

**THE OFFICE OF THE
CHILDREN'S
ADVOCATE**

**ANNUAL REPORT
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TABLE OF CONTENTS

1. Introduction and Overview	3
2. Mandate of the Office of the Children’s Advocate	5
3. Situation Analysis	6
4. Policy Recommendations	8
5. Achievements	13
I. Legal Representation & Court Work	13
II. Review of Services	15
111. Policy Advice	17
IV. Public Education	21
V. Consultations	21
VI. Investigations and Response to Complaints	22
VII. Analysis of Cases Received by the OCA.....	23
5. Conclusion	24

1. INTRODUCTION & OVERVIEW

The Office of the Children's Advocate (OCA), a Commission of Parliament, was created under the Child Care and Protection Act in 2004 and the first Children's Advocate was appointed in January 2006. The Advocate assumed her position in February 2006. The mandate of the OCA is the protection and enforcement of the rights of children.

The rights and best interests of children are severely challenged by the erosion of traditional values and attitudes, the breakdown and weakening of family structures, poor and non-existent parenting practices, inadequate support services and at times, lack of timely responses to the plight of children., the incidence of poverty, crime, abuse and violence.

The OCA's vision and mission statements reflect its work to see that the rights of children are protected and enforced and their best interests upheld and encapsulate the desire that rights and best interests and reality must become one in the near future.

VISION

Children in Jamaica enjoy the protection of their rights and consideration of their best interests at all times.

MISSION

To promote the safety, best interests and well being of children and to promote, protect and enforce their rights.

The first focus for 2006-2007 was to establish the Office of the OCA. At its inception in January, 2006, the Office was temporarily housed at 60 Knutsford Boulevard and then at 4 Seatonhurst Avenue, Kingston 5. Permanent residence was found on the 31st May, 2006 on the Ground Floor of the Air Jamaica Building, 72 Harbour Street, Kingston.

Occupancy at the Air Jamaica Building facilitated the expansion of staff at the OCA. The staff complement increased to fifteen (15) persons by the 31st December, 2006.

The Children's Advocate along with her staff express appreciation for the opportunity to serve in this way and the privilege to be responsible for the initial shaping and moulding of this important independent office for children. Expectations that children's rights will be protected are very high and have increased with the establishment of the office.

Support from the public and media is also appreciated especially as it provided the OCA with the opportunity to have a public voice on its role and functions and on many issues impacting the rights of children.

Special mention must be made of the contribution of UNICEF, the Ministry of Health and the Child Development Agency (CDA) in the establishment of the OCA.

2. MANDATE OF THE OFFICE OF THE CHILDREN'S ADVOCATE

The responsibilities of the Office of the Children's Advocate are stipulated by the 1st Schedule to the Child Care and Protection Act, 2004, and are as follows:

1. Keep under review the adequacy and effectiveness of the law and practice relating to the rights and best interests of children.
2. Keep under review the adequacy and effectiveness of services provided for children by relevant authorities.
3. Give advice and make recommendations to Parliament or any Minister or relevant authority, on matters concerning the rights or best interests of children. This may be upon the request made by Parliament or other relevant authorities or, as the Children's Advocate considers appropriate.
4. Take reasonable steps to ensure that children are aware of the functions and location of the Office of the Children's Advocate. Also ensure that children are made aware of the ways in which they may communicate with the Children's Advocate.
5. Take reasonable steps to ensure that the views of children and persons having custody, control or care of children are sought concerning the exercise by the Children's Advocate of her functions.
6. The Children's Advocate may provide assistance (including financial assistance) to a child in making a complaint to or against a relevant authority.

7. The Children's Advocate may conduct an investigation into a complaint made by a child, his/her parent, guardian, or any other individual who has the child best interests in mind.
8. The Children's Advocate may after consultations with relevant bodies issue guidance on best practice in relation to any matter concerning the rights and best interests of children.
9. The Children's Advocate may in any court or tribunal bring proceedings, other than criminal proceedings, involving law or practice concerning the rights and best interests of children.
10. The Children's Advocate may intervene in any proceedings before a court or tribunal, involving law or practice concerning the rights and best interests of children.
11. The Children's Advocate may in any court or tribunal, act as a 'friend of the court' in any proceedings involving law or practice concerning the rights and best interests of children

3. SITUATION ANALYSIS

The majority of children in Jamaica have experienced commendable improvements in their quality of life over the years. There is access to health, nutrition, education and other social services even within the limitations of resource constraints. However, there are some serious challenges to overcome if the rights and best interests of children are to be advanced.

