THE OFFICE OF THE CHILDREN'S ADVOCATE

" FOCUSING ON THE UNCONTROLLABLE CHILD "

RECOMMENDATIONS TO THE HOUSES OF PARLIAMENT

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FOCUSING ON THE "UNCONTROLLABLE CHILD"

FOREWARD

The plight of the "uncontrollable" child has not escaped the attention of the Office of the Children's Advocate. As the entity commissioned to ensure that the best interests of children are safeguarded, the Office of the Children's Advocate has considered many options as to how it can effectively impact upon this issue. One of the options which the Office thinks appropriate is the formulation of recommendations to the Parliament. These recommendations are evidence based and attempt to present a practical snapshot of the situation in its current form. It is the view that this approach should assist members of the Honourable Houses of Parliament to appreciate the extent of the dilemma and the urgency of the situation. It is hoped that these recommendations will be transformed into the recognition that there is a need for action and that it has to be treated as priority.

The members of staff at the Office of the Children's Advocate have been extremely supportive in this effort and I wish to thank them. Specifically, Ms. Chenelle Taylor (Research Assistant) and Ms. Andrelena Drummond (Intake Officer/Counsellor) assisted with canvassing the views of the wards and Mrs. Suzanne Fearon-Williams (Administrative Secretary) and Mr. Kemar Lawes (IT Officer) for their assistance with the design of the cover. The input of the wards at the Horizon facility has also been invaluable and has put me in a position to channel their collective realities to the members of this Honourable Parliament. Thanks are also expressed to the various psychiatrists, psychologists, the staff of the Department of Correctional Services and other individuals who interface with these children.

I commend these recommendations to you and trust that they will serve as a basis upon which to chart a course that will ultimately improve the lot of these wards. I also hope that they will act as a catalyst toward a much needed solution.

Diahann Gordon Harrison
Children's Advocate of Jamaica
March 2013

INTRODUCTION

The Office of the Children's Advocate (OCA) is the Commission of Parliament that is charged with the responsibility of ensuring that the rights and best interests of children in Jamaica are protected. The Child Care and Protection Act, 2004 is the legislation which provides for the appointment of a Children's Advocate and it outlines the mandate of the Advocate as well as the functions of the Office. In pursuance of the protection of the rights and best interests of children, the Children's Advocate is empowered to take a variety of steps. Of specific reference to these Recommendations, is Paragraph 11 of the First Schedule to the Child Care and Protection Act. The relevant aspects provide thus:

> ***11 –(1) The Children's Advocate shall—***
>
> ***(a) Keep under review the adequacy and effectiveness of—***
>
> ***(i) law and practice relating to the rights and best interests of children;***
>
> ***(ii) services provided for children by relevant authorities;***
>
> ***(b) Give advice and make recommendations to Parliament or any Minister or relevant authority, on matters concerning the rights or best interests of children—***
>
> ***(i) upon request by Parliament or such Minister or relevant authority, as the case may be, as soon as is reasonably practicable after receipt of the request;***
>
> ***(ii) on such other occasions as the Children's Advocate considers appropriate;***

Children who come in conflict with the law have long presented a challenge to the State. This reality persists and in recent weeks has once again captured the attention of the media and by extension, the wider Jamaican public. The children in the various correctional facilities, specifically the girls, have again come to the fore. The Office of the Children's Advocate (OCA) recognizes that the situation with female wards is, *prima facie,* a more complex one than that of the boys. This is so because there is no remand facility for girls and the overwhelming majority of the children who are deemed to be "uncontrollable" are girls. Calls have been made from several quarters for a separate facility to be built for girls and the Government of Jamaica has signaled its intention to heed those calls. Tight fiscal space, however, has seemingly resulted in the inability of the State to definitively commit to a certain time-frame within which a facility of this nature will become a reality. It is against this background that the OCA deemed it prudent at this time to select a particular group of wards within the correctional services on whom to focus. Arguably, the cohort of wards who are categorized as "uncontrollable" are perhaps the most vulnerable and as such, this is the immediate grouping being highlighted in these recommendations. It is hoped that the practical approach adopted in these recommendations, coupled with the fact that merely a portion of the population of children in conflict with the law is being highlighted at this time, that the Parliament will be able to take definitive steps within the short term to improve the conditions which impact upon these children who have been labeled "uncontrollable".

METHODOLOGY

A situational analysis was conducted in respect of female wards resident at the Horizon Adult Remand Centre (HARC). Members of staff of the Office of the Children's Advocate (OCA) interfaced with all the wards in the facility and during this interaction, the fact that the OCA was seeking to secure their input for the purposes of these recommendations was explained to them. Each ward participated voluntarily and was interviewed about several aspects of life within the facility and about her personal history in a bid to understand some of the underlying causes of the behavioural problems which had manifested and resulted in these wards being within the facility in the first place. The interviews were guided by questionnaires which were developed by the OCA. There were twelve (12) female wards ranging from age thirteen (13) to seventeen (17) years within the HARC at the time of this survey who were said to be "uncontrollable". Data gathered through this exercise was recorded and subsequently analyzed.

Additionally, data was also collected from the Department of Correctional Services (DCS). The objective of this approach focused on the need to obtain a comprehensive understanding of the composition of the entire juvenile population within the correctional services. How it is divided according to gender and the number of females vis-à-vis males who are in the system after having been deemed to be beyond control was of primary focus.

Extensive consultations were also had with psychiatrists and psychologists who have amassed a great deal of experience from working with this population of juveniles and other juveniles outside of the correctional services who have also demonstrated maladaptive behaviour.

