



Home Office

# **Country Policy and Information Note** **Jamaica: Actors of Protection**

**Version 1.0**  
**August 2019**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the [Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Assessment

Updated: 19 August 2019

## 1. Introduction

### 1.1 Basis of claim

- 2.1.1 Whether, in general, those at risk of persecution or serious harm from non-state actors and/or rogue state actors are able to seek effective state protection.

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## 2. Consideration of issues

### 2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Exclusion

- 2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 For further guidance on the exclusion clauses and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#) and

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### 2.3 Protection

- 2.3.1 The government has established and operates a functioning criminal justice system. The Jamaica Constabulary Force (JCF) has primary responsibility for internal security in Jamaica and has powers of arrest without a warrant during states of emergency. However, the JCF's effectiveness is undermined by being underpaid, poorly trained, understaffed and lacking in resources generally. A Witness Protection Programme provides support for people whose safety is at risk, but is reported to have problems. While local police assistance is available throughout the country, and the police continue to make arrests for criminal acts, they are unable to patrol and protect all neighbourhoods. In addition, corruption and impunity for abuses committed by the police has led to mistrust amongst citizens (see [Security apparatus](#) and [Capabilities of the security forces](#)).
- 2.3.2 Private security forces play a large role in supporting local law enforcement and national security. Most wealthy Jamaicans employ private security

companies at their residencies. However, it is reported that guards themselves are unreliable and susceptible to crime. The private security industry is predicted to be larger than the JCF and the Jamaica Defence Force (JDF) combined, with an estimated 20,000 guards (see [Security apparatus](#)).

- 2.3.3 However, 'private' (i.e. non-state) security forces in Jamaica should not be considered an 'actor of protection'.
- 2.3.4 There are reports that the JCF committed arbitrary arrests and lengthy detentions, without giving detainees an explanation of charges or legal counsel, especially when a state of emergency is declared or in a Zone of Special Operations (ZOSO). Conditions in detention are reported by the USSD to be generally harsh and life threatening because of overcrowding, physical abuse, limited and nutritionally poor food as well as poor sanitary conditions and medical care, although prisons were slightly better than police 'lock-ups'. Inadequate administration also makes it difficult for lawyers to reach their clients (see [Arrest and detention](#)).
- 2.3.5 Corruption is prevalent amongst the JCF and some officers are reported to take bribes in exchange for making an arrest (see [Capabilities of the security forces](#) and [Arrest and detention](#)).
- 2.3.6 The government has committed to reducing corruption within the security services and improving policing and has implemented mechanisms to tackle this, such as the Major Organised Crime and Anti-corruption agency (MOCA). Since these reforms have been put into place, crime has fallen in Jamaica. Furthermore, a single anti-corruption agency was created in January 2017, which has the legal power to investigate, detect, prevent and prosecute acts of corruption amongst politicians (see [Arrest and detention and Capabilities of the security forces](#)).
- 2.3.7 Avenues of redress exist for those who make complaints against the police. The Independent Commission of Investigations (INDECOM) undertakes investigations concerning actions by members of the security forces and other agents of the state that result in death or injury to persons or the abuse of the rights of persons. In recent years, INDECOM has intensified its efforts to hold police accountable for their actions (see [Human rights abuses](#)).
- 2.3.8 The law provides for an independent judiciary and Jamaica has an established legal system, including prosecution, courts, sentencing and imprisonment. However, the system's effectiveness is hampered by a large backlog of cases, underfunding, lack of witness co-operation, shortage of judges and corruption. As a result, there are significant delays in processing cases. Some convictions rates, for example for murder at 29%, are relatively low (see [Rule of law and the judiciary](#)).
- 2.3.9 In the country guidance case of [AB \(Protection-criminal gangs-internal relocation\) Jamaica CG \[2007\] UKAIT 00018](#) (heard on 19 December 2006 and promulgated on 22 February 2007) the Tribunal, considered whether more generally the authorities are willing and able to provide effective protection and found that there is in general a sufficiency of state protection in Jamaica (see para 150). The Tribunal then went on to consider whether

the Jamaican authorities can protect persons who face a real risk in the form of targeting by criminal gangs,