In 2006, children 0 to under 18 years accounted for 976,500 or 36.5 percent of the total population, with males 490,100 and females 486,400. The child poverty rate (the proportion of children living in poverty) has averaged 22.0 percent over the past 5 years and this is above the national incidence of poverty which stands at 14.3 percent (ESSJ, 2006). As at March 2007 there were 5,835 children in care of the state. They are distributed as follows:

- | | |
|---------------------------|------|
| ▪ Place of Safety | 959 |
| ▪ Child Care Institutions | 1737 |
| ▪ Foster Care | 1188 |
| ▪ Home on Trial | 819 |
| ▪ Supervision Order | 1055 |
| ▪ Others | 77 |

Of 1,674 persons murdered in 2005, 91 were children, this number increased to 96 in 2006. Over the past 5 years more than 300 children, mostly boys have been murdered. The number of sexual crimes reported against children in 2005 was more than 700 and all of these involved girls as victims. In 2006 the number was 1185 for carnal abuse and rape. It is estimated that only 20 percent of rape cases were reported to the police as against 85 percent of household crimes. In 2006, 20 children perished in fires and this was nearly double the number in 2005. An additional 23 wards died in care; 19 of these from natural causes, and four by accidental deaths.

The treatment of children in The Criminal Justice System needs special attention. At present there is much work to be done to ensure compliance with the Child Care and Protection Act 2004. It is hoped that many of these issues will be addressed under the current programme of reform.

Corporal punishment is still being used as a form of discipline in homes and schools up to the secondary level. Alternate forms of punishment which will not infringe the rights and best interests of children, are encouraged.

Children who have been victims of abuse are very often in need of financial assistance to help with the consequences of their abuse. Children with disability, especially those with the mild to moderate form are often times denied their right to develop to their full potential due to the shortage of resources to aid in detection and treatment. They are also vulnerable to abuse and need protection by the law.

The Children's Registry is being established. However there is still reticence in reporting offences perpetrated against children for fear of retaliation. This requires the strengthening of the Witness Protection Program and community capacity to take responsibility for its children.

There are still reports of problems being faced by children impacted by HIV/AIDS. These include: abandonment by parents, discrimination, lack of confidentiality and ambiguity with respect to service provisions for minors without parental consent.

Based on a situation analysis of children in Jamaica, and on complaints received and investigated the OCA, is making the following recommendations to Parliament, which it is hoped, will be accepted and referred to the relevant Ministries and Agencies for follow up activities. The OCA is willing to provide, further information to support its recommendations and technical advice as is needed for implementation within its own mandate.

4. POLICY RECOMMENDATIONS

1. Strengthening the Child Protection Framework

In order to strengthen the child protective framework there is the need for a **National Authority for Child and Family Services** which would bring all the agencies dealing with matters relating to the children and families together periodically to deal with especially critical matters affecting children in a holistic and timely manner. It would:-

1. facilitate the coordination of services to children and families;
2. enhance inter-sectoral cooperation for the coordination of such services;
3. agree on a national outcome for children and how each will contribute to attaining these outcomes;
4. monitor the status of implementation of Plans of Action and Policies impacting the child such as the Healthy Lifestyle Policy, National Framework of Action for Children, Integrated Response to deal with Children and Violence among others and a National Plan of Action on Child Justice.
5. help to identify, gaps in service delivery and duplicity of services to children with a view to having a cohesive service delivery in place thus maximizing the use of the scarce resources of the government within this sector.

The National Authority for Child and Family Services would have parish based **Child Protection Inter-agency Committees**. This inter-agency committee would include the CDA, JCF (especially CISOCA), Ministries of Health, Education, Justice, National Security and Labour and Social Security. This will enhance service delivery to children and reduce duplication and overlap of efforts as it relates to the same child and or parents, appearing and reappearing in the system at different times. These Child Protection Interagency Committees would also link agencies and contribute to the multi-agency database that is being recommended. They will build on the existing Child Protection Committee that was established to develop a Child Protection Manual as sponsored by UNICEF. These committees can also guide the development and assist in monitoring the standards and implementation for better quality control in the child protection system.