In order to establish the parameters within which any acceptable, appropriate and relevant recommendations can be made, regard must be had to both international and national standards for the treatment of children who come into contact with the justice system. To this end, the recommendations which are here being presented have been informed from the international perspective by the United Nations Convention on the Rights of the Child (UNCRC), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the 'Riyadh Guidelines'), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules') and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDL). Within the national context, reliance is placed on the Child Care and Protection Act as this legislation is a direct derivative of Jamaica's status as a State Party to the UNCRC and it is this legislation which outlines the overall approach which must necessarily be taken when dealing with issues which impact upon children.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

Jamaica is a signatory to this international treaty and ratified it in 1991. As with most international instruments, ratification by States Parties imposes certain obligations with which compliance is expected. The overall objective of the UNCRC is to explicitly establish that children within their own right have certain entitlements and that these entitlements are to be protected and the best interests of children advanced at all times. The treaty defines a child as a person below the age of eighteen (18)

years. There are three (3) Articles of the UNCRC which are of specific relevance to the issue of juvenile justice administration and to these recommendations; these are Articles 37, 39 and 40.

Article 37 - This Article prohibits torture or other cruel, inhuman or degrading treatment and stipulates that the arrest, detention or imprisonment of a child shall be in conformity with the law and ***shall be used only as a measure of last resort and for the shortest appropriate period of time***.

Article 39 – This Article focuses on the obligation of States Parties to ensure that they adopt all appropriate measures needed to promote the physical and psychological recovery of a child victim and to take steps which facilitate the social reintegration of the child. Of particular interest, is that the applicability of this Article even incorporates children who are in conflict with the law as the view espoused is that they too are properly to be seen as victims.

Article 40 – This Article broadly speaks to the administration of juvenile justice and the need for States Parties to treat children in a manner consistent with the promotion of the child's sense of dignity and worth. It emphasizes, inter alia, that children are to be dealt with in a manner appropriate to their well being and proportionate to their circumstances and the offence.

THE UNITED NATIONS GUIDELINES FOR THE PREVENTION OF JUVENILE DELINQUENCY (THE RIYADH GUIDELINES)

As the name implies, the general focus of these Guidelines is directed towards the implementation of preventative mechanisms which serve to promote non-criminogenic attitudes within juveniles. The undergirding principle of the Guidelines is that the "prevention of juvenile delinquency is an essential part of crime prevention in society." Of necessity, this implies that support systems which can effectively 'rescue' portions of the juvenile population must be established and maintained as a matter of priority. This concept is of particular relevance to the cohort of juveniles who have been deemed to be "uncontrollable"; this will become evident throughout these recommendations.

UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE ("THE BEIJING RULES")

The Beijing Rules maintain that a juvenile justice system should be fair and humane, should emphasize the well-being of the child and the goal of rehabilitation, and should ensure that the reaction of the authorities is proportionate to the circumstances of the offender and the offence. Rule 26 of the Beijing Rules is of particular significance to the immediate discussion. Rule 26 stipulates that a juvenile who has been placed within an institution, ought to be treated in a manner consistent with him/her being assisted to assume socially constructive and productive roles in society. Rule 26.4 makes specific mention of female juveniles who have been placed in an institution; it underscores the fact that they "deserve special attention as to their personal needs and problems." It is also worthy of note that commentary made in relation to the observance of this particular rule opined that medical and

psychological assistance are extremely important for institutionalized juveniles who have become drug addicts, who are violent and/or mentally ill.

THE UN RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY ("HAVANNA RULES")

The Havanna Rules were promulgated in December of 1990 and sought to reiterate the principles espoused in the Beijing Rules. There are a number of fundamental perspectives that these rules advocate, some of which are of particular relevance to the recommendations here being put forward. Four (4) of the salient rules underscore the view that the juvenile justice system ought properly to uphold the rights and safety and promote the physical and mental well-being of juveniles. Rule 1 states that "imprisonment should be used as a last resort". Rules 8, 27 and 28 are also quite instructive.

Rule 8 - proposes that the care of detained juveniles and the preparation for their return to society is "a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community."

Rule 27 – this rule elaborates on procedures that should be followed once a juvenile has been admitted to any juvenile facility. This rule is particularly applicable to these recommendations and as such, the rule will be replicated in its exact wording.

> "As soon as possible after the moment of admission, each juvenile should be interviewed, and ***a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared.*** This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purpose of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required to be pursued. **When special rehabilitative treatment is required, and the length of the stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.**"

Rule 28 – This rule emphasizes that the detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and **type of offence, as well as mental and physical health**. It further states that the segregation of juveniles who are deprived of their liberty should be guided by the provision of the type of care best suited to the particular needs of the juveniles concerned and the protection of their physical, mental and moral integrity and well-being. As this discussion progresses, it should become evident why this guideline is particularly relevant to the cohort of juveniles who are described as being "uncontrollable".

THE JAMAICAN CONTEXT

Locally, the Child Care and Protection Act, 2004 (CCPA) provides the framework within which the issue of children's rights and best interests are considered. The objects of this statute as articulated in Section 3 express, *inter alia*, a resolve to recognize the special needs of children in conflict with the law. Additionally, Section 2 itemizes a range of factors which must necessarily be considered when one seeks to determine what inures to a child's best interests; one of the factors stated is that the child's physical and emotional needs and his/her level of development have to be taken into account. For the purposes of these recommendations, it is important to emphasize these aspects of the CCPA which illustrate Jamaica's legislative commitment to the principles espoused in the UNCRC and the various international standards discussed above. In order to have a complete understanding of what presently obtains, it is against this background that the situation as it exists in practice in Jamaica will be examined.

WHO IS THIS "UNCONTROLLABLE CHILD"?

The concept of a child who is said to be beyond control essentially relates to a child who exhibits behavioural problems and/or maladaptive behaviour. Within the Jamaican context, when parents and/or other persons or entities that are charged with the responsibility of caring for children determine that they are unable to control the child, they engage the court process and seek the Court's intervention to have an order made as to how the child is to be dealt with, having regard to all the circumstances.

