filed to determine availability of children (0-8 years for adoption and children in foster care placement for over 2 years).

The Unit monitors social case involving babies in hospitals to ensure placements are done through the Adoption Unit. The Unit also monitors children 0-5 entering State care since April 1, 2014 to ensure best possible placement option is determined as well as develop database for matching children with applicants to ensure fairness and transparency.

As at June 2016, 52 children were identified as available for adoption and are currently being processed for placement with suitable families.

9. Foster Care

The Foster Care programme falls under the Agency's Living in Family Environment (L.I.F.E) programme. There are currently 700 foster homes and 800 foster children.

10. Child Case Management System (CCMS)

This project entails the customization, configuration and roll-out of the CCMS throughout the CDA. The project is being undertaken in 3 phases. Each phase incorporates a different set of functionalities and are structured according to the CDA's business areas as detailed in the project Phases.

Phase 1-Core production configuration (Person, Organization, Security, Administration tools, Case Management), CDA Intake/Investigation, Adoption Services etc.

Phase 2- Integrated case management, placement, foster care services, court services (basics for all orders), general reporting etc.

Phase 3-Court Services (full functionality), Counselling etc.

Phase 1 iterations 1 and 2 have been completed with Phase 2 being initiated in May 2016. The first iteration of Phase 2 is scheduled to be released in October 2016, and the second iteration in December 2016.

11. Transitional Living Project

Every year, approximately 700 young people are discharged from Jamaica's child protection system. Of this number, about 290 youth actually age out on attaining 18 years. Most youth are not confident about their readiness to exit care and do not make a successful transition into adulthood.

The TLP-CSC aims to improve the transition to independent living for Jamaican youth leaving residential care at 18 years, and reduce the risk factors such as unemployment, involvement in crime, substance abuse, teenage pregnancy etc. associated with low education or job skills, inadequate life skills, and poor self-image.

A six-year transitional living project to include: life skills training, vocational skills training, mentoring and the creation of safe and appropriate transitional living facilities.

The Expected outputs:

1. A Memorandum of Understanding between The University of the West Indies and the Child Development Agency (CDA) for the sustainability of the programme.
2. Needs assessment to inform the development of the exit-readiness programme.
3. A procedural manual and protocol for preparing youth in State care for independent living
4. 40 CDA Officers trained as Trainers in Life skills.

5. 500 caregivers equipped by Life skills Trainers with techniques in life skills coaching.
6. 900 youth in State care exposed to life skills coaching.
7. 700 youngsters in State care trained in a vocational skills training programme.
8. 46 females and 46 males- ages 18-21 years accommodated in safe and appropriate transitional housing complexes for a maximum of two years and provided with mentoring.
9. Provision of employment for 92 youngsters, through a network of public and private companies.
10. 400 youngsters provided with “starter-kits” to facilitate exit preparedness.
11. A longitudinal study of the outcomes of 92 young adults who are housed in the independent living facilities compared with 92 matched young adults not housed in the facilities.
12. 45 youngsters in receipt of scholarships in continuing education from The University of the West Indies Open Campus.

Sensitization sessions were carried out in the North East and Western Regions. 239 children sat the HEART/NTA Diagnostic Test; 100 children qualified for direct admission into their programme of choice while 129 qualified for placement in pre-tech programmes. The remaining 14 children were assessed to be at the remedial level and require further intervention.

2.7 LEGISLATIVE AND POLICY FRAMEWORK

- Review of Child Care and Protection Act (CCPA)

The papers outlining the recommendations for amendments were updated to reflect the inputs from the National Consultation and the over fourteen written submissions received from stakeholder groups.

- Review of the Adoption (Children Of) Act will create harmonization with more new legislations such as Trafficking in Persons Act.