- 2.3.10 The government has taken reasonable steps to establish an effective criminal justice system, albeit its effectiveness is undermined by a number of structural and operational weaknesses. It has instituted a number of reforms which have led to some improvements in security and the availability of state protection since the promulgation of [AB](#) (see [Rule of law and the judiciary](#)).
- 2.3.11 The Home Office does not consider that there are grounds supported by cogent evidence to depart from the findings in [AB](#).
- 2.3.12 In general, a person fearing non-state agents (including rogue state officials) is likely to be able to obtain effective state protection. The onus is on the person to demonstrate otherwise, with case determined on its facts.
- 2.3.13 For information and an assessment of risk in the context of organised crime, see CPIN on [Fear of Organised Criminal Gangs](#) and for information about crime generally, see [Background note](#). For further guidance on protection generally see Asylum Instructions on [Assessing Credibility and Refugee Status](#) and [Gender Issues in the Asylum Claim](#)

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# Country information

Section 3 updated: 19 August 2019

## 3. Security apparatus

### 3.1 Overview

#### 3.1.1 The United States Department of State 2018 Human Rights report noted:

‘The prime minister has general authority over the Jamaican Defense Board and, as Chairman of the Board, has ministerial responsibility for defense-related matters including the command, discipline, and administration of forces. He is the de facto Minister of Defense. The Ministry of National Security, however, functions as the ministerial home of the Jamaica Defense Force (JDF) and directs policy over the security forces. The JCF, with units for community policing, special response, intelligence gathering, and internal affairs, has primary responsibility for internal security. The JDF’s mandate is to maintain the integrity of Jamaica’s waters and airspace and to provide aid to the civil authorities when appropriate. The JDF, including the Coast Guard, has responsibility for national defense and maritime narcotics interdiction. When the prime minister and parliament declare a state of emergency, the JDF has arrest authority and operational partnership alongside the JCF...’<sup>1</sup>

#### 3.1.2 There is a Witness Protection programme which aims to protect and provide support for those whose safety is at risk<sup>2</sup>. The 2017 USSD report stated that ‘While the JCF reported that no participant in the witness protection program was ever killed, the program suffered from a number of problems.’<sup>3</sup>

For more information, see the Country Policy and Information Note on [Jamaica: Fear of Organised Criminal Gangs](#) and the [Country Background Note](#).

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### 3.2 Jamaica Constabulary Force

#### 3.2.1 The Ministry of National Security Jamaica stated on its website:

‘The Jamaica Constabulary Force (JCF) is the police force of Jamaica. The current head of the JCF is Commissioner Major General Antony Anderson. The JCF’s mission is “to serve, protect and reassure with courtesy, integrity and respect for the rights of all.” The JCF falls under the authority of the Ministry of National Security.

‘The national roles of the JCF are:

- To maintain law and order
- To assist in the prevention and detection of crime
- To investigate alleged crimes

<sup>1</sup> USSD, ‘2018 Human rights report – Jamaica’, (section 1d), 13 March 2019, [url](#)

<sup>2</sup> The Gleaner, ‘Abide by Witness Protection Rules, Attorney warns’, 24 August 2018, [url](#)

<sup>3</sup> USSD 2017 Human Rights report – Jamaica, (para 1e), 20 April 2018, [url](#)

- To protect life and property
  - To enforce all criminal laws as defined by the Jamaican penal code
  - To provide general assistance to the public'<sup>4</sup>
- 3.2.2 Regarding its strategic vision and its value statement, the website noted that, 'The vision of the Jamaica Constabulary is to become a high quality professional service that is valued and trusted by all the citizens of Jamaica... The Jamaica Constabulary is committed to the quality of its service delivery and the satisfaction of its internal and external customers.'<sup>5</sup>
- 3.2.3 The Jamaica Constabulary Force has 9,930 staff, as well as 55 auxiliary positions, making it a total of 9,985<sup>6</sup>.
- 3.2.4 The USSD 2018 Jamaica Human Rights report noted that, 'The JCF, with units for community policing, special response, intelligence gathering, and internal affairs, has primary responsibility for internal security.'<sup>7</sup>
- 3.2.5 The USSD 2018 further reported 'When a public state of emergency (SOE) is declared, the police and military have search, seizure, and arrest authority without a warrant. A state of emergency expires in 14 days unless parliament agrees to extend it. Additionally, the government can identify zones of special operations (ZOSOs), which confers the same authority to security forces, albeit within much smaller physical boundaries.'<sup>8</sup>
- 3.2.6 Furthermore, the report observed, 'Although the constitution prohibits such actions, the law gives security personnel broad powers of search and seizure. The law allows warrantless searches of a person, vehicle, ship, or boat if a police officer has good reason to be suspicious. Police on occasion were accused of conducting searches without warrants.'<sup>9</sup>
- 3.2.7 The Inter-American Development Bank report noted that:  
'The Island Special Constabulary Force was merged into the JCF to create a single command and implementation structure to eliminate duplication in administrative services, expand the skill set of police personnel, and rationalize and centralize training. The merger was first recommended by the Wolfe Report (1991) and subsequently reiterated in five independent reports.[...] Prior to the merger, each auxiliary force had separate legislative authority and specific areas of control and geographic areas of responsibility.'<sup>10</sup>
- 3.2.8 On 31 March 2019, Jamaica Information Service (JIS) reported that the government was transforming the JCF into 'a force for good'. The Prime Minister, Andrew Holness stated:

