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Dr. Santiago Canton  
Executive Secretary  
The Inter American Commission on Human Rights  
1889 F St., NW, Washington, D.C.,  
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Dear Dr. Canton,

**Re: Hearing on the Protection of the Children in the Custody of the Jamaican State**

Jamaicans For Justice has the honour to provide to the Commission the following detailed response to the Government of Jamaica document titled '**Position of the Government of Jamaica**' presented to the Commission at the hearing on November 3, 2009. We hope it will prove helpful to the Commission as it considers this issue.

**Introduction**

The Government of Jamaica (GOJ), in its submissions to the Commission, repeatedly states its commitment to the rights of children under the Conventions they are bound to uphold (including the American Convention on Human Rights and the Convention on the Rights of the Child). Jamaicans For Justice (JFJ) does not doubt the GOJ has a 'well-intentioned' desire to comply with international standards and uphold its obligations under these various instruments. The facts, however, indicate that these obligations are not being fulfilled in the State's childcare system. This is highlighted by deaths of **seven (7)** children at the Armadale Juvenile Correctional Facility and many other incidents where the rights of children continue to be violated.

**Abuse**

In its response to the concerns of physical, peer and sexual abuse and the general welfare of children in the care of the State, the GOJ's report indicates that there is an effort to eliminate incidents of institutional abuse by reducing the number of children in the childcare system by **thirty percent (30%)** in three (3) years. This goal is included in the CDA's 2009-2012 Corporate Strategic Plan. While JFJ sees this goal as admirable, this is an endeavour that will require increased monitoring of children returned to their families and of those who are placed in foster care. With the existing deficiencies in the CDA's ability to effectively monitor and address situations of abuse through its monitoring and reporting system, the abuse of children would not be limited or eliminated by simply transferring them out of children's homes.

**JUSTICE, TRUTH BE OURS FOREVER**

Further, in its submissions the GOJ makes reference to the Serious Case Review Panel which is reported to have reviewed twenty three (23) cases during the period April 2008 to March 2009<sup>1</sup>. This panel is reported to be an independent body established to review cases of child deaths with plans in place to expand its role to include the review of incidents of sexual abuse. The existence of this panel was unknown to JFJ and many of the other Non – governmental (NGO) groups in Jamaica which have been concerned with children’s rights. Documents obtained through an Access to Information request show the formation of the panel in 2004 but do not indicate the terms of reference of the panel. From the documentation received, the panel appears not to have functioned between 2004 and 2008. It appears that the panel considers only those cases referred to it by the CDA and we are unclear as to whether it does any independent assessments.

JFJ is in the process of appealing the heavy redaction of the minutes of the sittings of the committee, which redaction makes it impossible to assess the reasonableness of committee’s findings and recommendations. Additionally, we are unable to ascertain if any implementation of its recommendations has occurred.

This level of opacity in the existence and functioning of the Serious Case Review Panel and the absence of clarity on the implementation of its recommendations is likely to ensure that it functions sub optimally in reducing the incidences of abuse of the Children in the care of the State.

#### **MONITORING AND REPORTING**

JFJ has found the monitoring and reporting system of the CDA to be inefficient and inadequate resulting in a lack of proper identification, follow-up or corrective action for critical incidents occurring in State facilities.

A primary example is the GOJ reported “no signs of neglect or abuse” by monitoring officers during 2008/2009. This is contradicted by the GOJ’s own documents obtained through an access to information request..

Information contained in monitoring reports obtained by JFJ, clearly indicate cases of physical and sexual abuse occurring and documented by the CDA’s own monitoring officers. JFJ maintains that the entire monitoring process is flawed and is failing to prevent and effectively deal with abuse and neglect occurring in the Children’s Homes and Places of Safety across the island. Perhaps even more significantly, the monitoring that is being done appears to be effecting little, if any, change in the ongoing exposure of the Children in the care of the State to unacceptable and abusive conditions.

The CDA must be urged to ensure that bureaucratic systems and paper trails are used to ensure the protection of children, not as ends in themselves. They must also be urged to ensure the accuracy of their reporting of problems and issues, both locally and internationally.