- In the event of the death of a child, (especially one that is in the care of the State), an independent **Fatality Review Board** should be

convened to work with the Office of the Children's Advocate. The Review Board would be a subgroup of the National Authority Board for Child and Family Services. The function of this panel would be to receive and consider the reports of the sudden death of a child. Such a panel could help to clearly identify factors which contributed to the death, such as any failure in any part of the system of services, as well as to inform on the improvement of service delivery and practice. This would obviate the tradition of ad hoc enquiries often by institutions themselves and provide for improved public transparency and accountability.

- There is need for improvement in **road safety for children**. One way to achieve this, is for serious consideration and enforcement of school zoning, with appropriate, marked and known speed limits in these areas.
- There is an urgent need to have in place a **Sex Offenders Registry** as one measure to protect children due to the increase in reported cases of rape and carnal abuse involving children and reports from the DCS that there is a high incidence of recidivism among these offenders. This would be particularly useful for employers/recruiters of providers of services for children, whether paid or voluntary. Though it is public knowledge that the Ministry of Justice is currently undertaking work in this area, the OCA wishes to emphasize its support for the initiative.
- There are Cabinet Decisions to have gender and environmental impact assessments to be included in Policy and Cabinet Submissions. The OCA is asking that a **Child Impact Assessment** be also made mandatory, and that it should be applied in every case where a programme is introduced. The Child Impact Assessment would be an instrument used to measure potential impact of policies, plans and programmes on children before they are implemented.
- There is concern that too many children are seen on TV **participating in demonstrations**, sometimes in very volatile situations. A policy decision is urgently needed to protect children from possible harm and from socializing them into a system of disruptive behaviour in order to get attention and action.

2. Children and Social Protection

- Children who are victims of rape and carnal abuse should be able to access **public financial assistance** to help with the effects of their abuse, especially with respect to psychosocial support and child care where abuse results in pregnancy. These victims also at times need short and or long term therapeutic interventions and many are unable to source the finances needed to access such services. Where the perpetrator of an offence is a child, his or her parent may be ordered to pay damages (CCPA 2004). In the case of an adult offender, the child victim has recourse only by way of a civil suit. In any case, court proceedings can be protracted while a child victim stands in need of urgent but costly medical care.
- Some well known NGO's e.g. 3D's, YMCA, are also involved in educating children with disability and in remedial oriented education and pre-vocational training for children who are not in the formal system. It is being recommended that these be provided with more resources. It is recommended also that in the long term the capacity of the Ministry of Education should be strengthened to provide for these children. NGOs also play an important role in enhancing parenting skills and strengthening community capacity to deal with cases of violence and abuse. The capacity of the **Social Development Commission** could be strengthened to take over some of these responsibilities, in addition to strengthening families and undertaking parenting education. This would increase awareness of child protection and also create safer places for children.
- There is a high percentage of **children in poverty** as indicated above by the situational analysis. Targeted interventions are needed to improve the quality of life for this vulnerable group who, because of poverty, are at risk of abuse, poor health, early sexual activity and pregnancy, human trafficking, gang recruitment and educational under-achievement.
- Resources should be allocated for the creation and maintenance of a **Multi-Agency National Database** that will be managed by the Child Development Agency (CDA). This database on children would have their names, ages, addresses, names of primary care givers, schools etc. This would greatly assist in the fight against child abuse, help to hold parents and guardians more accountable and facilitate the tracking of troubled children.
- There is presently a need for **the National Health Fund (NHF)** to make available drugs which are necessary to treat children suffering from Congenital Heart Disease. The experts advise that this is the most common form of heart disease from which children suffer. While there were drugs available to treat this disease they were listed under other complaints. Further, the drug required to treat children with leukemia the most common form of childhood cancer need to be

provided with 6 Mercaptopurine (6MP) and Methorexate tablets. These are not provided through the Fund. Children who suffer from attacks of Epilepsy are covered by Carbamazepine and Phenobarbital tablets. However, it would be good to have these drugs in elixir or syrup form. Methotrexate Sodium tablets which treat Breast and Prostate Cancer is useful but is not provided in the requisite dosage, and in the preferred form. A child's dosage is 50mg but the adult dosage is in 200mg only.

We therefore recommend that the National Health Fund consider the inclusion of these drugs in their provisions, and also that there be regular consultations with the institutions that provide health care for children.

- Children whose main caregiver (mainly a woman) is incarcerated, need targeted interventions. Hibiscus, the NGO which provides for children of women incarcerated in the United Kingdom needs support.