National Consultations were held and policy documents were submitted to the Ministry of Education, Youth and Information for the following policies:

- National Plan of Action for Integrated Response to Children & Violence

- National Framework of Action for Children (NFAC)

2.8 RECOMMENDATIONS TO THE LEGISLATIVE CHANGES

1. Child Care and Protection Act

a. Clarifying the institutional mandate of the Child Development Agency

▪ Mandate of the CDA

CCPA does not give a mandate to CDA. CDA needs expanded capacity (in law/policy and in human resources) to develop and monitor child care and protection protocols utilised by other entities, including Department of Correctional Services and JCF, whose core mandate does not directly cover child care and protection issues. This requires CDA to have access to children in JCF and DCS care, as well as the need for Standards Development and Quality Management functions and positions in CDA, to guide child care and protection standards across government.

Summary of Recommended Legislative Changes:

- Name the Agency responsible for the care and protection of children.
- Include a new Section and Schedule to the Act outlining the mandate of the agency with responsibility for the care and protection of children. This include children in:
 - i. Residential Care Centres;
 - ii. Places of Safety;
 - iii. Foster homes;
 - iv. the custody of Jamaica Constabulary Force
 - v. Any other facility having the care or custody of a ward of the state.
- Amend *Section 67* to have the police inform the Office of the Children's Advocate (OCA) where a child is apprehended; as well as prescribe the course of action to be taken by the Advocate.

b. Improving the Institutional and Legal Framework for Children in Conflict/Conflict with the Law

Summary of Recommended Legislative Changes:

- Justice Sector Reform Initiative submissions on child friendly courts to be re-visited and implemented in a timely manner;
- Development of Schedules to the Act specifying standardized terms, conditions, timeframes and implementation arrangements to be attached to orders under Section 76 of the Act (to be subject to judicial modification). For example, Orders such as Curfew Orders and Community Service Orders have no regulatory framework for monitoring by the requisite personnel;
- Expansion of Section 76 to include diversion orders;
- Implementation of Cabinet Decision No 30/13 dated 12th August 2013 on amendments to sections on the treatment of the ‘uncontrollable child’;
- Expansion of Sections 21 and 22 to include a procedure for conveying information on court-ordered tests to an affected child;
- Development of a Schedule to the Act that sets out steps for reintegration of child offenders at the end of a correctional order.

c. Strengthening the Institutional Framework for Children in Families

Summary of Recommended Legislative Changes:

- Development of a Schedule and/or Orders appended to the Act outlining procedures and enforceability mechanisms by which parents of children brought before the court may be held accountable to their parental duties;
- Include and define Foster Care as an alternate care for children in keeping with the United Nations definition of alternate care;
- Strengthening fines and penalties attached to parental neglect;
- Development of Schedules to the Act that specifies timeframes, terms, conditions and implementation arrangements regarding a Fit Person Order – including procedures for the termination of parental rights in relation to children on Fit Person Orders for extended periods.

d. Improving the Care and Protection of Children with Special Needs (Mental and Physical) & Development Needs

Summary of Recommended Legislative Changes:

- Include in *Section 2* the definition of children with disabilities adopted from the Disabilities Act;
- Add to the orders available under *Section 76*, orders supporting drug rehabilitation of child offenders addicted to banned, controlled and other behaviour-altering and/or addictive substances.

e. Strengthening the Prohibitions regarding Child Labour, Exploitation and Exposure

Summary of Recommended Legislative Changes:

- Amend *Section 28* to require parents to keep children in school to the age of 16 OR such later age as the child completes compulsory education as prescribed by the Minister responsible for Education;
- Amend *Section 34* to increase the age at which children are protected from full engagement in the labour force from 15 to 16;
- Define employment for the purposes of child labour. This definition should take into consideration situations where:
 - i. a child is an employee or an independent contractor in both for profit and not for profit organization; or
 - ii. in a business, trade or occupation carried on for profit under any arrangement whether or not the child receives payment or reward for performing that work;

Family Business Exemption - Parents employing their child in a family business are not to be required to observe the general conditions of employment relating to age restrictions, written contract and hours of work, including rest breaks. However, these parents are required to directly supervise their children and to observe the restrictions relating to:

- Light and hazardous work
- The performance of work during school hours
- Adjust the definition of child trafficking in *Section 10* to align same with the

Trafficking in Persons (Prevention, Suppression and Punishment) Act;

- Amend Sections 33 and 34 to include harsher penalties for the worst forms of child labour, such as child prostitution and the engagement of children in illicit activity (to include in Section 25 a definition of ‘illicit activity’ that captures recommendations from the International Labour Organization);
- Define Hazardous Work under Section 25 and include a definition of Light Work, both based on guidelines developed by the ILO; Light work to be defined along the lines of work or other activity that:
 - (i) is not likely to be harmful to a child’s health or safety, moral or material welfare or development; and
 - (ii) is not such as to prejudice the child’s attendance at school or his/her capacity to benefit from instruction.
- Define artistic performances and develop as a Schedule to the Act, a standard form for the application and issuance of artistic permits that incorporates terms, conditions, timeframes and penalties for breaches thereof;
- Include in Sections 33, 34 and/or regulations under the Act, requirements for standards to be developed by the Ministry of Labour and Social Security (guided by ILO standards) with regard to the engagement of children in sports and cultural activities, family-run businesses and enterprises and other types of organized activity that is excluded from the child labour prohibitions;
- Include in the CCPA the mandatory removal of children living or working on the streets and placement of such children in Places of Safety;
- Expand s.40 to incorporate in the prohibition against exposure of children to tobacco products, a definition of ‘tobacco products’ that matches the Public Health (Tobacco Control) Regulations of 2013 and related requirements, such as the prohibition of smoking in licensed children’s homes, Places of Safety and any space in which a child is in custodial care or is a ward of the state.

f. Strengthening Mechanisms for mandatory reporting

Summary of Recommended Legislative Changes:

- Clarification of duty to report in Section 6 to state that nothing in the section shall prohibit a prescribed professional from fulfilling other duties of care and/or providing services to children, provided same is done in good faith and in the best interests of the child, for example; *New South Wales CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 SECT 29A puts it thus:*

“For avoidance of doubt, it is declared that a person who is permitted or required by this Part to make a report is not prevented, by reason only of having made that report, from responding to the needs of, or discharging any other obligations in respect of, the child or young person the subject of the report in the course of that person’s employment or otherwise.”

- Amend Section 6 to include in the list of prescribed persons Coaches, Attorneys, Ministers of Religion and Police Officers;
- Expand Section 7 to add an emergency response requirement within the duties of the OCR that involves immediate notification of the police and any emergency response mechanism that is put in place by the CDA from time to time (to include circumstances in which the removal of a child from danger is immediately warranted and allegations regarding sexual offences where the preservation of evidence requires an immediate response).

2. Sexual Offences Act

▪ Section 9 - Sexual Grooming

Sexual grooming' is defined as the process by which a person befriends a child to gain his or her trust and to create a situation whereby the child will allow the perpetrator to have sexual contact with him or her and will not tell anyone of it.³

The wording of the offence in Jamaica’s Sexual Offences Act, largely mirrors that in the United Kingdom’s (UK) statute. The Offence in the UK’s 2003 statute is a response to

³ Internet Grooming: the New Law by Alisdair A. Gillespie, Acting Principal Lecturer in Law, University of Teesside, ChildRIGHT, March 2004.

growing concerns about sex offenders approaching children over the internet. Hence, Section 15 of the Sexual Offences Act 2003 (UK) reads as follows:

1.1.1.1 Section 15 (UK)

(1) A person aged 18 or over (A) commits an offence if—

(a) (A) has met or communicated with another person (B) on at least two occasions and subsequently—

(i) A intentionally meets B,

(ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or

(iii) B travels with the intention of meeting A in any part of the world,

(b) A intends to do anything to or in respect of B, during or after the meeting mentioned in paragraph (a)(i) to (iii) and in any part of the world, which if done will involve the commission by A of a relevant offence,

(c) B is under 16, and

(d) A does not reasonably believe that B is 16 or over.

