
TERMS OF REFERENCE

CORRECTIONAL SERVICES TECHNICAL WORKING GROUP (CSTWG)

Ministry of National Security

1.0 BACKGROUND

- 1.1 Reference is made to the INDECOM Quarterly Report for the period of July to September 2020, which provided findings from a special investigation, which was conducted at the Rio Cobre Juvenile Correctional Centre in July 2020. Relevant section of the Report is attached as **Annex 1**.
- 1.2 The general findings, despite highlighting several positive aspects, also noted incidents of inappropriate or an absence of treatment of wards (including uncontrollable children) in respect to detention conditions, which were not in conformity with the legislative framework or best practices (local, regional and international practices). It is fully recognized that such best practices need to be adopted/adapted, in order to provide the necessary psychosocial and pro-social rehabilitative interventions to this vulnerable group.
- 1.3 In a statement to the Honourable Senate on February 12, 2021, Senator the Hon. Matthew Samuda, Minister without Portfolio in the Ministry of National Security, committed to the establishment of a 'Working Group' to address issues raised, with a focus on the 'duty of care' to the wards, especially in respect to appropriate measures of discipline and timely access to education and psychosocial interventions.

2.0 PURPOSE of TOR and FUNCTIONS of the WORKING GROUP

- 2.1 The purpose of this Terms of Reference document is to establish the mode of operation for the Correctional Services Technical Working Group (CSTWG) that seeks to develop a Road Map for Juvenile Rehabilitation informed by priority policies, strategies, plans, programmes, projects and infrastructural changes that are to be implemented within the Department of Correctional Services' (DCS') Juvenile Correctional and Remand Centres. This is towards ensuring that the appropriateness of delivery mechanisms for the care (physiological and psychological), discipline and education of wards are in keeping with standards required for successful rehabilitation and reintegration into society.
- 2.2 The CSTWG has been convened to provide for the improvement in the care and supervision of the wards housed in JCRC, in order to ensure that the operations and management of these centres are in keeping with the human rights conditions stipulated under the Constitution of Jamaica (1962) - Charter of Fundamental Rights and Freedoms

as well as the United Nations Convention on the Rights of the Child, to which Jamaica is a signatory.

- 2.3 Based on the directives issued by the Executive Arm of the Ministry of National Security to ensure all necessary actions are taken subsequent to the outcome of investigations made at the Rio Cobre Juvenile Correctional Centre. The CSTWG will map a number of steps and actions to track progress on the implementation of these recommendations. It is expected that to provide for the effective monitoring the Working Group will provide expected outcomes, key strategic actions, and target dates for implementation.

3.0 MEMBERSHIP¹ OF CORRECTIONAL SERVICES TECHNICAL WORKING GROUP

- 3.1 Members of the CSTWG will comprise of at least one (1) suitable representative (**Focal Point**) from each priority organization listed below:

- Attorney-at-Law
- Centre for Investigation of Sexual Offences and Child Abuse (CISOCA)
- Combined Disability Association
- Child Protection and Family Services Agency (CPFSA)
- Department of Correctional Services (DCS)
- Family Courts – Court Administration Division
- Jamaica Psychiatric Association
- Ministry of Education, Youth and Information (MoEYI)
- Ministry of Health and Wellness (Child & Adolescent Mental Health)
- **Ministry of National Security (Chair)**
- Ministry of Justice (Child Diversion Unit)
- Office of the Children’s Advocate (OCA)
- Office of the Public Defender
- Senior Uniformed Officers’ Association (SUOA)
- The Jamaica Federation of Corrections
- United Nations Children’s Fund (UNICEF)

- 3.2 The Chair may invite other people/agencies to attend meetings, as required.

¹ Membership Roster is attached

4.0 MEETING NORMS

- 4.1 The CSTWG has been convened for an initial ninety (90) day period and will meet bi-monthly on the 2nd and 4th Wednesdays (commencing at 2:00 p.m.). Emergency meetings may be convened on a needs basis.
- 4.2 Members of the CSTWG strive to attend meetings consistently to maintain continuity and consistency in discussion and group membership. A quorum is constituted when fifty-percent (50%) of the members (plus the Chair) are present.
- 4.3 The Working Group will be chaired by the Chief Technical Director for Crime Prevention, Rehabilitation and Inspectorate Policy Division within the Ministry of National Security.
- 4.4 Secretariat functions will be provided by the Ministry of National Security. The Ministry will be responsible for:
 - Chairing and facilitating the meetings;
 - Providing secretarial and administrative support to group members.
- 4.5 Documents for consideration by the CSTWG must be sent at least five days prior to its formal sitting. Members will be provided with relevant email address to facilitate same by electronic mail.
- 4.6 Agenda items to be included in formal meetings must be submitted at least three days prior to the formal sitting of the CSTWG.
- 4.7 Minutes of the proceedings of each sitting must be recorded and circulated to all Members, via email, within 10 working days after each official sitting of the CSTWG.
- 4.8 All documentation including notification for meetings may be submitted and circulated by electronic mail.
- 4.9 The group as a whole will be responsible for respecting the confidentiality of all sensitive information, documents and discussions that are shared in meetings.