Section 24 of the Child Care and Protection Act is the relevant section and it states as follows:-

24. – (1) The parent or guardian of a child may bring the child before a juvenile court and where such parent or guardian proves to the court that he is unable to control the child, the court may make an order in respect of the child if satisfied –

(a) that it is expedient so to deal with the child; and

(b) that the parent or guardian understands the results which will follow from, and consents to the making of, the order.

(2) An order under subsection (1) may –

(a) be a correctional order; or

(b) provide for the child—

(i) to be committed to the care of any fit person, whether a relative or not, who is willing to undertake the care of the child; or

(ii) to be placed for a specified period, not exceeding three years, under the supervision of a probation and after-care officer, a children's officer or of some other person to be selected for the purpose by the Minister.

A close examination of Section 24 makes a number of salient points very apparent. These can be summarized as follows:-

1. **Only** a parent or the guardian of a child has the legal ability to take a child who is in their custody and for whom they are responsible, to the Court in a bid to seek its intervention under this Section. Therefore, the logical consequence of this is that no fit person (especially where that fit person is a State institution that has been so designated by virtue of an order of the court) nor any other category of person(s) ought properly to approach the Court for the purposes of securing an order under this section.[1]

2. Before the Court can properly make an order in relation to any such child that is brought by his/her parent or guardian, the parent or guardian must establish to the Court the basis on which it is claimed that he is unable to control the child. The Court must be satisfied of the parent/guardian's inability to effectively control the child.

3. Even if the Court accepts that the parent or guardian cannot effectively control the child in question, the Court has an obligation in law to fully explain to the parent/guardian the consequences which will flow once the Court makes an order under this section. The Court ought properly to exercise due care when providing such an explanation and should ensure that the parent, having fully grasped an understanding of the results, then consents to the making of the order. This implies, therefore, that the parent/guardian has to be present in Court for an exercise of this nature and that the Court (the presiding Judge) openly engages with the parent/guardian in a bid to ascertain whether all the requirements of this section are being observed.

4. A determination by a Court that a child is deemed to be "beyond control" is a finding of fact which the Court arrives at after being apprised of all the attendant circumstances as outlined by the parent or guardian. In these instances, an outline by the parent of the relevant circumstances to the Judge, is analogous to a situation in which the Judge hears evidence and thereafter makes a finding of fact and acts accordingly.

5. There are three (3) clear options available to the Court once it determines that a parent or guardian cannot control a child and it deems it appropriate to intervene. A correctional order may be made which places the child in a correctional facility, or the child could be placed in the care of a fit person (whether an individual or an entity such as a Children's Home), or a supervision order could be made for a period not exceeding three (3) years during which a

[1] This observation is a very important one. The effect of this practice is that where a fit person order is made in relation to a child who is deemed to be in need of care and protection and the State becomes the protector of that child, the child is often times placed in a Place of Safety or a Children's Home. When the facility manager or some other representative forms the view that "they can't manage" the child, they in turn shift the responsibility to care for the child unto another arm of the State by virtue of Section 24. It is the position of these Recommendations that while the operators of these facilities may be hard pressed to effectively address the needs of these children due to an absence of human and financial capacities, this practice runs contrary to the spirit of Section 24.

probation after-care officer or a children's officer would be responsible for monitoring the child in question.

6. Section 24 effectively creates a status offence which is applicable only to children. This is so as in the usual course of affairs where an adult exhibits maladaptive behaviour and persons who live with him or her are frustrated by the behaviour, they certainly do not have the option to obtain a court order that will remove that adult from the home or place that adult under the supervision of a probation officer. Also, it most certainly does not give these persons the ability to place such an adult in a correctional facility.

WHAT HAPPENS AFTER A CORRECTIONAL ORDER IS MADE?

Where the child in question is an "uncontrollable" boy, he may be sent to one of two (2) juvenile correctional facilities. These are the Rio Cobre Juvenile Correctional Centre and Hill Top Juvenile Correctional Centre. Where the "uncontrollable" child is a female, there are three (3) possible places where she may be sent – the Fort Augusta Adult Correctional Facility, the Horizon Adult Remand Centre or Diamond Crest Juvenile Correctional Centre. It is significant to note that in the case of the girls, while they have the option of more facilities available to them, two of the three options are within adult facilities. While it is accepted that the Correctional Services aim towards segregating the juvenile population from the adults, the situation is not ideal. Fort Augusta houses adult females who are either accused of, or have been convicted of, serious criminal offences such as murder. In the case of Horizon, while it is a remand facility and as such does not house adults who have actually been convicted of any crime, it is a remand facility for adult males who have been charged for very serious offences and is a high security facility. As a point of information, it should also be noted that in practice, the 'more difficult' girls are placed at Horizon. This 'sentence' is fulfilled in a prison setting, with cells and routines that are likened to the treatment delivered to persons who are accused of committing a criminal offence. Most correctional orders attract a sentence of whatever age the child is at the time he/she is brought before the court to his/her eighteenth (18^{th}) birthday.

It is for this reason, coupled with the recent upsurge in the display of suicidal tendencies, that as Children's Advocate, I thought it necessary to interface with every single girl who was at the Horizon facility. The objective was to create a profile of the "uncontrollable" child and to get an appreciation of the causal factors that affected their behaviours in so much as to have them deemed as being "uncontrollable". Additionally, it is always important to include the children on whose behalf we seek to advocate and this was an effective means through which to incorporate their views and their stories in these recommendations to the Houses of Parliament.[2]

[2] This approach underscores the participatory right of children as is articulated under the United Nations Convention on the Rights of the Child – where appropriate, children are to be permitted and encouraged to contribute to decisions which will (or may) impact upon them.