<sup>4</sup> The Ministry of National Security, 'Jamaica Constabulary Force', undated, [url](#)

<sup>5</sup> The Ministry of National Security, 'Jamaica Constabulary Force', undated, [url](#)

<sup>6</sup> The Jamaica Constabulary Force, 'About us', 20 March 2015, [url](#)

<sup>7</sup> USSD, 'Jamaica 2018 human rights report' (section 1d), 13 March 2019, [url](#)

<sup>8</sup> USSD, 'Jamaica 2018 human rights report', (section 1d), 13 March 2019, [url](#)

<sup>9</sup> USSD, 'Jamaica 2018 human rights report', (section 1e), 13 March 2019, [url](#)

<sup>10</sup> IADB, 'Crime and Violence in Jamaica' (p50), June 2016, [url](#)

“The transformation that we are moving the JCF towards is of an organization that can use force without violence, that can use force proportionately and that uses it as a last resort. That means, we’re going to have to change all type of systems, give you new tools, techniques and technology but the first thing we have to do is to change the mindset of the society and the JCF.”<sup>11</sup>

3.2.9 The article further noted:

‘During this financial year, the Government has allotted a record \$40 billion dollars (£24 thousand pounds<sup>12</sup>) to the JCF from the \$96.8 billion-dollar budget of the Ministry of National Security. The Government has so far rebuilt or refurbished 70 police stations across the island. He also announced that Cabinet recently approved the contract of acquisition of over 3000 bulletproof vest and other safety gear and additional firearms for the JCF.’<sup>13</sup>

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### 3.3 Armed forces

3.3.1 The Ministry of National Security Jamaica stated on its website:

‘The Jamaica Defence Force (JDF) comprises the Army, Air Wing and Coast Guard, together forming the military of Jamaica. The Jamaica Defence Force is constituted under the provisions of Section 4 of the Defence Act. Under this Act, the JDF has responsibility for the defence and protection from external forces or threat to the sovereignty of Jamaica. The JDF also supports the maintenance of order in Jamaica as well as any other duties that may occasionally be defined by the Defence Board.

‘The Defence Board is under the general authority of the Prime Minister who has Ministerial responsibility for defence matters of the land including command, discipline and administration. The Ministry of National Security functions as the ministerial home of the JDF.

‘The JDF’s mandate is to maintain the integrity of Jamaica’s waters and airspace and to provide aid to the Civil Authorities, relating to:

- Restoration/maintenance of law and order
- Counter-narcotics operations
- Search and Rescue (SAR)
- Casualty Evacuation
- Humanitarian and disaster relief operations
- Defence diplomacy
- Nation building projects
- Contingency planning

<sup>11</sup> JIS, ‘Transformation of the JCF into a force for good underway – PM Holness’, 31 May 2019, [url](#)

<sup>12</sup> Xe currency converter, undated, [url](#)

<sup>13</sup> JIS, ‘Transformation of the JCF into a force for good underway – PM Holness’, 31 May 2019, [url](#)