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<sup>1</sup> Child Development Agency, *Child Protection – A New Vision: Practical Initiatives to Improve Services to the Vulnerable: Gateway – Keeper* March 15, 2007 (updated June 1, 2009)

### **Security**

While the GOJ reports that planned review of security management at children's homes remains incomplete, **three (3)** Monitoring reports, in the space of **one (1)** month, from the Windsor Girls Home in St. Ann report that security guards were allowing men onto the compound to see the girls and that men were hanging around outside the girls dormitories. The serious and potentially criminal inadequacy of security at this home is a long standing problem, and possibly replicated in other homes. It is noteworthy that this particular security issue at the Windsor Girls Home has been a recurring concern of JFJ's and has been reported on in its reports of 2004/2005, 2006 and now its 2009 report.

The JFJ believes this is another clear sign of inadequate systems, ineffective actions, neglect and possible criminal negligence occurring at the Children's homes while "planned" reviews remains incomplete and effective action is NOT taken

### **Overcrowding**

The committees that the GOJ lists as charged with the responsibility of completing oversight on the problem of overcrowding in children's homes, the "*Situation Room Committee*" and the *National Framework of Action for Children* seem to be more of the same promises from the government without the necessary action.

JFJ maintains that plans and Frameworks are not Action. **Seven (7)** children died in overcrowded and abusive conditions in the period 2008. The matter is too urgent to admit of **three (3)** year mandates and more committees. Germane to this point is the fact that 'The National Framework of action for Children' has been in existence since at least 2006<sup>2</sup> and failed spectacularly to prevent the tragedy at Armadale and the abuses documented in the 2008-09 period in the Children's Homes.

### **Armadale**

Armadale Commission of Enquiry

After the Armadale tragedy, the Prime Minister ordered the closing of the facilities and immediately commissioned a Commission of Enquiry into the circumstances of the fire. While JFJ commends the investigative efforts, the commission was not *required* to make and submit recommendations from its findings. It was reported on the 27<sup>th</sup> January, 2010 that the report of the Commissioner is now complete and has been handed to government officials. It has not, however, been made public.

### **Improved Facilities**

The GOJ says in its report "the wards at Armadale were relocated to the Diamond Crest Villa which has since been declared by the Minister of National Security as a Juvenile Correctional Centre."<sup>3</sup> What the GOJ does not include, however, are **two (2)** essential aspects to this admission, which are that the rooms contain **three (3)** bunk beds to accommodate a total of **six (6)** girls in each room and the fact that some of the girls from Armadale were transferred to adult detention centres, including the Fort Augusta

<sup>2</sup> UNICEF Jamaica, *Social Investment for Children Initiative Launched in Jamaica*, available at [http://www.unicef.org/jamaica/media\\_3954.htm](http://www.unicef.org/jamaica/media_3954.htm) (last visited January 7, 2010).

<sup>3</sup> Government of Jamaica, *supra* note 1 at 7.

Women's Prison, and the Horizon Adult Remand Centre, where they remained up until recently.

The girls who have been placed in adult centres are NOT better off for having been placed there.

Additionally, a November 1, 2009 (one day before our hearing before the Commission on November 2, 2009) newspaper article<sup>4</sup>, discussed the GOJ's plans to gazette the Diamond Crest Villa as a correctional facility, but made clear that such plans were unclear. "Commissioner of Corrections June Jarrett was reluctant to divulge any details of the plans for the Diamond Crest Villas, except to say "certainly we are interested, but I cannot give any more further information until I have discussed it with the ministry"<sup>5</sup>. This newspaper report does not seem to fully support the GOJ claim that Diamond Crest is now a juvenile correctional facility. As of January 7, 2010 Diamond Crest is not listed as a juvenile correctional centre.<sup>6</sup>

#### **Training of Staff**

JFJ questions the "level" of training received by staff assigned to the day to day care of our children, many of which children have been removed from situations of abuse, family breakdown and deprivation. We would respectfully request that the Commission ask for details of the training courses, including duration, course outline and qualifications of those delivering same to ensure that the 'training' is likely to be adequate and effective.

This necessity for the need for clarity on the specifics of the training became evident at the Commission of Enquiry in to the circumstances of the Armadale fire. There testimony under oath revealed that the sum total of the 'training' to prepare to care for the children at Armadale received by **one (1)** correctional services officer was a half day workshop.