THE HORIZON INTERVIEWS

The interviews were conducted over two (2) days, January 14 and 15, 2013, and were guided by questionnaires[3] formulated for this purpose by the Office of the Children's Advocate. While there were seventeen (17) girls in total who were authorized to be at the institution, only fourteen (14) were interviewed at the facility as the other three (3) were in hospital, having over-dosed on anti-depressants at the time of the interviews. Of the fourteen interviewed, twelve (12) of them were there solely for uncontrollable behaviour while the other two were serving sentences pursuant to criminal convictions.[4] All the respondents' ages ranged from thirteen (13) to seventeen (17) years.

THE PROFILE(S) OF THE UNCONTROLLABLE GIRL CHILD

The fourteen (14) interviews revealed children who mirrored each other in many ways. The findings can be summarized as follows:-

- ***Relationship with Family***: Ten (10) respondents reported having a good/okay relationship with their parents or care-givers, while thirteen (13) reported having a good/okay relationship with their siblings. This finding illustrates that in their minds they perceived their relationship with those in authority as being positive. This is indeed ironic as it is those very persons (parents and care-givers) who deemed them to have been manifesting behavioural tendencies that rendered them "uncontrollable" and caused these persons to seek the court's intervention which resulted in correctional orders being made. It is significant to note, however, that many of the girls expressed remorse for past behaviour and some of them registered that they felt misunderstood by their care-giver(s) and/or counselor(s); this perhaps provides some explanation for the apparent disconnect.

- ***Perspective on Education***: Thirteen (13) respondents stated that they enjoyed school, although eight (8) of them recounted being expelled or suspended at least once. The desire to further their education was expressed and was a common sentiment among all the respondents.

- ***History of Abuse***: Ten (10) respondents said that they were sexually abused at some point in their lives and only six of these cases had been reported to the police. Seven (7) respondents reported being physically abused at least once.[5] This data indicates that a majority

[3] A sample questionnaire is appended to these recommendations.

[4] One ward was serving a sentence for the offence of murder; she alleged that the victim in this matter was someone who had been sexually abusing her over a period of time. The other ward was serving a sentence for wounding.

[5] It has been documented that where a child undergoes a traumatic experience in his/her life, there is a high probability that negative long-term psychological consequences will impact the child. Among the most common consequences are post-traumatic stress disorder and chronic/severe depression; these are mild forms of mental

of the respondents reported having experienced physical and sexual abuse but the OCA's interactions with the wards revealed little evidence that the emotional and behavioural symptoms that stem from these traumatic events, have been properly (if at all) addressed. Anxiety, depression and insomnia persist in most respondents as is reported by them; this is evidenced by the prevalence of prescriptions for Amitriptyline.[6]

- ***Psychiatric History***: Thirteen (13) respondents reported having received some form of counseling; however, only four (4) respondents said they received routine counseling. Two (2) respondents have been diagnosed with a mental disorder but could not recall the name of the disorder. One (1) respondent reported that she has cut herself[7] in the past. Eleven (11) respondents stated feeling severely depressed and eight (8) respondents reported being prescribed Amitriptyline.

- ***Drug/Alcohol Use:*** Eleven (11) respondents admitted to using alcohol with a frequency that ranged from occasionally to very often. Eight (8) respondents used marijuana occasionally to very often. One respondent reported that she had the opportunity to smoke cigarettes and marijuana at Fort Augusta Adult Correctional Centre where she had been held prior to being transferred to Horizon.[8] Indeed, the Office of the Children's Advocate has noted a few instances in which wards who have been housed at Fort Augusta report purchasing marijuana from adult inmates.

- ***Behavioural Observation:*** Respondents were open to the idea of being interviewed and were cooperative during the procedure. Most respondents were polite, coherent, and responsive. Two (2) respondents displayed a flat effect and were somewhat aloof during the interview process. These respondents stated that they had been diagnosed with a mental disorder.

This general summary makes it clear that the majority of these girls have underlying issues which have propelled the behavioural tendencies that they have exhibited over time. In many of the instances, if not all, it is apparent that they are in fact victims of circumstances such as failed parenting, lack of effective adult supervision and/or traumatic experiences in early life. A closer examination of these circumstances is useful and will serve to underscore the importance of this issue and ought to buttress these Recommendations.

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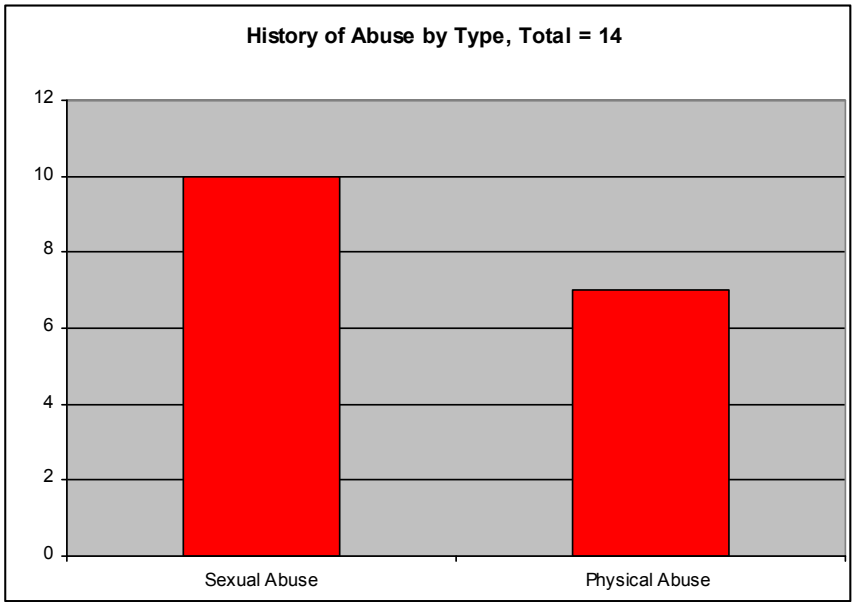
health illnesses: *Toxic Stress and the Developing Brain* – Dr. Jean Clinton, Child and Adolescent Psychiatrist - March 2012

[6] This drug is a tricyclic antidepressant and is one of the most widely used for reducing depressive symptoms. It also eases migraines, tension headaches, anxiety attacks and some schizophrenic symptoms. The drug is also known to reduce aggression and violent behaviour.