- State ceremonial duties<sup>14</sup>
- 3.3.2 The USSD report of 2018 observed that the, 'Ministry of National Security functions as the ministerial home of the Jamaica Defence Force (JDF) and directs policy over the security forces.'<sup>15</sup>
- 3.3.3 The report further added 'The JDF's mandate is to maintain the integrity of Jamaica's waters and airspace and to provide aid to the civil authorities when appropriate. The JDF, including the Coast Guard, has responsibility for national defense and maritime narcotics interdiction. When the prime minister and parliament declare a state of emergency, the JDF has arrest authority and operational partnership alongside the JCF.'<sup>16</sup>
- 3.3.4 Janes, a British publishing company that specialises in military, aerospace and transportation topics, observed in a March 2019 article:  
 'The Jamaica Defence Force (JDF) is aiming to grow from 6,000 troops up to 10,000 in order to expand the service's footprint on the island.  
 'In addition to growing the size of the force, Kingston is building new facilities for the JDF. The Ministry of National Security announced in late January that new barracks have been constructed in Montego Bay, which now houses the JDF's Second Battalion.'<sup>17</sup>

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### 3.4 Private security

- 3.4.1 The Ministry of National Security in Jamaica stated on its website 'The PSRA (Private Security Regulation Authority) is a statutory body under the Ministry of National Security. It was established under the PSRA Act of 1992. Following the rapid growth in the number of organizations and individuals operating in the Private Security Industry, it became highly desirable that a system be introduced to hold these organizations and individuals accountable to some form of regulation and monitoring.'<sup>18</sup>
- For more information, see [The Ministry of National Security Jamaica official website](#) and [The Private Security Regulation Authority official website](#).
- 3.4.2 Private security forces are predicted to be larger than the Jamaica Constabulary Force and the Jamaica Defence Force, with an estimated twenty thousand employed guards in over two hundred registered security companies<sup>19</sup>.
- 3.4.3 According to the Jamaica Information Service, 'as at December 2018, there were more than 23,000 registered security practitioners and 290 registered security companies in Jamaica.'<sup>20</sup>
- 3.4.4 On 16 May 2019, The Jamaica Observer reported:

<sup>14</sup> The Ministry of National Security, 'Jamaica Defence Force', undated, [url](#)

<sup>15</sup> USSD, 'Jamaica 2018 human rights report', (section 1d), 13 March 2019, [url](#)

<sup>16</sup> USSD, 'Jamaica 2018 human rights report', (section 1d), 13 March 2019, [url](#)

<sup>17</sup> Jane's, 'JDF aims to increase personnel, build new facilities', 25 March 2019, [url](#)

<sup>18</sup> The Ministry of National Security Jamaica, 'Private Security Regulation Authority', undated, [url](#)

<sup>19</sup> TandF, [...], 'Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>20</sup> JIS, 'Only hire licensed security guards – PSRA', 15 March 2019, [url](#)

‘Prime Minister Andrew Holness says that, in addition to creating jobs for over 23,000 Jamaicans, the private security industry has become an essential component of the national security framework. “Like the State’s security personnel, private security officers are exposed to high risks and continue to make selfless sacrifices for the nation. The country is, therefore, heavily invested in the private security industry, and likewise the industry is heavily invested in Jamaica,”...

‘He said that the sector has proven its capability to do so in terms of providing value, including protection of access control points, employees, clients, communities, homes, and corporate assets.’<sup>21</sup>

#### 3.4.5 The Commonwealth Network, an online guide to doing business in Commonwealth countries, stated:

‘The past few decades have witnessed a massive expansion of the security industry in Jamaica. As of 2012, according to the Private Security Regulation Authority (PSRA), there were more than 200 registered private security companies (PSCs) in Jamaica. In terms of the number of registered guards, the largest of these include Guardsman Limited with 2,777, Marksman Limited with 2,653 and Ranger Protection and Security Company Limited with 1,456.

‘Jamaica’s PSCs provide services in a wide range of contexts and to a wide range of clients, including for specific events (public and private), for residential areas, for banks and for airlines. Services on offer include guarding (for people, premises, goods, cash in transit)...’<sup>22</sup>

#### 3.4.6 A March 2019 article by academics Rivke Jaffe and Tessa Diphorn, published on Taylor and Francis online, an international academic publisher<sup>23</sup>, stated that ‘a number of politicians own security businesses on the side’.<sup>24</sup> The article further noted that those in charge of larger security companies were part of the country’s business elite and ‘almost all...had a background in the Jamaica Defense Force, and this military experience and the contacts this facilitated were strong assets in developing their business career.’<sup>25</sup>