5.0 DUTIES and RESPONSIBILITIES

- 5.1 The CSTWG will seek to develop a Road Map for Juvenile Rehabilitation which is to be implemented over prescribed short to medium term periods. To achieve this the CSTWG will be divided into three (3) sub-working groups focusing on matters relating to: **1) Legal, 2) Psychosocial and Behaviour Management** and **3) Infrastructure**. These sub-working groups will comprise of the undermentioned persons who will be responsible for carrying out the duties and responsibilities noted hereunder:

5.2 Legal Sub-Working Group

Composition

- a Attorney-at-Law (Jacqueline Samuels Brown – **Chair**)
- b Office of the Public Defender
- c Department of Correctional Services
- d Centre for Investigation of Sexual Offences and Child Abuse (CISOCA)
- e Family Courts (Court Administration Division)
- f Ministry of Justice (Legal Reform)
- g Ministry of National Security
- h Office of the Children’s Advocate (OCA)

Duties and Responsibilities:

- i. Develop Standard Operating Procedures (SOPs) which are in line with local, regional and international best practices, international treaties, protocols and conventions, with particular reference to children, (see *Appendix I*), as well as the Constitution of Jamaica/Charter of Fundamental Rights and Freedoms;
- ii. Develop and ensure the implementation of agreed proposals for correcting institutional inadequacies to reduce and sufficiently treat with the issue of alleged child abuse within the Department of Correctional Services Juvenile Correctional and Remand Centres;
- iii. Review the proposal for the amendments to the Corrections Act, particularly the sections relating to the management and operations of the juvenile centres; identify gaps; and propose amendments to address the gaps identified;
- iv. Consolidation and subsequent review of reports/recommendations originating from special reports including the Armadale Enquiry Report into one action plan; and the Working Group is charged with monitoring the implementation of recommendations;
- v. Recommend, where necessary, the introduction of new legislation, in keeping with international conventions and treaties to which Jamaica is a signatory, as well as, possible amendments to existing pieces of legislation, particularly in relation to upholding the rights of the children within the juvenile centres; and
- vi. Make recommendation to inform the development of an Action Plan, to advance the implementation of recommendations of the Working Group.

Psychosocial and Behaviour Management Sub-Working Group

Composition

- a. Child Protection and Family Services Agency / **(Chair)**
- b. Ministry of Health and Wellness
- c. Ministry of Justice
- d. United Nations Children's Fund
- e. Department of Correctional Services
- f. Jamaica Psychiatric Association
- g. Jamaica Psychological Association
- h. The Senior Uniformed Officers (Staff Union)
- i. Ministry of National Security

Duties and Responsibilities

- i. Examine staff capacity in relation to the care and treatment of children within the juvenile centres and make the necessary recommendations;
- ii. Make recommendations to inform the development of an Action Plan, to advance the implementation of recommendations of the Working Group;
- iii. Coordinate the delivery of enhanced training opportunities for Correctional Officers, other categories of staff, as well as volunteers² who interface directly with wards, towards fostering a safer environment within the Juvenile Correctional and Remand Centres, for wards; and
- iv. Develop and ensure the implementation of agreed proposals enabling all children offenders, including children on remand, to have access to quality services and unbiased channel for communication. This includes but is not limited to:
 - a. Conducting a review of rehabilitation and reintegration programmes including educational and skills training programmes within juvenile centres towards enhancing access and available options including diversion;
 - b. Identifying gaps in resources that would hamper the successful implementation of the proposals; and
 - c. Conducting an evaluation of the existing psychosocial support interventions.

² To include Board of Visitors for the Juvenile Centres (JBOVs)

Infrastructure Sub-Working Group

Composition

- a. Ministry of National Security (Building Projects and Equipment Branch) - **Chair**
- b. Ministry of National Security (technical staff)
- c. Department of Correctional Services
- d. Combined Disability Association
- e. United Nations Children's Fund (UNICEF)
- f. Jamaica Federation of Corrections (Staff Union)

Duties and Responsibilities

- i. Make recommendations to inform the development of an Action Plan, to advance the implementation of recommendations of the Working Group and monitor its implementation; and
- ii. Develop and ensure the implementation of agreed proposals for correcting infrastructural inadequacies within the Department of Correctional Services Juvenile Correctional Centres in keeping with best practices and international conventions.

Working Group Duties and Responsibilities

- i. Review and agree on the recommendations and reports from the sub-groups, desired organizational outcomes, priority policies/programmes/ projects, strategies within the DCS and its management of juvenile centres;
- ii. Develop an Action Plan informed by the reports and recommendations from the sub-groups, including proposed strategies and timelines, to advance the implementation of recommendations of the Working Group and monitor its implementation;
- iii. Make recommendations in relation to the institutionalization of specific outputs from the CSTWG, to be specified in the Action Plan;
- iv. Carry out any other tasks assigned by the Executive Arm of the Ministry of National Security.