[7] Cutting oneself refers to the practice of those who exhibit suicidal tendencies and most often refers to the slashing of the wrist(s).

[8] A comparison of the Fort Augusta Adult Correctional facility and the Horizon Adult Remand Centre reveals that the majority of the female wards are housed at Fort Augusta. In practice, when a ward at Fort Augusta exhibits deteriorating behaviour, that ward is often times transferred to the Horizon facility.

A Closer Look – Under the Microscope



History of Abuse by Type. Total 14

Sexual Abuse	*10*
Physical Abuse	*7*

The graph illustrates the high number of the wards who have some sexual abuse history. Interviews revealed that several of them have been experiencing, and continue to experience, severe struggles. A few of the following extracts from these interviews are significant:-

- 16 year old ward – Raped repeatedly between ages 12 – 14 years. This caused her to be angry with herself.
- 17 year old ward – Sexually abused and made report to caregivers. No-one did anything. She was experiencing severe depression and claimed to feel sad, unwanted and unloved.
- 17 year old ward – Sexually abused at age 10 years by her step-mother. She reports being severely depressed not only because of the molestation but also because it negatively affected her (the child's) relationship with her father.
- 17 year old ward – was placed in foster care by the Child Development Agency (CDA) and suffered sexual abuse at the hands of her foster father's brother at ages 8 and 9 years. She reported these incidents to her biological mother and was beaten by her as a result. This ward also reports that she became a mother at age 13 years but has since denounced men and is a self-declared lesbian.

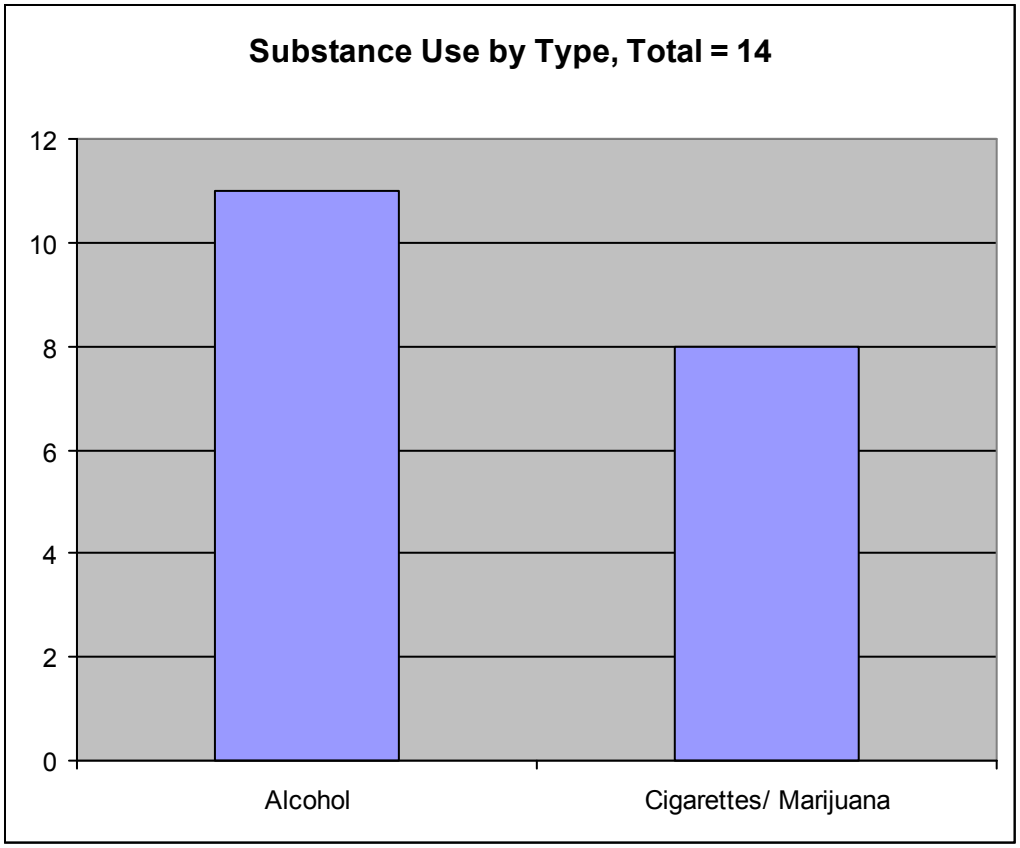
- 17 year old ward – sexually abused by her father at age 9 years and again by strangers when she was 14 years. She related that her mother allowed her to drink alcohol everyday (from as early as age 9) as this allowed her to cope with the stress of being sexually abused by her father. She reports being stressed, depressed and having nothing to live for.

- 14 year old ward – she reports being raped at age 11 years by a stranger and telling her mother of the incident. Her mother was not very supportive and this resulted in her (the ward) being impacted by severe depression. She resorted to the use of alcohol and smoking (cigarettes and/or marijuana) on a daily basis.

- 15 year old ward – alleges that she was raped and that she was exposed to other instances of physical abuse. She claims to have reported the matter of the rape to the police but as far as she is aware, nothing has come out of it. Additionally, she reports that she has been diagnosed with a mental disorder and that she suffers from severe depression, insomnia and paranoia.

- 16 year old ward – admits being sexually abused at age 14 years and of on-going emotional abuse. She says she constantly feels sad, recognizes that she has aggressive tendencies, admits that she is rebellious and that she suffers from severe depression, insomnia and paranoia. In a bid to cope she consumes alcohol and smokes on a daily basis. This ward also exhibits an inclination toward suicidal tendencies and in the past has been placed on suicide watch by the authorities since being in the care of the Department of Correctional Services (DCS).