#### **Behaviour Modification Programme**

The GOJ's refers to the 'successful implementation' of a Behaviour Modification Programme called *Hush the Guns* at the Diamond Crest and Rio Cobre Juvenile Correctional Centres and claims the programme includes, "areas such as staff control, relationships and managing emotions..."<sup>7</sup>

*Hush the Guns* was not implemented in response to the Armadale tragedy. Contrary to what is implied by the GOJ, Hush the Guns has been in existence since 2005 and is a Joint NGO-GOJ programme between the Griffin Trust, From Boyhood to Manhood Foundation of UK, Department of Correctional Services, Heart Trust, National Youth Service and the Jamaica Business Development Centre. The current MOU between the

<sup>4</sup> Alicia Dunkley, *Armadale Girls Find Permanent Home?*, THE JAMAICA OBSERVER, Nov. 1, 2009, available at, [http://www.jamaicaobserver.com/news/html/20091101T220000-0500\\_162980\\_OBS\\_ARMADALE\\_GIRLS\\_FIND\\_PERMANENT\\_HOME\\_.asp](http://www.jamaicaobserver.com/news/html/20091101T220000-0500_162980_OBS_ARMADALE_GIRLS_FIND_PERMANENT_HOME_.asp) (last viewed on Nov. 12, 2009).

<sup>5</sup> *Id.*

<sup>6</sup> Department of Correctional Services, *Administration – Juvenile Correctional Centres*, available at <http://www.dcsj.net/dcsj/juveniles.htm> (last viewed on January 7, 2010).

<sup>7</sup> Government of Jamaica, *supra* note 1 at 8.

parties was signed on January 9, 2008. The programme is targeted at **three (3)** groups in particular: (1) children 12yrs to 18 years in **two (2)** juvenile correctional facilities, (2) young people 18yrs to 30 yrs in 2 adult correctional facilities and **three (3)** to children and young people aged 12 to 30 yrs on Probation Orders in the Kingston and St. Catherine areas.

It is to be noted that there is no Staff control element to the programme whose stated objective is “to reduce re-offending rates, anti-social behaviour, crime and violence in male and female young offenders through sustainable provision of social, vocational and entrepreneurial skills, enabling them to become productive”<sup>8</sup>

#### **Task Force on Child Care Facilities & Implementation of National Plan of Action**

The GOJ reports that the Task Force on Child Care Institutions established by the Prime Minister, has completed its plan. The GOJ also reports that an October 2009 mandate from Cabinet required the immediate implementation of the National Plan of Action on Child Justice which it is said has addressed a large number of the concerns raised by JFJ.

While the JFJ applauds any effort to implement any plan that will significantly improve the situation of children in the custody of the State, the question of who will be held accountable for whether the plan works remains. JFJ eagerly awaits the unveiling of specific actions and timelines for the implementation of these plans. Given the current financial crisis, effective implementation appears again to be some time away.

#### **Establishment of a National Inspectorate for Correctional Institutions**

The GOJ is “currently considering establishing a national inspectorate for Correctional Institutions.”<sup>9</sup> JFJ notes again that intentions and plans, worthy though they might be, are NOT concrete action. We also urge the Commission to ask what the relationship would be between this ‘national inspectorate for Correctional Institutions’ and the inspectorate division of the Correctional Services and the inspections unit of the Ministry of National Security, both of which already exist and are staffed, and failed so spectacularly to ensure standards of facilities and care for children in the care of the state at Armadale.

#### **Conclusions**

JFJ would wish to believe that the CDA is committed to adhering to local and international laws and treaties. However, for far too long that agency has been promising to correct problems and to institute plans to prevent abuses, without making a measurable improvement in the flagrant instances of illegality and substandard care (including keeping children in police lock-ups and continued reports of physical and sexual abuse) within the State’s childcare system. The CDA is guilty of ineffectualness and ineffective and inefficient operation, which by itself would be evidence of the need for reform. The events of Armadale have shown that this ineffectualness has potentially deadly consequences for children in the care of the Jamaican State.

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<sup>8</sup> Project purpose Statement, *Hush The Guns Project Draft Log Frame and Action Plans*, p. 4.

<sup>9</sup> Government of Jamaica, Special Report Submission to the IACHR in Response to Report filed by JFJ, October 12, 2009, at p. 10.

Good intentions, hopes and desires will not alleviate the suffering of Jamaican children who are in the care of the state. Decisive, committed and urgent action is needed now for Jamaica to fulfill its obligations under local and international laws and for our children to be protected.

Yours sincerely,

**JAMAICANS FOR JUSTICE**



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Dr. The Hon. Carolyn Gomes, OJ  
**Executive Director**