6.0 DELIVERABLES

6.1 The CSTWG will deliver a Road Map for the proper care and treatment of wards in the juvenile centres as well as Juvenile Rehabilitation that are in keeping with this Terms of Reference and it's supporting Annex. Other supporting outputs will include:

- (i) Policy Proposals
- (ii) Standard Operating Procedures (SOP)
- (iii) The review and provision of recommendations in relation to special reports, strategies, policies, legislation et al
- (iv) Plan of Action
- (v) Periodic reports (as required)
- (vi) Minutes of Meetings

7.0 REPORTING

7.1 The CSTWG shall provide requisite reports to the Minister without Portfolio, with the responsibility for the correctional services.

7.2 The CSTWG shall report to the Permanent Secretary of the Ministry of National Security through the Chief Technical Director, Crime Prevention Rehabilitation and Inspectorate Division

8.0 CONFIDENTIALITY

8.1 All material provided for discussion and consideration is Confidential, and must be respected by members. No material is to be discussed with any third persons.

9.0 REVISION OF TERMS OF REFERENCE

9.1 The CSTWG may revise this Terms of Reference as required and when necessary.

Name: _____ **Signature:** _____

Position: _____ **Organization:** _____

Date: _____

ANNEX 1: INDECOM Quarterly Report for the period of July to September 2020, which provided findings from a special investigation - relevant section of the report is attached.

THE INDECOM QUARTERLY

JULY - SEPTEMBER 2020

THE INDECOM QUARTERLY | 3rd

JULY - SEPTEMBER 2020

Special Investigation: Rio Cobre Juvenile Correctional Centre



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COMPACT DISC

3rd Quarterly Report: July - September 2020
 New Complaints: July - September 2020
 Commission's Reports Completed: July - September 2020

(In compliance with Section 17(3) (c) of the INDECOM Act)

SPECIAL INVESTIGATION: RIO COBRE JUVENILE CORRECTIONAL CENTRE

INTRODUCTION

In July 2020, the Independent Commission of Investigations (INDECOM) received information regarding the treatment of detainees at the Rio Cobre Juvenile Correctional Centre (RCJCC). The allegations concerned:

- unprovoked assaults;
- use of arbitrary force or excessive force;
- the segregation of boys on the jail block for extended periods as punishment, without basic amenities;
- inhumane conditions, such as being locked away naked, or being forced to hold their urine, as bathroom usage requires being unlocked by a Correctional officer; and
- being deprived from sitting their slated 2020 CXC CSEC external exams.

Pursuant to sections 4 and 10 (1) (c) (e) of the Independent Commission of Investigations Act, 2010, the Commission launched a special investigation. During the investigation, documents were provided by the Department of Correctional Services (DCS), and the detainees (Wards) were interviewed with the assistance of Justices of the Peace.

This report provides details of the Commission's investigations and findings. Whilst numerous positive aspects were identified, there were aspects of the children's detention which were not in conformity with legislative framework or best practices and require remedy.

THE INVESTIGATION

Following a preliminary assessment and fact finding, the Commission conducted a focused investigation and visit to the RCJCC. The objective was to collect further data to aid the information gathering process, as the initial reports provided were anonymous and unsourced. Documents were requested and received from DCS regarding the juveniles housed at the four designated facilities for the period September 1, 2019, to September 30, 2020.

Table 1 shows the breakdown of the detainee population, the provision under which they are detained and DCS staffing levels, at the four State juvenile correctional centres in Jamaica.

Table 1: DCS data showing juvenile detainees at the four State Juvenile Correctional Centres

ORDERS	UNCONTROLLABLE	CRIMINAL OFFENCES	TOTAL
South Camp Juvenile Remand and Correctional Centre for Girls [DCS Staff: 74]			
Correctional	16	11	61
Remand	30	4	
Rio Cobre Juvenile Correctional Centre [DCS Staff: 79]			
Correctional	6	35	41
Hill Top Juvenile Correctional Centre DCS Staff: 53			
Correctional	0	22	22
Metcalfe Street Secure Juvenile Correctional Centre DCS Staff: 177			
Correctional	1	0	82
Remand	19	62	

Source: DCS as of September 30, 2020

It is to be acknowledged that in addition to INDECOM's recent investigation, the DCS has also instituted other external reviews of their Juvenile Correctional Institutions, between 2018 and September 2020, concerning issues of sanitation, bedding and living conditions. Table 2 shows the details.