There is a common thread that links all the experiences highlighted. All the girls seem to be suffering from post-traumatic stress disorders consequent upon the unsatisfactory assessment and handling of these traumatic episodes in their lives. Features of this disorder include extreme anger on the part of the victim, mental flashbacks to the traumatic incident and sporadic outbursts as a result of these flashbacks. With the onset of these outbursts, the victim may destroy items, engage in acts of violence with others and exhibit other forms of anti-social behavior.



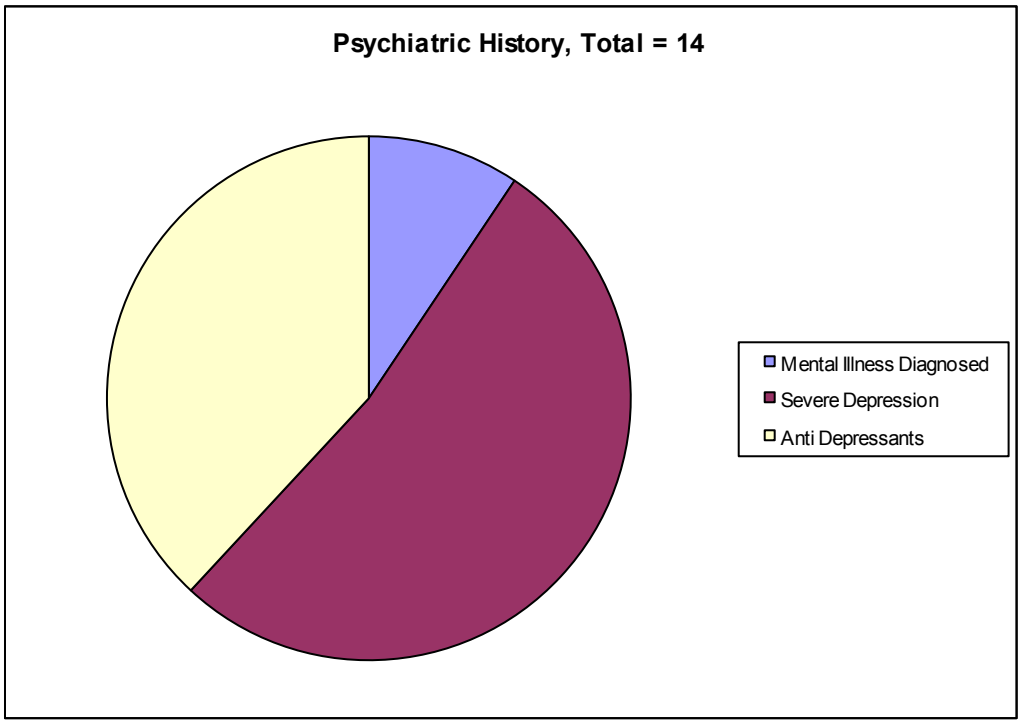
Substance Use by Type. Total = 14

Alcohol	*11*
Cigarettes/Marijuana	*8*

As the graph illustrates, a majority of the wards admitted either consuming alcohol on a frequent basis and/or smoking cigarettes or marijuana or both on a frequent basis. In many instances the interviews conducted with the wards indicated that this substance abuse occurred on a daily basis. Many of them saw this as an avenue of escape from the many problems which featured greatly in their personal circumstances. Indeed, there seemed to be a causal relationship between the abuse to which they were exposed and the misuse of these substances as a means of numbing the discomfort. This sometimes seemed to result in their inability to effectively control the manner in which they conducted themselves and depicted them exhibiting behaviour which resulted in them rebelling against persons in authority[9], failing to respect systems and rules within an institution[10] and inappropriate sexual conduct.

[9] This factor represents a frequent basis upon which parents/guardians/grand-parents indicate that they are unable to control the child and hence the intervention of the court is sought.

[10] The majority of the wards interviewed at the time of this research had been suspended from school on at least one occasion and one ward had been expelled from school for misbehaving from she was fourteen (14) years old. She was never enrolled in any other school following this expulsion. Of significance, also, is that a number of the wards had been suspended on as many as two (2) instances.



Mental Health History

Mental Illness Diagnosed	*2*
Severe Depression	*11*
Anti Depressants	*8*

This graph depicts the high percentage of the wards who present as suffering from severe depression. Some of the underlying factors that are encapsulated in this 'severe depression' grouping include those experiencing:-

- Challenges with effective anger management skills
- Insomnia
- Paranoia
- Feelings of self-blame and self-guilt
- Extreme aggression
- Feelings of abandonment and rejection from family and loved ones
- High levels of stress
- A sense of hopelessness

The interview with one of the wards ably illustrates the severity of the depression that some of the wards face; a severity which sometimes has them withdrawn and detached. This particular ward is fifteen (15) years old and of the forty-seven (47) questions asked she refused to answer all excepting for two. In relation to the question concerning whether they had experienced any significant incidents of trauma, she responded that her father died when she was seven (7) years old and that she missed him. In relation to the question concerning what their ambition was, she responded that she wished either to become a "soldier, police, lawyer, correctional officer, or assassin."[11]

Assessment of the Findings

What this paper ought to make apparent is that the majority, if not all of the girls, experienced some episode of trauma prior to being placed on correctional orders by the court. Invariably, these traumatic experiences went unreported or untreated, either totally or in part. Acting out, truancy, drug and alcohol use are common responses to trauma - and in some cases, are common responses to the onset of adolescence (puberty). Traumatized children have distorted images of themselves, the world and others, and may experience psychobiological changes, which encourage long-term psychological symptoms. These symptoms may manifest themselves in maladaptive cognitive, behavioural, physical and emotional responses[12]. Indeed, research has shown that the brains of children who are victims of abuse are actually altered because of the brain's inherent reaction to cope with the trauma that has been experienced by the victim. Over time these children begin to fall behind in terms of the developmental milestones that they are expected to achieve when compared with their peers.[13]

There has been a failure over the years to recognize that the needs of these girls are yet to be addressed in a cohesive and sustainable manner. The maladaptive behaviour that they have been associated with which has caused them to be deemed "uncontrollable" and placed on correctional orders, is often times a manifestation of the symptoms of the underlying problem(s). This is clearly a disservice to these girls and at variance with Jamaica's stated commitments as expressed in local legislation and by virtue of its ratification of the various applicable international instruments. It is this recognition that has led to the formulation of the recommendations that follow.