3. Children and Violence

- More attention needs to be paid to **children in the criminal justice system** to ensure compliance with the provisions of the Child Care and Protection Act 2004. Reform of the **Child Courts** is urgently needed as detailed in the Report to the Task Force on Justice Reform which includes the training of a cadre of judges to serve in these courts, greater use of restorative justice, less use of custodial sentences and more child friendly courts.

Resources should be allocated to improve the situation of children in the Criminal Justice System.

- There is evidence that there is a widespread **fear of adverse retaliatory consequences of making obligatory reports to the Children's Registry**. Fear of being labeled "informer" with its serious implications is real and creates significant conflict of interest for many conscientious citizens. **Expansion and strengthening of the Witness Protection Programme** is, therefore, proposed. Such expansion should, however, as much as possible, seek to ensure that affected families are kept together. Enhancing community responsibility for its children through the Social Development Commission could also be provided.
- All persons dealing with traumatized children especially victims, witnesses and perpetrators of abuse, crime and violence should be exposed to **training in identifying and dealing with children who are traumatized**. The need for such training is most evident especially in the cases of public officers who are among the first persons with

whom such children come into contact. It also appears essential for officers in the criminal justice system.

4. Children with Disabilities

- The OCA is proposing increased **GOJ financial assistance to NGOs** which undertake very necessary activities which fill gaps in services provided for vulnerable groups, such as children with disabilities. Many such organizations have experienced substantial reduction of aid from overseas agencies. Perhaps the NHF could be considered to provide resources for this group of service providers
- There is need to expedite legislation to protect the rights of persons especially children **living with disabilities**. Many children with disabilities are being denied their right to develop to their full potential. The need is particularly glaring in the case of children with mild to moderate disability whose needs are largely being met by the under-funded non-governmental groups. Children with disabilities are also vulnerable to abuse and need to be protected by the state.

5. Children, Parenting and Disciplining

- A government policy on Corporal Punishment is needed. Such policy ought to be shared and communicated to educational Institutions. Clear guidelines on school discipline are required to be issued to teachers and school administrators. There is much current evidence that children are still being abused in the name of discipline. This is unsatisfactory and teachers and principals should be assisted in dealing appropriately with disruptive, aggressive and difficult children. There needs to be a system in place for the early identification and assessment of children with potential disruptive behaviour with provision for proper referral before harm is done. Currently many such students are referred to the **Child Guidance Clinics** but there is an urgent need for the upgrade and expansion of these services.
- There is need for the **expansion of facilities for continuing education of teen-age mothers**. Schools should be encouraged to avoid discrimination and secondary victimization of children in such circumstances.
- The OCA supports the call for consideration to be given to **tax incentives** for organizations, companies which establish daycare and after school facilities for children of staff members and have mechanisms in place to support breastfeeding for young mothers. There are models of the latter in the first world countries which could be adopted and made culturally appropriate. We also support the

call for incentives to be provided to encourage parents and proper parenting.

- The OCA is asking for the General Consumption Tax (GCT) to be removed from pampers for babies. Presently there is no G.C.T. on pampers for the elderly and in light of this, the G.C.T. on pampers and other disposables for babies could be seen as a discriminatory action against them.

6. Children and HIV/AIDS

- Children who are affected and infected by **HIV/AIDS** are experiencing some level of discrimination within their schools as well as in their communities. Discriminatory practices need to be addressed immediately. Reports from UNICEF indicate that there is still confusion on the part of healthcare workers in the provision of services for minors without parental consent. There is also insufficient psychosocial support for children and families impacted by HIV/AIDS. Resulting at times in institutionalization becoming an option for families.

5. ACHIEVEMENTS

In carrying out its mandate the following were achieved:

I. LEGAL REPRESENTATION & COURT WORK

The work of the legal department has been wide and varied since its establishment in June 2006.

Representation of the OCA

- a. To date the OCA has done two representations at the Supreme Court level. These involved:-
 - i. Representing a child who was called upon to give evidence in a criminal case. There were concerns about the well being of said child in having to testify.
 - ii. Represent children who were held in Police Custody with adults contrary to the CCPA