Table 2: External Assessments of Juvenile Correctional Centres 2018- September 2020

EXTERNAL ASSESSMENTS	METCALFE STREET	RIO COBRE	HILL TOP	SOUTH CAMP
Min. of Industry, Commerce, Agriculture & Fisheries	-	2018	-	
Health Department	Mar – Dec 2019 Compliance	St. Jago 2018	St. Ann Oct. 2019	-
Fire Drill Reports	-	-	Oct. 2019	Feb. 20, 2019
DCS, Medical Unit	-	Mar. 19, 2019	2019	Mar. 25, 2019
Min. of Health – St. Ann Inspection	-	-	Canteen 2018-2019	-

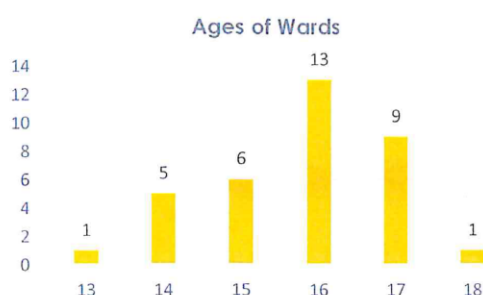
Source: DCS as of September 30, 2020

VISIT AND ASSESSMENT OF RIO COBRE JUVENILE CORRECTIONAL CENTRE

Section 76 (1)(f) of the *Child Care and Protection Act* ('CCPA'), states that where a child¹ has been found guilty of any offence before a Children's Court, that court may, subject to the provisions of that Act, make an order sending the child to a Juvenile Correctional Centre². One such centre is the Rio Cobre Juvenile Correctional Centre, which was designed to cater to the needs of boys between twelve (12) and eighteen (18) years who have committed an offence. They are generally placed at the Centre after they have been made the subject of a Correctional Order by the Court. The Correctional Process is guided by the CCPA.

(NB. A correctional order may also be issued by the Court for a child deemed uncontrollable, even though that child has not committed a criminal offence.)

INDECOM attended the RCJCC over three days in December 2020, where the Superintendent in charge and Wards were interviewed. The visits were observed by Justices of the Peace from the St Catherine Chapter of the Lay Magistrate's Association. An interview questionnaire was conducted with thirty-five (35) of the forty (40) Wards, five being unavailable for various reasons. The youngest of the Wards was thirteen (13), whilst the oldest was eighteen (18) [see graph 1 below].



Graph 1: Age distribution of juvenile detainees at RCJCC as at December 2020

Similar to INDECOM's previous reports on DCS institutions, this report examines aspects of the detention facility concerning the environment (accommodation, ventilation, lighting), the educational support and diet, in addition to examining the specific allegations of mistreatment by DCS staff.

ACCOMMODATION

The Mandela Rules remain the international foundation upon which correct and appropriate conditions should be established. Mandela Rules 12, 15, 16 and 17 guide on living conditions to be expected with regard to sleeping arrangements, sanitation, ablutions and cleanliness.

Rule 12 (1) "Where **sleeping accommodation** is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room".

Rule 12 (2) "Where **dormitories** are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison".

Rule 15 "The **sanitary installations** shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner".

Rule 16 "Adequate **bathing and shower** installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate".

Rule 17 "All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times".

The Superintendent reported that the Wards sleep in dormitories, each measuring thirty (30) square feet, with bunk beds and sponges and high ceilings to reduce heat. The number of boys accommodated in each room varies, however, each dormitory can house twenty (20) persons. The pairing of siblings is assessed on a case by case basis, since whilst keeping them together may be beneficial, in certain instances it is not. According to the Superintendent, the dormitories are cleaned daily by the Wards under the supervision of housemothers. The Wards are provided with cleaning items such as bleach, floor polish and disinfectant. The responses from the Wards corroborate that of the Superintendent that they were provided with the necessary cleaning items.

¹CCPA defines a "child" as a person under the age of eighteen (18) years.

² Section 2 of *The Corrections Act* states that 'Juvenile Correctional Centre' means any house, building, enclosure, or place, or any part thereof, declared to be a juvenile correctional centre under section 47 or 48;

It is to be noted that there was neither air conditioning nor fans at the facility. Despite this factor, twenty-six (26) Wards (76%) indicated that their living conditions were either very good, good or satisfactory. However, seven Wards (20%) said it was bad, and two Wards considered it to be very bad, citing various reasons. A high percentage of the Wards, (97%) considered the cleanliness of the dormitories favourable.

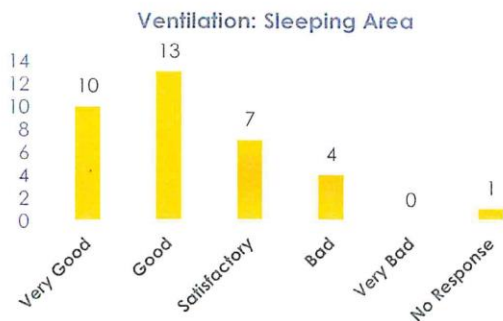
During INDECOM's visit, it was revealed that whilst the facility is in relatively good condition, some toilets required immediate replacement or repair (*see appendix images 1-2*), the showers for dormitory B1 leaked heavily and needed repairs, and there was inadequate lighting in some areas.