[11] This response, particularly the aspect concerning the desire to be an "assassin", is quite an interesting one.

[12] *Alternative methods to treating trauma in children: A discussion of the psychological needs of children 8-12 in Places of Safety* - Chénelle Taylor and Ava Gay Smith, 2011.

[13] *Toxic Stress and the Developing Brain* – Dr. Jean Clinton, Child and Adolescent Psychiatrist - March 2012

The Recommendations

1. Any child who is alleged to be "uncontrollable" by his or her parent or one who has the care, custody and control of such a child[14], should necessarily be subjected to an assessment by a forensic psychiatric professional. The objective of this exercise would be to detect whether there are any underlying causal factors such as untreated post-traumatic stress disorders and for suitable treatment options to be pursued in relation to the child's needs. This assessment ought properly to be done **prior** to the making of any correctional order and the appropriate psycho-social interventions made – these may include a course of counseling with the child, both on an individual basis and with the affected and other relevant family members; a constructive exposure to anger management skills; the use of occupational and/or play therapy. This recommendation is in line with the principles articulated in the objects of the Child Care and Protection Act [J] which seek to recognize the ***special needs*** of children in conflict with the law. Additionally, Section 2 itemizes a range of factors which must necessarily be considered when one seeks to determine what inures to a child's best interests; one of the factors stated is that the child's physical and emotional needs and his/her level of development have to be taken into account. Within the international sphere, Articles 37 and 40 of the UNCRC are also applicable to this recommendation. Article 37 states that imprisonment of a child ***shall be used only as a measure of last resort and for the shortest appropriate period of time***. For its part, Article 40 emphasizes, *inter alia*, that children are to be dealt with in a manner appropriate to their well being and proportionate to their circumstances and the offence. An assessment such as the one here recommended, would facilitate these objectives.

2. There is a need for a facility that can accommodate those children who exhibit maladaptive behaviour patterns and who need special services geared toward addressing the underlying causes that lead to these behavioural problems. These recommendations are of the view that a therapeutic facility that is appropriately staffed with forensic psychiatrists, forensic nurses, counseling and clinical psychologists and other relevant social support mechanisms must be established as the suitable alternative to the traditional juvenile facilities that now exist within Jamaica. Such a facility may seek to combine residential and non-residential treatment components.

   Article 39 of the UNCRC seems to buttress this particular recommendation as it focuses on the obligation of States Parties to ensure that they adopt all appropriate measures needed to promote the physical and psychological recovery of a child victim and to take steps which facilitate the social reintegration of the child. As previously discussed, this Article incorporates children who are in conflict with the law as it also considers them as being victims.

3. In very extreme cases, where the court determines that the child is best suited for placement in a correctional facility, at the time of entry into such a facility, the Department of Correctional Services (DCS) should undertake a complete psychiatric and psychological assessment of the

[14] As discussed previously, this option to bring an "uncontrollable" child before the court is properly only available to a private individual citizen and not an institution.

child. The objective of this exercise is to ascertain the particular needs of the child upon entry so that the appropriate support may be provided by the authorities from the outset and a programme of care developed with regard to the individual circumstances of the child.

The Beijing Rules are instructive in this regard and lend support to this recommendation. Rule 26.4 maintains that female juveniles in particular ***"deserve special attention as t o their personal needs and problems."*** Medical and psychological assistance for these juveniles were highlighted as being extremely important especially where over time they become drug addicts, may exhibit violent behaviour or manifest mental health issues. The interface of the OCA with these girls illustrates that the majority of this "uncontrollable" cohort have mental health issues[15] and are defiant in many respects; they would fall squarely within this description and would benefit from this recommendation.

4. There must be a recognition that the over-arching aim of juvenile justice is to rehabilitate those juveniles who enter correctional facilities and prepare them for re-integration into society upon their release. This means that while a juvenile is institutionalized in a correctional facility, (s)he should be provided with vocational and educational training and suitable recreational activities that are age appropriate. It is noted that though educational instruction is provided by the DCS within the various facilities,[16] the contact hours between student and teacher, need to be re-examined with a view to increasing the time. On average the juveniles get taught for two (2) hours per day. To this end, it is here recommended that perhaps retired teachers could be approached with a view to giving them contracts to provide increased hours of instruction to the juveniles. In relation to vocational skills that are taught, it is recommended that the authorities determine what are some of the practical, yet economically viable vocations, so that these categories of vocational training may be taught to the wards. This practice should positively impact upon their ability to earn a decent living upon release with the use of the skills amassed whilst institutionalized. This approach ought to put these wards in a position to assume socially constructive roles and productive capacities in society; this will redound not only to their individual benefits but to the collective good of society. This recommendation is aligned to one of the undergirding principles of the Beijing Rules which emphasizes the importance of rehabilitating young persons.

5. In relation to the girls who are presently within adult detention facilities, it is the urgent recommendation that for those who are there solely because they are deemed "uncontrollable", each of them be professionally assessed by mental health experts to

[15] As previously discussed, the mental health issues that most typically present in these juveniles are sometimes not recognized as such by those who have to deal with them.