(2) In subsection (1)—

(a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world;

(b).....

(c).....

In Jamaica's legislation, Sexual Grooming in Section 9 reads thus:

S. 9.-(1) An adult commits an offence if-

- (a) *having met or communicated with a child on at least two earlier occasions, he or she--*
 - (i) *intentionally meets the child; or*
 - (ii) *travels with the intention of meeting the child in any part of the world;*
- (b) *the child is under the age of sixteen years; and*
- (c) *at the time of the meeting or travel, he or she--*
 - (i) *intends to do anything to or in respect of the child, during or after the meeting, in any part of the world, which, if the act were done in Jamaica, would amount to the commission by any person of a sexual offence under this Act; and*
 - (ii) *does not reasonably believe that the child is of or over the age of sixteen years.*

However sexual grooming is not restricted to online behaviour. Our legislation therefore needs to speak to other prevalent acts which can constitute sexual grooming. For example, adults encouraging children to watch pornography or live sexual acts. In the UK as well as Caribbean jurisdictions such as in Guyana's Sexual Offences Act section 12, this issue is addressed. In ***Guyana's Sexual Offences Act***, the offence is that of "Causing a Child to Watch a Sexual Act" and is worded thus:

- 12.--(1) *A person ("the accused") commits the offence of causing a child to watch a sexual act if the accused causes a person, who is under sixteen years of age ("the complainant"), to watch the accused or a third person engaging in a sexual activity or to look at an image of a person engaging in a sexual activity.*
- (2) *A person who commits an offence under subsection (1) is liable on summary conviction, to a fine of one million dollars and to imprisonment for five years and on conviction on indictment, to imprisonment for ten years.*

- (3) A person ("the accused") is not guilty of an offence under this section, if the accused acts for the purpose of –
- (a) protecting the complainant from a sexually transmitted infection;
 - (b) protecting the physical safety of the complainant;
 - (c) preventing the complainant from becoming pregnant; or
 - (d) promoting the complainant's emotional well-being by the giving of advice, and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

It is to be noted that Guyana's legislation protects persons who act in good faith.

2.9. CHALLENGES

1. There is paucity of knowledge about child care and protection rights in Jamaica;
 - CDA to share information with the public using print and electronic media and engage stakeholders in educational fora in school, community and in other settings.
2. Inability of parents to take care of/accept children due to socio-economic factors affecting the families;
 - To meet the needs, the Agency continues to engage NGOs and other partners such as Child Guidance Clinics to provide counselling support and forge partnerships with other stakeholders to provide support for children and families.
3. Increase level of violence against children and other maltreatment have placed a strain on the resources, which impact the capacity to respond in a timely manner;
4. Limited remand space especially for girls;

5. Fewer persons opening homes and hearts to participate in the foster care programme has slowed the pace on the number of children being placed in a familial environment;
6. Severe human resource constraints-quality and quantity of capacity in Residential Child Care Facilities;
 - A Multi-Agency Strategic Development for Child Protection Project has been developed with key partners in the child protection system namely CISOCA, CDA, OCR, Victim Support Unit, Women's Centre and OCA to respond to needs of children who are the victims of abuse. Its aim is to reduce incidents of re-traumatization while coordinating intervention which keeps the best interest of the child at the forefront of all action.
7. Unavailability of treatment facilities to assist in the delivery of evaluation, intervention and psychosocial treatment of children. These facilities would offer an array of coordinated multi-level services such as: Acute trauma treatment, specialized evaluations, individual therapy, cognitive and behavioural modification etc.;

 - Pursue opportunities that will enable us to establish relationships with NGO groups will provide counselling interventions at no cost for children in State care.