The Wards expressed similar dissatisfaction with features that have been reported on in inspections at Correctional Centres and JCF Lock Up facilities. These include, the malfunction or absence of sanitary fixtures and fittings in their living accommodations; the absence of a television for the dormitory (B1); broken lights (which the Wards reported they had to manipulate, to receive electricity while putting themselves at risk of being shocked); worn toilets; and the need for repairs to showers, and provision of mosquito repellent. Despite the observations, twenty-nine (29) Wards (83%), indicated there were adequate bathroom facilities.

VENTILATION

Ventilation of any building is both vital and necessary, even more so, where children are housed.

Mandela Rule Rule 14(a) states "...in all places where prisoners are required to live or work: The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation".

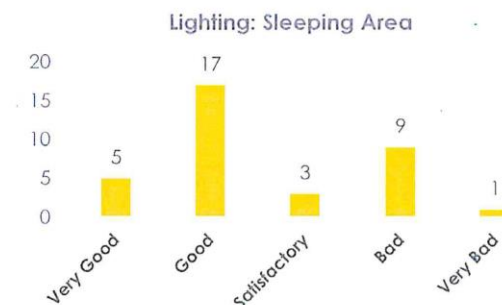


Graph 2: RCJCC Wards' response to adequacy of ventilation in sleeping areas

The Superintendent reported that windows are in place, of which two can be opened. There were no fans available, as the previous ones were damaged quickly, and they are reducing the risk of fans being 'weaponized'. There was no air conditioning unit. Despite the above deficiencies thirty (30) Wards reported that the ventilation in their sleeping area was either very good, good or satisfactory and five Wards considered it was bad [see graph 2 above].

LIGHTING

Although the broader consensus (71%) was that the lighting in the sleeping area was satisfactory or above, ten Wards (29%) considered it was bad/very bad. They indicated that areas of the bathroom, dining hall and shower areas lacked such comfort. Overall, the Commission found conformity with international best practice, in particular, to **Mandela Rule 14 (b)** which states "artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight".



Graph 3: RCJCC Wards' response to adequacy of lighting in sleeping area

MEALS/DIETS

The **Mandela Rule 22** states:

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
2. Drinking water shall be available to every prisoner whenever he or she needs it.

At the time of INDECOM's visit, the Superintendent in charge stated that **"myself, the Assistant Superintendent, or Welfare Case Manager, tastes the meals each day because if I can't eat it, I won't let them [boys]"**. According to the DCS, the preparation and distribution of meals are compliant with a 14 day- menu cycle, following the recommendation by the Department's Medical Unit. The menu cycle is distributed regularly; meal items fittingly came from different food groups.

For example in week one:

- Breakfast: tea/cocoa, (1 pint with sugar/milk), bread (3 slices/ 2 rolls), callaloo and codfish (3 oz.), fruit (1 fruit).
- Lunch: escovitch fish, rice and peas, irish potatoes, vegetable salad;
- Supper: oats porridge, bread with sardine.

Most of the Wards interviewed reported that they were fed three or four times daily, beginning with breakfast in the morning as early as 7:30 a.m. and sometimes after 8:00 a.m., followed by lunch at midday and supper around 4:30 p.m. One of the commendable qualities that the Wards agreed upon was the frequency and quantity of meals. Most Wards (77%) regarded the food as either very good, good or satisfactory, whilst four indicated the food was either bad or very bad. The most recurring food items identified by Wards included: frankfurter sausage, vegetable, fish, chicken. The Wards also stated that sometimes they are given an extra meal following dinner, which they are allowed to take back to their dormitories before lockdown. However, there were mixed responses concerning the timeliness of the meals.

Although these were the positive comments, it was reported that there had been some instances where Correctional Officers deliberately discarded meals meant for the boys as a display of vindictiveness. This normally occurs if a Ward is disliked, and Correctional Officers would deprive him of his meals until the following day. If true, such conduct would be in breach of international standards.

PERSONAL HYGIENE

Rule 18 (1), Mandela Rules states:

"...prisoners shall be required to keep their persons clean, and to this end, they shall be provided with water and with such toilet articles as are necessary for health and cleanliness" Rule 2 states, "in order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly"

There were mixed views from the Wards concerning personal hygiene at RCJCC. The consensus was that they received sufficient deodorants and other toiletries twice per month, however, some were dissatisfied with the type of deodorant provided, preferring gels and solids as opposed to roll-on. Toiletries are distributed by housemothers, but some Wards complained that the bath soaps provided were insufficient to last a fortnight. There was no restriction on showering, as all boys agreed that they could take showers as many times as they wanted. There was no formal arrangement concerning shaving and haircuts and it was stated that facial and head hair were cut at the discretion of the authorities.