- b. At the Family Court level the Office has made and continues to offer representation on behalf of children in need of same. These have been at the request of the Judges pursuant to the Child Care and Protection Act. To date the OCA has actively represented three children who are in conflict with the law. In one such matter it has been successful in having the matter disposed of in the child's favour, while the others are continuing. In other matters the OCA has taken the unprecedented step of protecting children from exploitation by parents. While the matter is ongoing, the OCA was successful in having the matter of the child interest placed before the court
- c. The OCA has watched proceedings in approximately nine (9) matters on behalf of the child victims, ranging from carnal abuse, indecent assault and trafficking. While the OCA cannot commence criminal proceedings, due to its active involvement in protecting the rights of the child, it has been asked to lead evidence for the crown on behalf of the child complainant. This represents one of the many ways that the OCA has been working to ensure that children's rights are protected.
- d. The OCA has been successful in its advocacy to have matters involving the child complainant re-listed on the criminal list within the Resident Magistrate's Court. In the same vein OCA's intervention in the court have also led to the protection of the welfare of the child complainant, which was in jeopardy. The OCA was successful in having the child placed in a safe environment.
- e. Additionally representation has been made to protect the child's right to an education by successfully asking the court to vary its order so that said child could be allowed to do exams.
- f. The OCA is also in the process of commencing civil proceedings in four matters, which will seek to vindicate the rights of children, as well as offer some compensation for the injuries, arising from such infringement.
- g. Although it does not fall strictly within representation, the OCA has had five visits to Resident Magistrates Courts both Family and Criminal Divisions to meet with Judges, clerks and other court staff. The aim of such meetings is to conduct short workshops aimed at sensitizing these personnel to their responsibilities under the CCPA.
- h. The OCA also sat on the Ministerial Enquiry Committee established for investigating the death of a child at the Victoria Jubilee Hospital. This represented a major victory for the OCA as it continues to represent the rights of children.

The OCA also actively participated in the recently concluded consultation on Justice Reform by:

- (i) submitting a paper and
- (ii) attending the two day conference.

II. REVIEW OF SERVICES

Visits to children in lock up

The OCA has made visits/ intervention to lock ups to investigate cases of children who are detained and held with adult offenders. These visits/interventions were made to—

- i. Hunts Bay Police Station
- ii. Admiral Town Police Station
- iii. Central Police Station
- iv. Half Way Tree Police Station
- v. St. Catherine South (100 man Police Station)
- vi. Bull Bay Police Station

The results of all these visits/ intervention have been positive and the feedback is that Police Officers sometimes call the OCA for advice/guidance when they have a child in custody. Further, the OCA, working with the correctional services has been able to assist Police Officers to find appropriate remand centers for children in conflict with the law, thereby complying with the provisions of the Child Care and Protection Act. The OCA has also been successful in removing approximately fifteen children from Police Stations and having them placed in juvenile remand centers.

Visits to children in Remand / Correctional Centers

These visits were as a result of complaints to the OCA. Based on these complaints visits have been done to the Fort Augusta Female Correctional Prison, Horizon Remand Centre, and Stony Hill Remand Centre. From the investigation the Office was able to have the complaints resolved satisfactorily and the relevant action taken for redress where the situation necessitated this.

Visits to Children's Homes and Places of Safety

These visits were done mainly based on complaints coming to the OCA and as a consequence of the report submitted to the International Human Rights Commission (IHRC) by Jamaicans for Justice. Based on these complaints visits were made to Children's Homes and Places of safety in the Corporate Area and in rural parishes. Visits were made to SOS Children's Village, Mustard Seed Communities, Homestead Place of Safety, Maxfield Park

Children's Home, Pringles Place of Safety, Glenhope Place of Safety, Windsor Girls' Home, Granville Place of Safety, Blossom Garden's Place of Safety, Copse Place of Safety, Bethlehem Children's Home, Summerfield Boys Home and Walker's Place of Safety. Reports of the findings and outcomes were communicated and submitted to the Ministry of Health and Child Development Agency where relevant. Several of these complaints concerned peer abuse, non-action of monitoring officers, the issue of alternative punishment in the absence of corporal punishment, the absence of proper assessment and psychological evaluation upon entry to the institution and the manner in which complaints of the wards are dealt with.

Children with Disability

A number of complaints were received from parents with children who had various forms of disability. The complaints centered around the failure of school authority to admit these children in the regular school system, the absence of adequate facility to accommodate these children with special needs, also the absence of certain drugs for the treatment of critically ill children. The matter was investigated and recommendations made to the relevant authority. Advocacy through meetings, attendance at workshops and letters sent to relevant authorities is ongoing and has resulted in highlighting the problems being experienced by this vulnerable group. Several students from the Early Stimulation Programme have since been offered school places.