#### 3.4.7 The same article stated that a ‘military background works as a type of social and cultural capital in the industry’<sup>26</sup> and that ‘contracting private companies for ... services ... was cheaper than direct employment and made it easier to dismiss guards suspected of theft or other security breaches...’<sup>27</sup>

#### 3.4.8 In addition, the source observed that ‘Everybody in the industry knows everybody’<sup>28</sup>, as almost all have gone to the same elite schools as politicians

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<sup>21</sup> Jamaica Observer, ‘Holness says private security essential in crime fighting’, 16 May 2017, [url](#)

<sup>22</sup> Commonwealth Network, ‘Find Security expertise in Jamaica’, page updated 2019, [url](#)

<sup>23</sup> Taylor and Francis group, ‘About Taylor and Francis group’, 2019, [url](#)

<sup>24</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>25</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>26</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>27</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>28</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

and high-ranking beaureocrats and ‘maintain strong alumni networks through what are known unironically as Old Boys events’<sup>29</sup>. Furthermore:

‘The shared military background also ensured that, while the private security industry is characterized by fierce competition, at the top, relations were often friendly. Senior managers and owners collaborate in professional security associations to lobby the government and self-police the industry to keep out undesirable businesses. Beyond these professional interests, there is a level of social homogeneity that keeps relations pleasant.’<sup>30</sup>

3.4.9 Owners and managers of security companies described their guards as ‘generally from “volatile” Downtown neighbourhoods, as barely literate, unpunctual, unreliable, prone to crime, and, all in all, in need of discipline.’<sup>31</sup> Whilst some security company managers stated that trust was the main challenge regarding security guards, one security company owner explained that security guards are ‘most susceptible to crime themselves, because of their milieu’.<sup>32</sup>

3.4.10 The article added that security guards:

‘...are seen as easily swayed into bad habits, such that one manager explained their inclination to recruit at a younger age: “Sometimes we go a year or two below our required age if they are presentable and look mature, and we train them, because that way they are not exposed to bad habits.” On the whole, guards’ involvement in theft is taken as a given, and suspicion is the basis for many interactions between guards and management. One security consultant asserted “they need an internal affairs department in most of these companies to just look at their own guards and see what’s going on.”’<sup>33</sup>

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Section 4 updated: 16 August 2019

## 4. Arrest and detention

### 4.1 Legal rights

4.1.1 The 2018 USSD report on Jamaica stated:

‘The constitution prohibits arbitrary arrest and detention but permits arrest with “reasonable suspicion of [a subject] having committed or ...about to commit a criminal offense.” The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements; however, abuses arose because police regularly ignored the “reasonable suspicion” requirement, arraignment procedures were very lengthy, and large portions of the country were under a state of emergency.’<sup>34</sup>

4.1.2 In addition, the report mentioned:

<sup>29</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>30</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>31</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>32</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>33</sup> TandF, [...], ‘Old Boys and Badmen: Private security in (post)colonial Jamaica, 19 March 2019, [url](#)

<sup>34</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1d), 13 March 2019, [url](#)

‘Police officers may arrest without warrant where a felony, treason, or breach of the peace is committed or attempted in the officer’s presence. Upon arrest, the officer is required to tell a suspect in clear language the offense(s) for which the individual is being arrested. Any officer may execute a warrant that is lawfully issued by a judge or justice of the peace without being in possession of the warrant. The officer must produce the warrant if the suspect requests it as soon as practical after the arrest. The decision to charge or release must be resolved within 48 hours, although a judge or justice of the peace may extend the period of custody.’<sup>35</sup>

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## 4.2 Arbitrary detention

4.2.1 The USSD 2018 report stated that security forces did not always follow the legal procedures when it came to arrests<sup>36</sup> and said that, ‘Government officials and members of civil society reported that the public perceived police could arrest regardless of judicial authorization.’<sup>37</sup>

4.2.2 The USSD report for 2018 observed:

‘Arbitrary and lengthy detentions took place in the execution of both the ZOSOs (Zones of special operations) and SOEs (State of Emergencies). The Office of the Public Defender, commissioned by parliament to investigate civil and human rights abuses, received reports that security forces temporarily detained more than 2,000 persons in Montego Bay, which was within the St. James SOE, from January to October. Across the country police detained 6,000 persons during the same period. The average length of detention was four days. Extremely few of these arrests resulted in charges...