VISITATION

There was an understanding that visitations were suspended as part of COVID 19 protocols but Wards were still able to keep in contact with family and friends. The Superintendent explained that before the pandemic, Wards were allowed visits from family members twice per month but subsequently he has ensured that each Ward can make a call each month to his family. It was also revealed that there were previously holiday visits, but they have now been suspended. Whilst no clear reason was provided it is understood that the current COVID 19 pandemic has restricted such activities.

HEALTH CARE SERVICES

Rule 24 (1) of the Mandela Rules states that:

"the provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status."

Rule 25 (1) of the Mandela Rules states:

"Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation."

There was no evidence that any of the Wards were deprived of appropriate health care, per international best practices. Fourteen (14) Wards revealed that they suffer from an illness. The overwhelming majority said they were able to see a Doctor when required, and the majority of respondents thought the care given to them was up to standard, with regard to treatment by medical staff and access to medication as needed. One Ward described it in a concise way, saying "everything good with medical".

LEISURE

Rule 23 (1) of the Mandela Rules notes; "every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits".

Rule 23 (2) states "young prisoners, and others of suitable age and physique shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided".

In this regard, RCJCC has been doing fairly well. Twenty-six (26) Wards agreed there were designated areas to carry out leisure activities, but nine disagreed. Twenty-seven (27) considered the recreational areas were either very good, good or satisfactory, whilst five regarded them as bad. The facilities were visited by the INDECOM team, which included a playing field and a multipurpose court used for recreational activities. Leisure activities include basketball, athletics, table games, football and cricket.

In addition to the Commission's enquiry of the RCJCC's living environment, in those aspects as reported above, it also enquired of the two other issues; i) allegations of inappropriate/disproportionate punishment being meted out and ii) denial of access to educational examinations.

I. ALLEGATIONS OF INAPPROPRIATE PUNISHMENT

The Commission's interviews with some Wards revealed their concerns regarding discipline and sanctions. Wards considered that punishments lacked accountability and were arbitrary and draconian; further the Wards complained that there was no appeal process, and their complaints about mistreatment are neglected.

Whilst such claims could not be fully substantiated or corroborated, and some of the survey interview findings were somewhat contradictory, there remained a perception that the granular detail that was provided, and site examination, did lend to their reports having substance.

Some 66% of the Wards believed the system for punishing them was fair, yet 74% of them indicated they were punished at the facility for no given reason. Nearly all Wards, (89%) revealed they were informed about the rules of the RCJCC facility on their arrival, but approximately 60% stated they were not told about the possible methods of punishment. The remaining 40% stated they were told about the possible punishments.

A broader complaint from some Wards, was that they have been disciplined and/or punished for activities that they were unaware attracted punishment. Such actions included;

- False accusation of masturbation;
- Climbing trees;
- Punished for speaking out about things they had issues with;
- Failing to go directly to the dormitory but deviating to pick up clothes off a line as it was about to rain;
- Refusal to rake premises; and
- Going downstairs without a shirt.

Such complaints can appear relatively trivial and minor, but certainly do not merit, if true, any form of 'punishment' or sanction to children. Non-violent offences, such as talking back, or being absent from the dormitory at lock downtime can attract isolation at the jail block.

The Wards alleged that the Superintendent does not entertain those who seek an audience with him following punishments meted out, which they deem unfair. The Superintendent maintained that there is a formal register book where the Wards can place their requests in writing to speak to either the Superintendent or Assistant Superintendent, equally it was stated there is an open door policy, where boys can be seen at any time. Interestingly, according to some Wards, the Assistant Superintendent is the decision-maker for punishments and she abuses her

power, and is allowed to operate autonomously of the Superintendent. The Superintendent explained that the Assistant Superintendent was in charge of discipline and would have such a remit.

The complaint book was examined but no reference was discovered which related to the allegations made.

The Superintendent explained that if a Ward commits a serious offence, e.g. a physical confrontation between boys, the Wards are placed before the Court for a judgement. If it is minor, they are placed on the jail block, but not for more than 72 hours.

JAIL BLOCK AND DRAWERS ORDER

The Wards reported that the severest punishment was to be locked away on a section they call the 'jail block,' also referred to as 'drawers order'. They claimed that the Assistant Superintendent dictates that boys are sent to the jail block as punishment, regardless of their alleged offences. In such instances they are not given any opportunity to defend themselves. Correctional Officers allegedly take advantage of the punishment action by provoking the boys, because they apparently have the protection of the Assistant Superintendent, whose decisions are believed final.

Based on the Commission's inspection, a jail block exists at RCJCC. It is secured by a metal door and located at the front of the reception area [see appendix – image 5].

It is locked with a key even though the movements of the Wards are already restricted. The nature of such detention for children, already confined in a secure Unit, for reportedly minor misdemeanours, is regarded as potentially inappropriate, as well as hazardous. It was reported that the key is not always readily available. The Commission was informed that in June 2020 a Ward was placed in the jail block where he had a seizure, but the keys could not be found. It was later discovered that a member of staff left the premises with the keys to make a duplicate.