Intervention with the Police Force

There have been complaints against the Police force of failure to act. In this regard the OCA has acted by conducting investigation as well as by interfacing with the relevant persons. The investigations revealed that the failure to act sometimes was due to a lack of sufficient knowledge of the provisions of the CCPA as well as other related laws.

At present the OCA is investigating two complaints against the Police where their actions have infringed the rights of children. These investigations are not yet completed.

Quarterly meetings are also held with the Community Safety Division in an effort to foster meaningful collaboration with partners.

Intervention in Schools

The OCA has received numerous complaints about the treatment of children by schools' administrations. Most of these involve students being suspended and expelled from schools or told 'to find alternate schools' without the correct procedures being followed. Of the complaints received, the OCA has been successful in having three students reinstated; one student has been given

a conditional acceptance and negotiations are in progress with the relevant schools for the remaining students to be readmitted.

The OCA has also intervened in the area of corporal punishment. The CCPA provides that corporal punishment is no longer permissible in child care institutions. This however continues to be a widespread practice within schools. To this extent the OCA has been making representations in schools on behalf of children who have experienced corporal punishment. Compensation is being sought for a child who has been physically injured as a result of the application of corporal punishment.

Apart from having children readmitted to schools, interventions have also included meeting with relevant persons (students, staff and parents) where the Office informs them of their responsibilities under the Act as well as provide guidance on how to protect children's rights while balancing the need to have said children respect schools' rules and policies. The end result is that often a partnership is forged in this effort.

III. POLICY ADVICE

Legal opinions were sought and provided on critical issues including the following:

1. Flogging in Jamaica Pursuant to the Child Care and Protection Act, the Education Act and the Education Code

Section 62(d) of the Act

The enlightened provision in Section 62(d) of the Child Care and Protection Act 2004 reads:

*62(d) A child in a place of safety, Children's home or in the care of a fit person shall have the following rights: among which is
To be free from corporal punishment*

***This applies to** Children as wards of the state e.g. in a place of safety, a children's home, or in the care of a fit person. This provision is in keeping with the objects of Section 3 of the Act, which seeks to promote the best interests, safety and well being of children*

Section 9(1) of the Act is a protection afforded to all children. It must therefore be applicable to children in all schools or to those out of school.

It would also be a breach of the provisions in Chapter III of the Constitution. Corporal punishment is in contravention of the Laws of Jamaica

2. Medical Treatment of Children without Parent's Consent

The specific problem posed is *"Whose right is of paramount interest when for example children need chemotherapy and the parent is refusing treatment?"*

The Child Care and Protection Act give clear guidance on this issue. Section 2(2)(a), (b), (c), (g) and (h) is relevant in this context.

2(2) *Where there is reference on this Act to the best interests of the child, the factors to be taken into account in determining the child's best interest shall include—*

- (a) the safety of the child;*
- (b) the child's physical and emotional needs and level of development;*
- (c) the importance of continuity in the child's care;*
- (d) Whether the child is of sufficient age and maturity so as to be capable of forming his or her own views, and if so, these views are to be given due weight in accordance with the age and maturity of the child;*
- (e) the effect on the child of a delay in making a decision.*

The short answer is that the child's interests are paramount. When in the opinion of the doctor, there is a need for treatment and the parent refuses to give consent, the Paediatric Association of Jamaica should report the matter to the Children's Advocate, who will then bring the matter before the Court for a ruling. It is the ruling of the Supreme Court which will ultimately decide the issue in a test case.

The Children's Advocate will on an additional complaint of the child have the factual basis to prepare a case for court. In so doing, a declaration will be sought from the court which enables the doctor to treat the child despite the parents' objection. The parent will state his or her objection in Court.

The Paediatric Association of Jamaica ought to be encouraged to make a specific complaint to the Children's Advocate so that the matter will be ruled on in Court.

This method is preferred to the alternative of going along with the treatment and then let the parent sue. The first method shows due respect for the Court and is better for all concerned.

3. Children Begging on the Streets

Pursuant to a meeting held between the Ministry of Education and Youth and the Office of the Children's Advocate (OCA), the question whether the Child Care and Protection Act (CCPA) by Section 41 make the use of children for begging of alms an offence. Further, should the use of children by institutions to collect money in tins and in walkathons be allowed in light of the CCPA.

Section 41 of the CCPA is clear on the issue of begging. It reads—

41(1) every person who—

- (a) causes or procures any child or*
- (b) having the custody, charge or care of a child, allows the child,*

to be on any street, premises or place for the purpose of begging or receiving alms commits an offence against the Act.