[16] To the credit of the DCS it should be noted that one of the wards interviewed indicated that she had been expelled from school when she was nine (9) years old due to behaviour related issues. She entered the correctional services as an illiterate person, and was now able to read because of the educational instruction that she was exposed to whilst in the facility.

determine whether there are underlying traumatic experiences that have caused the behaviour being complained of; it is a priority that the necessary interventions be made to assist these girls. Of course, there are immediate cost implications that accompany this particular recommendation but it is the firm position that if the necessary allocations are not made, it would be to ignore a most essential component of the social fabric of the nation and will eventually cost the nation much more when dealing with the resultant consequences once these girls remain untreated and are then returned to society at eighteen (18) years with no coping skills of productive survival. As stated in the Riyadh Guidelines the "prevention of juvenile delinquency is an essential part of crime prevention in society." We must aggressively pursue support systems which can effectively 'rescue' portions of the juvenile population. This cohort of the "uncontrollable" seems a suitable group that can be targeted for rescuing as they have no true criminal transgressions; what they have are behavioural issues.

6. Another urgent recommendation is that suitable safe houses within already existing communities be identified and equipped with the suitable security features[17], so that they may accommodate the present cohort of girls within the adult facilities who are there **exclusively** for "uncontrollable" behaviour in the immediate to short term. In order to achieve this recommendation, rental/lease agreements would perhaps be a preferred option as to acquire premises by way of a purchase would take longer and would involve a larger outlay of financial resources. Additionally, the view that is here being posited, is that the Department of Correctional Services (DCS) under the aegis of the Ministry of National Security should be the entity responsible for the identification and acquisition of such premises. This is so as a correctional order is really a court order which functions somewhat like a sentence to a term of confinement within a correctional facility[18]. While the court makes the order, it has no control over the actual facility selected by the DCS for the housing of these juveniles. The DCS are also perhaps better placed to deal with any security concerns that may arise. These safe houses should as best as possible replicate a home/family setting and should allow for frequent and supervised contact with relatives and community members, extensive therapy, (to include group and other forms of therapy) for respondents who have reported abuse, and treatment plans should be developed for each child and tailored to her individual needs.

This recommendation is firmly rooted in the trend that the less institutionalized the surroundings, the better the impact on the juvenile. Increasingly, a community based approach

[17] The security features may include appropriately trained individuals to supervise the girls coupled with electronic surveillance cameras all aimed at monitoring the wards and ensuring that safety concerns are effectively addressed.

[18] The practical upshot of this reality, is that once a judge vests the custody of a juvenile to the DCS by virtue of the court order (i.e. the correctional order) the status quo cannot be disturbed easily. As the girls are already within the purview of the DCS, it was thought best to have the DCS provide more suitable and appropriate accommodations for this cohort.

is being propounded in various jurisdictions and successes are being recorded.[19] Rule 8 of the Havanna Rules proposes that the care of detained juveniles and the preparation for their return to society is "a social service of great importance, and to this end ***active steps should be taken to foster open contacts between the juveniles and the local community***." The use of safe houses, as per this recommendation, would be better able to achieve this objective than either the Fort Augusta or the Horizon facilities can.

Concluding Remarks

The need to effectively address this problem is an urgent one and an embarrassing one. As stated in the introduction to these recommendations, it is not the intention to present something so unrealistic that it becomes undoable. As such, I have focused on the uncontrollable female juvenile whose two out of three options reside in adult facilities; this is a comparatively worse situation than that which exists with our boys. It is for this reason that focus has been awarded to the plight of the females as the first grouping to whom these recommendations may be applied; there is no intention to ignore the boys. It is recognized that even though these recommendations relate to a portion of the juvenile population, there are cost implications. It is submitted, however, that since the urging is for a mere portion of the population at this time, less resources will be required and I ask that serious consideration be given to implementation.

[19] Canada and Missouri and California within the United States of America provide good examples of these jurisdictions.

APPENDIX

“Questionnaire Used in the Interview Process”

Interview Questions

Identifying information

1. What is your full name?
2. How old are you?
3. What is your DOB?
4. Why are you remanded here?
5. Do you have any children? [If yes, how many and what are their ages?]

Historical Background

6. What is the relationship like with your parents/caregiver?
7. Are you in a committed relationship (with your child's father?)?
8. Do you have any brothers and sisters? What is your relationship like with them?
9. What school did you attend?
10. Do you enjoy school?
11. Have you ever been suspended/expelled from school and for what reason?
12. What was your favourite subject?
13. Since being held at this facility, how often do receive educational instruction?
14. How many days per week and for how many hours?
15. What are the subjects that are taught?
16. Do they provide vocational training? What type?
17. Do you get the opportunity to participate in physical (recreational) activities?
18. If yes, what type and how often?
19. Who supervises these activities?

20. Have you experienced any traumatic incidents? Example, physical abuse, sexual abuse, emotional abuse, etc. [If so, please provide details re how old you were at the time and what happened]
21. How was the issue dealt with?
22. How did the experience that you had make you feel?
23. Did you tell anyone about it?
24. If yes, what steps did that person take after you reported it to them?

Psychiatric Hx

25. Did you ever receive any counseling?
26. Who provides the counseling?
27. Did the counseling help you?
28. Upon entering the facility, was there any assessment done of you re the need for continued counseling sessions?
29. Have you received **routine** counseling since being in the facility?
30. Have you ever been hospitalized?
31. If yes, for what reason and when?
32. What course of treatment were you exposed to while at the hospital?
33. Have you been diagnosed with a mental disorder?
34. If yes, are you able to say what the disorder is?
35. Do you ever suffer from feelings of severe depression?
36. Are you on any medication?
37. If yes, what type?
38. How often do you take this medication?

Drug/Substance Use Hx

39. Did you drink alcohol before being remanded? How often?

40. What type of alcohol did you drink – hard liquor, beer, wine?

41. Did you smoke? How often?

42. Did you use marijuana? How often?

43. Did you use any other drugs? How often and what type?

Other relevant information

44. What are your plans post-release?

45. Where will you live?

46. Will you be attending school?

47. Who supports you financially?

48. What do you want to become when you grow up?