According to the Wards they are instructed to undress to their underwear and isolated in the jail block, where there are no bedsheets to cover the sponge mattress upon which they sleep [see appendix – image 6]. If such accounts are true, this would not be in keeping with international standards. One Ward shared that he felt uncomfortable walking about in just his underwear among other adolescent boys. He said he had complained, but was instead struck, or, as he put it, he was 'buffed'. He reported, "more than six [Wards] inna one cell squeeze up". It was stated that in one instance, a Ward was placed naked in the jail block, but such a complaint could not be corroborated.

The Superintendent reported that clothing is removed to prevent suicide, which can be a legitimate action, but if such action is exercised of Wards who do not exhibit suicidal tendencies, but are merely being punished, their clothing removal is unwarranted. If any of the Wards

should exhibit suicidal tendencies there are clear guidelines on how this is to be treated, as published in the DCS Staff Handbook titled "Standard Operational Procedure regarding Inmates/Wards Self Harm and Suicide Prevention". Such a decision should also be recorded in the relevant record book.

It was further reported that whilst on the jail block, some of the Wards were denied the use of a bathroom. One Ward shared he was denied use of the toilet until he experienced severe stomach cramps. He said sometimes when the boys call for the Correctional Officers, in order to be released, to use the bathroom, they are told not to call out for the Correctional staff.

Wards alleged that some Correctional officers fabricate homophobic stories and label heterosexual boys as being homosexual, which places them in a precarious and vulnerable position. Such accusations engender unwarranted discrimination and can have a psychological effect on the concerned young Wards, who will have to be integrated back into society.

A further general complaint was the provocative attitude of some Correctional Officers. This presents itself by Correctional Officers enquiring of Wards about their offences, and if they do not respond, they can be assaulted by being slapped in the face. Further, if Wards 'talk back' at Correctional Officers, notwithstanding being provoked, it is the Wards who are punished. Wards also alleged they are punished for disrespecting Correctional Officers.

Upon enquiry, the Superintendent acknowledged that he had to reprimand Correctional Officers in the past for hitting boys with sticks, as recently as in 2020.

II. Denial of access to educational examinations

In addressing the allegations of Wards being denied access to exams or education, INDECOM was provided with unfettered access to the relevant documents to assess the situation.

Mandela Rule, **Rule 4 (2)** states:

"prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners."

Rule 104 (1) states "provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of the young."

Rule 104 (2) states "So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty".

Records for the RCJCC in 2020, showed that no children were scheduled to participate in CAPE examinations. However, eight boys were registered to participate in the CSEC examination. Of the eight, four failed to participate in any examination because they were released from the institution before the examination dates and were seemingly uninterested in sitting them. Notably, it was at the intervention of DCS staff at Rio Cobre, that at least on one occasion, a former Ward attended for one examination.

The details of the eight are as follows:

- Boy A was entered to sit English Language, Social Studies, Electronic Document Preparation and Management (EDPM), Principle of Business (POB) and Human and Social Biology (HSB). He completed his stay at RCJCC in April 2020 but was allowed to return to access CSEC marathon sessions that were held. He was successful in only POB;
- Boy B was registered for English Language, EDPM, Social Studies and HSB. He received Grades 3 in Social Studies and HSB;
- Boy C was registered for EDPM, Social Studies, HSB, English Language and POB. He completed his sentence in November 2019 but was allowed to return to sit exams. Interestingly, he was not allowed to sit English Paper 1 after he was found in possession of ganja while trying to enter the premises. He was redirected to a St. Catherine-based High School to sit the exam but again was denied entry as he was found in possession of ganja. He did not receive any passes;
- Boy D was entered to sit POB, English Language, HSB, and Social Studies. He did not pass any of the subjects;
- Boy E was registered for English Language, Social Studies and EDPM, but was not successful in any;
- Boy F was registered for POB, Social Studies and EDPM; he achieved a Grade 3 in POB;
- Boy G was registered for EDPM, however he was not successful; and
- Boy H did not return to sit his exams, despite constant reminders.

RCJCC records revealed that the boys attend classes at the institution's School of Excellence and at a detached classroom on the first floor, located in the same building that accommodates the Superintendent's office. Some boys reported they attended classes every day, whilst others attended twice per week. Mathematics and English Language were the two most common subjects reported by the Wards, with other subjects including; Social Studies, EDPM, POB, and HSB. Most Wards revealed that their classes had ten or fewer pupils at any time. There

were mixed views on teacher availability, with some boys revealing that they had the same teacher for each class, while other boys said they have several teachers. The records revealed that sixteen (16) boys did not sit any subjects at all, while thirteen (13) gave no response. Six boys confirmed that they sat exams at the CSEC level, but they did not identify what subjects they sat but revealed that they attended classes for the various subjects. Of note, one Ward said he was not allowed to sit his exam because he was accused of dealing in ganja, and another indicated he was taken off the exam list due to his poor behaviour. One Ward stated at the time of his exam he was at Metcalfe Street Secure Juvenile Centre and he was not collected to do his exam. Although these three examples may be regarded as a potential breach of the right of the Wards, there was limited, if any substantive facts to demonstrate that the RCJCC was denying the Wards the opportunity for further education.