‘Additionally, there were reports of arrests and prolonged periods of detention in which police did not inform the suspect of the official charges. There were multiple reports that detainees did not have access to legal counsel and that apprehended suspects could not notify family members. NGOs estimated that 90 percent of all arrests occurred without a warrant. A police officer could simultaneously arrest and deny bail. The relative looseness in procedure lent itself to low-level corruption where a police constable could accept bribes in lieu of an arrest...

‘Cases of arbitrary detention were greatest in the parishes of St. James and St. Catherine. Since January and March, respectively, the government declared a SOE in these areas because of high levels of criminal and gang violence. The government deployed the military to support local law enforcement. Under these orders security forces carried out a wide-reaching campaign of arbitrary detention and incarceration in an attempt to contain the violence. Media reported that security forces arrested and detained more than 6,000 persons under these conditions. In some cases the police released persons after two weeks of imprisonment only to rearrest them and keep them in jail. Officials, NGOs, and security experts speculated security

<sup>35</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1d), 13 March 2019, [url](#)

<sup>36</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1d), 13 March 2019, [url](#)

<sup>37</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1d), 13 March 2019, [url](#)

forces had orders to meet a specified number of arrests each day. There were few official investigations or prosecutions of security force members involved in arbitrary arrests.<sup>38</sup>

#### 4.2.3 Regarding lock-ups, the USSD report noted:

‘Lock-ups are intended for short-term detentions of 48 hours or less, but often the government held suspects in these facilities without charge or awaiting trial for much longer periods. A lack of administrative follow-through after the arrest created problems where persons were incarcerated without any accompanying paperwork. In some cases, weeks, days, or months later, authorities could not ascertain why someone was arrested.

‘The Office of the Public Defender received reports that when someone was arrested in a ZOSO, the average time in detention was four days. The majority of arrests ended with no charges and the suspect released. The Office of the Public Defender estimated that 14 persons arrested in a ZOSO during the year had been held without charge in excess of 100 days.’<sup>39</sup>

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### 4.3 Prison and detention center conditions

4.3.1 The USSD report of 2018 noted that ‘Allegations of cruel, inhuman, and degrading treatment or punishment towards individuals in police custody continued.’<sup>40</sup>

4.3.2 The report further stated:

‘Conditions in prisons and detention facilities were harsh and life threatening due to gross overcrowding, physical abuse, limited food, inadequate sanitary conditions and medical care, and poor administration...

‘Some of the most egregious reports of human rights abuses took place in “lock-ups” (facilities to hold pretrial detainees). For example, when the government declared a state of emergency in the parish of St. James in January, it identified a lock-up in Montego Bay to facilitate the influx of detained suspects. The Ministry of Health reported major problems, including the lack of functioning bathroom facilities, lighting, and handwashing stations; poor ventilation; and inadequate drainage. Ministry inspectors noted illnesses caused by cockroaches, rats, mosquitoes, and flies. Detainees consumed nutritionally poor meals. There was no refrigeration on site for food storage. Detainees had less than one hour per day out of the cell to use shower facilities and get food. In some cases guards reportedly denied access to bathrooms and water in order to coerce and punish inmates.’<sup>41</sup>

4.3.3 Regarding the Montego Bay lock-up, the USSD report noted: ‘Attorneys reported extreme difficulty reaching their clients and conveyed that in most cases their detainees did not know why they were arrested. After receiving citizen complaints and some media coverage, the government took some

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<sup>38</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1d), 13 March 2019, [url](#)

<sup>39</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1d), 13 March 2019, [url](#)

<sup>40</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1c), 13 March 2019, [url](#)

<sup>41</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1c), 13 March 2019, [url](#)

corrective actions to reduce the number of detainees and improve the conditions of the detention facility...<sup>42</sup>

#### 4.3.4 The USSD also noted:

‘Physical conditions in correctional facilities were slightly better than police lockups, but overcrowding remained a concern. At times cells in the maximum security facilities at Tower Street and St. Catherine held 200 percent of their intended capacity. Local NGOs reported that this occurred because prison administrators did not triage prisoners to lower-security facilities as they should have. Cells were very dark, had subpar bathroom and toilet facilities, and limited ventilation. Prisoners sometimes were unable to receive required medication, including medication for HIV, according to UNAIDS. The HIV prevalence rate among incarcerated populations (more than 3 percent) was reportedly as much as double that of the general population. Four part-time psychiatrists cared for at least 225 inmates diagnosed as persons with mental disabilities in 11 facilities across the island.’<sup>43</sup>