The penalty is provided for in Section 89 of the Act.

The Ministry of Education and Youth gave an undertaking to bring this provision to the attention of school principals. It is to be noted however that the practice is not limited to schools. Consequently, the OCA will have to embark upon a campaign to enlighten those who are likely to be in breach of the Act. It is only after widespread publicity, and there are still continued breaches, that the criminal sanction should be brought into play.

4. Briefs/Position Papers/Representation on Committees/Boards

A paper on 'Policies and Actions to Deal with Child Abuse' was submitted to the Senate for discussion. A paper was also written on Child's Court for the Justice Reform Task Force.

Policy Advice was also provided through representation on several Inter-Sectoral Committee and working groups namely:

1. Possibility Board For Street Children
2. Inter-Sectoral Working Group for Street Children
3. Early Childhood Commission – Parenting Sub-Committee
4. Violence Prevention Alliance
5. Inter-Ministerial Committee on National Youth Policy
6. National Anti Trafficking in Persons (TIP) Task Force
7. Inter-sectoral Committee on Parenting Policy
8. Social Investment for Children Working Group
9. Caribbean Poison Information Network
10. Safe Schools Task Force
11. Youth Policy Ministerial and Youth Empowerment and Participation Committees
12. National Development Plan Task Forces on Correctional Services and Vulnerable Groups
13. World Fit for Children Plus Five Report Steering Committee
14. National Framework of Action Coordinating Committee
15. Child Research and Child Rights Conference Committees

Technical comments have been provided on several documents and pieces of legislation at the request of stakeholders. These include:

- Bill to Prevent, Suppress and Punish Trafficking in Persons
- Victims Charter
- Offences Against the Person (Amendment) Bill
- Incest Punishment (Amendment) Bill also made submissions to the Joint Select Committee of Parliament on the Bills and participated in the Debate.
- Several Drafts of the "World Fit For Children Plus Five Report" to the UN
- National Framework of Action for Children

IV. PUBLIC EDUCATION

The Public Education Campaign took on a multifaceted approach that spanned the macro to the micro level.

The OCA has given approximately ninety-two (92) addresses at public functions across Jamaica. These have been given at the invitation of service clubs, churches, child care facilities, communities and professional organizations. The OCA has spoken extensively on critical issues affecting children, the roles and functions of the OCA and on the Child Care and Protection Act, 2004. The opportunities were used to heighten public awareness on the rights of the child, and how they were being infringed. An effort was also made to forge partnerships with civil society to protect the rights of children.

The OCA in its fledgling stage was constantly in the eyes of the media . OCA undertook a total of sixty-seven (67) press briefs, press releases, and television and radio interviews on the roles and functions of the OCA and on critical issues affecting children.

V. CONSULTATIONS

Consultations have been held with students, children in care, the Consultative Committee of the OCA, Principals and members of the Jamaica Teacher's Association (JTA). Some of the recommendations from these consultations are being addressed and others are reflected in the policy recommendations. Others include:

1. The development of guidelines on School Discipline which would outline in a national policy the course of punishment for offences of students.
2. Development of an Evaluation System where students and teachers would come together and get a chance to say what they liked and what they did not like about methods of teaching, teacher-student relationship. This Evaluation would be done in a respectful non-threatening manner. This would facilitate greater understanding between the two groups and enhance student-teacher relationship.
3. Implementation of a system for early identification and assessment of disruptive students. It was felt that guidance counselors in the schools should be specially trained to deal with the disruptive behaviour and emotional problems that students today were exhibiting. An example that was given was that there was a new practice in high schools throughout Jamaica where students were cutting themselves for pleasure and were called 'cutters'. It was strongly suggested that the curriculum at the Teachers' Colleges be upgraded for guidance counselors.

4. The principals felt that the student guidance counselor ratio is overloaded. Currently, there is one guidance counselor for approximately six hundred (600) students. More guidance counselors are needed, along with this is the need for social workers. Many of the problems that are experienced in the school are because of problems in the homes.

VI. INVESTIGATIONS AND RESPONSE TO COMPLAINTS

Introduction

Investigation Officers are responsible to document all complaints received at the office, provide information and assistance to all stakeholders, especially children. The Officers are also required to conduct investigations into complaints made by, or on behalf of a child including child inmates or children detained in Government institutions, in situations where the child's rights are being infringed or his or her best interests have been adversely affected because of the action or inaction of relevant authorities.