CONCLUSION

INDECOM's investigation at the RCJCC arose from anonymous reports concerning the treatment and care of the detainees, and specifically referred to unwarranted punishments received by some Wards, and the failure to permit access to school examinations. The Commission's investigation examined both these issues, and additionally other aspects of detention which could impact upon the environment and well-being of the Wards.

The interviews undertaken of the Wards, and site visit revealed that many aspects of their detention were satisfactory. The facility is in relatively good condition, and overall the Wards commented favourably on many aspects of the regime – namely the cleanliness, food, recreation, and ablutions. However, the physical infrastructure in some areas was very poor, specifically the bathrooms in the dormitories were observed to be in very poor condition, with the toilets missing seats, lids and were heavily stained. The absence of doors on the toilet stalls was wholly unsatisfactory and deprives Wards of privacy and dignity. Broken faucets on face basins and leaking showers equally required immediate remedial repairs.

The reports of failing to afford educational opportunity or access to exams is not substantiated and the RCJCC's records strongly assist in supporting that view.

Of greater concern was the allegations that some Wards at RCJCC have been treated contrary to international best practice. The Commission found that aspects of discipline and punishment administered at the RCJCC infringe on some basic human rights. Whilst such reports were undocumented, and without strict independent corroboration, they were cited by a number of the Wards and the detail was telling. This related to reports of locking away Wards on the jail block, either for relatively minor misdemeanours and clothed only in their underwear. Such a practice is further exacerbated by the absence of sheets on the jail block, which exposes Wards to the elements without the ability to keep themselves warm.

The Commission is of the view that the mere placing of Wards in the jail block, exacerbated by no clothes is a method that endangers the Wards psychologically. The DCS is asked to reconsider the practice.

The DCS, and by extension the Ministry of National Security, should implement swift reform of the questionable practices that are extant and replace them with best practices that stand up to scrutiny and adhere to international standards.

APPENDIX



Images 1-2: Conditions of two toilets on the dormitory, which neither have seats, lids nor doors for closure



Image 3: View of face basins



Image 4: Shower with broken fixtures

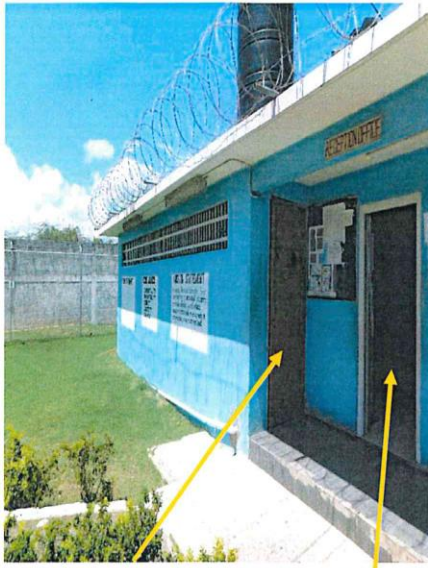


Image 5: Jail block and reception entrance

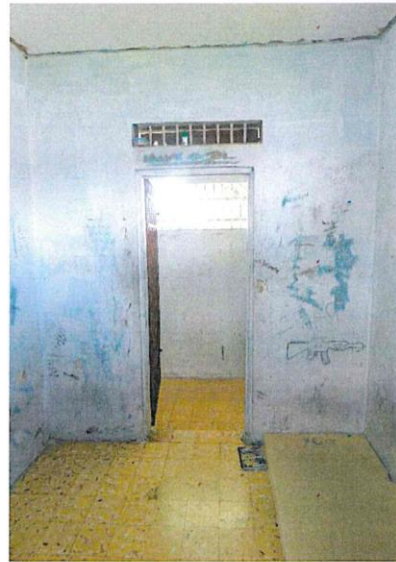


Image 6: Cell, inside jail block, where an uncovered sponge is seen on the floor

APPENDIX 1: Local and International Laws, Conventions and Guidelines and Treating with Children

International	Local
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985	The Corrections Act, 1985
United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), 1990	Corrections (Juvenile Correctional Centre and Juvenile Remand Centres) (Boards of Visitors) Regulations, 2013
United Nations Convention on the Rights of Persons with Disability (CRPD), 2007	The Disabilities Act, 2014
United Nations Universal Declaration of Human Rights, 1948	Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011
United Nations Conventions on the Rights of the Child, 1989	The Child Care and Protection Act, 2004
The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules, 2015)	Child Diversion Act, 2018
Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (UN Economic and Social Council Resolution 2005/20, July 22, 2005)	Probation of Offenders Act, 1948
	Legal Aid Act, 2000
	Mental Health Act, 1997
	Offences Against the Person Act, 1864
	Sexual Offences Act, 1985
	Child Justice Guidelines