8. Increase in the number of cases of child abuse in comparison to the ratio of investigators to report in a timely manner;
 - The Investigation Unit comprises of a Manager and 10 Officers. The Agency will continue utilising practicum students to reduce the number of cases
9. Lack of Services available for children with Special Needs;
10. Change in personnel across MDAs have slowed the pace of discussions to formalize relationships necessary to ensure ease of access to services.
11. **Case Management System**
Need for common, integrated case management system that can track a child throughout the government system, beginning with a report and moving through

the investigative and court phases. Intake and assessment systems across state entities (DCS, JCF etc. should capture common information and use interchangeable platforms, so that similar issues can be tracked).

12. JCF Support

Need or enhanced coordination between CDA and JCF at parish/regional and HQ levels. Need for assigned child care and protection resource officers (similar to School Resource Officers) who are available to accompany investigative teams and execute constabulary powers in an emergency situation.

13. Expansion

Expansion of Residential Child Care Facilities with designated spaces for high-security cases, Therapeutic Centres and other special mechanisms for dealing with children in conflict or contact with the law.

14. Introduction of Emergency Foster Carers

Introduction of emergency foster carers, who can receive special subventions to take in children in need of care and protection as an alternative to a place of safety.

15. Reporting of Critical Reporting System

Standardised Critical Incident Reporting System across all state entities (CDA/DCS/JCF)

16. Foster Care Regulations

Improvements to Children's Homes Regulations to improve implementation (including programming standards, educational guidelines etc. and special standards of care for children with disabilities) and add sanctions and penalties for non-conformity.

17. Special Task force

Special Task Force needed to reduce backlog of CDA investigations, especially investigations into sexual abuse allegations. Should include social workers, psychologist, police investigators and legal support).

18. Multi Agency mechanism

Multi-Agency response mechanism needed for removal of children from streets and markets. Should include resources and arrangements for transportation, housing, rehabilitation and reintegration.

19. Timeframe for Reports

Call again for statutory duties to be imposed on OCA, OCR and CDA providing minimum timeframes for responding to or referring reports.

20. Emergency Reporting – Extended Hours

Development of an Extended Hour Emergency Reporting and Response Mechanism, with amended procedures for handling a case that involves a serious and probable risk to a child. This should involve response teams in both the JCF (CISOCA) and the CDA, and should be equipped for off-hours deployment. This can be the default mechanism for handling any report that requires immediate intervention in order to save the life of a child, and should have teams in all regions. With staffing from the JCF, a team should be equipped to facilitate the removal and rescue of children, as well as the arrest of apparent perpetrators.

2.10 AGE OF CONSENT

This is defined as the age at which a person is considered legally competent to consent to actual sexual acts, and is this the minimum age of a person with whom another person is legally permitted to engage in sexual activity.

Age varies in several countries:

- 12-18, Canada
- 16, US
- 15-18, India

Legal restrictions on sexual activities up to the age of 18 years.

2.11 RECOMMENDATIONS FOR AN IMPROVED CHILD PROTECTION SYSTEM

1. National First Responders System-a centralized mechanism with all major partners that would cohesively to tackle reported cases of child abuse.
2. The Centre for the Investigations of Child Abuse to be expanded to all parishes as a full service hub.
3. A 24 hr Call Centre designed to record reports of child abuse.
4. A Therapeutic Centre to provide therapeutic Intervention (psycho-social screening, assessment, treatment and referrals) for children who are deemed to be exhibiting mild to severe behavioral problems and mental health deficiencies will be provided within a medium or semi-secured environment with the focus on safety and emotional healing and resiliency rather than incarceration. The court would be given the mandate to refer children and set the time frame for involvement with the Therapeutic Centre after an assessment by a government psychiatrist/psychologist. This would replace Section 24 of the CCPA to be a Care Order.
5. Mental Health Facilities for Children- levels and types of facilities to house children in difficulties. The differentiation between children high risk behaviours. The court would have this mandate under Section 24 but another subsection that refers to children with mental health to be committed to a hospital pursuant to Section 9 of the Mental Health Act.
6. Coordinated Response to sexual and reproductive health among adolescents to include age appropriate information and counseling support.