A child may as a last resort apply to the Children's Advocate for assistance to intervene in legal proceedings. To carry out this mandate Investigation officers sought to strengthen procedures for the receipt and management of all complaints directed to the office. This involved maintaining a Register and Journal of complaints, building and institutionalising a response network. This involved a mechanism for recording and responding to complaints in a timely manner.

The OCA undertakes investigations which may involve interviews, visits, and review of reports and administrative records, and the collection of statements and preparation of reports pertaining to the matter being investigated. Additionally, meetings are convened and held with relevant authorities. At the end of the investigation, appropriate action is taken to remedy the injustice or infringement.

Investigation is conducted island wide. Where no investigations are conducted the persons concerned are notified in writing as to why that decision was taken.

Response of OCA falls into the following grouping:

- Provide information and advice to callers (23)
- Referred to relevant authorities (187)
- Investigation (60)
- Legal Representation (5)

Cases which require investigations as stipulated by the First Schedule, Part 1, Section 12 and 13 of the CCPA are recorded in the Register of Complaints. There are some matters which might not be entered in the

Register of Complains originally, but during intervention, they are deemed to require further investigations, and are then transferred to the Register. Investigations are carried out where the child's right is being infringed or his or her best interests are adversely affected because of the action or inaction of any relevant authority which puts the child at risk.

Meetings were convened with stakeholders including Jamaicans for Justice, the Jamaica Constabulary Force, Child Development Agency (CDA), Department of Correctional Services, Managers of Children's Homes and Places of Safety, School Principals, Independent Jamaica Council for Human Rights (IJCHR) and Governments Agencies. The Investigators also participated in various seminars and workshops with these groups. There were also visits to Court hearings in Spanish Town, Corporate Area Family Court, and Yallahs, and to children on remand at Fort Augusta, Horizon and Stony Hill Correctional facilities.

**Analysis of Cases received by the Office of the Children's Advocate
For period February 1, 2006 to March 31, 2007, the Office of the Children's
Advocate received and recorded two hundred and seventy five (275)
complaints.**

Complaints referred to relevant authorities are as follows:

1. Ministry of Education (31)
2. Child Development Agency (100)
3. Ministry of Health (7)
4. Jamaica Constabulary Force (40)
5. Justice System (Family Court and Correctional Facilities) (9)

Sixty-one point seven (61.7) per cent of the total number of complaints received were referred to relevant agencies.

Of the cases referred to CDA, Child Abuse and Care and Protection were the highest categories of cases reported. Child Abuse accounted for 35 cases and Care and Protection accounted for 40 cases or 12.7 per cent. In the case of the Police, sexual offences accounted for 40 cases or 12.7 per cent. For the Ministry of Education issues of exclusion, suspensions, and expulsion, were the highest number of cases reported. This accounted for 13 cases, followed by Corporal Punishment with 7 cases and general educational issues which had 9 cases. Cases which required the Investigators to give advice to callers or provide information were classified as enquiries. This group accounted for 23 cases or 8.36 percent.

Complaints against relevant authorities

1. Ministry of Education (8)

2. Child Development Agency (18)
3. Ministry of Health (3)
4. Jamaica Constabulary Force (16)
5. Justice system (20)

The majority of cases against relevant authorities had to do with policy decisions which were not clearly understood by the callers, or the lack of timely response by relevant officers.

Investigations highlighted the plight of caregivers at Children's Homes and Places of Safety who do not have any alternative disciplinary measures to corporal punishment and have resorted to verbal abuse of the wards. The Investigators are also concerned about the lack of proper assessment and evaluation of wards before they are admitted to the various institutions and follow up treatment. The case load of officers renders it almost impossible for them to provide timely services.

As at March 31, 2007:

- 35 cases have been investigated and are closed after successful conclusion of the issues
- 23 cases were resolved after information and advice were given
- 4 cases are still in Court
- 25 cases are still being investigated
- 188 cases have been referred to relevant authorities.

5. CONCLUSION

The OCA records its appreciation to the Houses of Parliament and the Clerk for their support and hopes its request for review of the classification of positions and staffing will be given urgent attention.

The relevant authorities have also been very cooperative and receptive of recommendations made to them and it is hoped implementation will be undertaken. The OCA is cognizant of the continued challenges in undertaking its mandate and is fully committed to children in Jamaica and particularly to the most vulnerable.