#### 4.3.5 The report added:

‘Independent authorities investigated allegations of abuse and inhuman conditions. Official complaints and investigations were infrequent and likely underreported... Justices of the Peace and representatives from the Police Civilian Oversight Authority (PCOA) visited correctional centers and lock-ups regularly. The PCOA submitted reports to the Ministry of National Security with recommendations to improve conditions. Citizen groups and NGOs believed the ministry rarely acted upon the recommendations.’<sup>44</sup>

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Section 5 updated: 16 August 2019

## 5. Capabilities of the security forces

### 5.1 Effectiveness

#### 5.1.1 The Jamaica 2019 Crime and Safety report published on 30 May 2019 by the Overseas Security Advisory Council observed:

‘...Jamaica’s police force is understaffed and has limited resources. Gated resorts are not immune to violent crime...

‘Insufficient funding and resources hinder Jamaica’s Constabulary Force (JCF). Government officials have very low salaries. Despite the creation of the Independent Commission of Investigations in 2010, an entity that investigates police misconduct, police corruption and involvement in criminal activity still occur. Additionally, the majority of crime victims do not report crimes due to fear the report will get back to criminals, or the feeling that nothing would come from such reports.

‘Most civilians fear that the authorities cannot protect them from organized criminal elements because they suspect authorities are colluding with

<sup>42</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1c), 13 March 2019, [url](#)

<sup>43</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1c), 13 March 2019, [url](#)

<sup>44</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1c), 13 March 2019, [url](#)

criminals, leading them to avoid giving evidence or witness testimony. Those in some marginalized communities are often indifferent to police authority, adding to a perceived sense of lawlessness. Reporting crime can seem archaic and confusing, and can be a lengthy process that some see as frustratingly bureaucratic.

‘Despite these setbacks, Jamaican police officers have received extensive training from the United States and other international trainers, including the United Kingdom, Russia, China, Canada, and South Korea.’<sup>45</sup>

5.1.2 The report further noted that:

‘In January 2018, due to rampant violence and murders, the Government of Jamaica (GoJ) declared States of Emergency (SOE) and Zones of Special Operations (ZOSOs) for several parishes including the Kingston Metropolitan Area (KMA) and the parish of St. James... Under SOE, security forces deployed to address organized crime, including gang violence related to drug and gun trafficking and lottery scams. The Emergency Powers Act allows the security forces to detain and deport suspicious persons, to enter premises and seize property without a warrant, and declare curfews. The three SOEs and two ZOSOs lowered the murder rate by 22%, due largely to the steep decline in murders in St. James. However, the SOE lapsed the end of January 2019, after Jamaica’s Parliament did not approve its extension.’<sup>46</sup>

5.1.3 The Jamaica 2018 Crime and Safety report observed:

‘Police are unable to patrol and protect most neighborhoods adequately, so burglaries are quite common. Home break-ins occur in Kingston, even in gated and affluent neighborhoods. Past incidents have shown that when occupants neglected to use security features provided, criminals were afforded opportunities to gain entry into residences. Most wealthy residents hire private, armed guard forces to deter criminals...

‘The police are only able to make arrests in 44% of homicides annually, and they only convict perpetrators in 29% of homicide cases...

‘Although the police receive some training from U.S and U.K. law enforcement entities, they endure a lack of funding, resources, and management. The Jamaica Constabulary Force is considered to be underpaid, poorly trained, and understaffed.’<sup>47</sup>

5.1.4 The Jamaica Information Service reported in August 2018 that according to Police Commissioner, Major General Antony Anderson, ‘the reduction in murders and major crimes can be largely attributed to smart policing by the security forces.’<sup>48</sup>

5.1.5 In addition, the article noted:

‘He noted that a number of policing strategies implemented have been effective in significantly reducing the figures.

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<sup>45</sup> OSAC, ‘Jamaica 2019 Crime and Safety report’, 30 May 2019, [url](#)

<sup>46</sup> OSAC, ‘Jamaica 2019 Crime and Safety report’, 30 May 2019, [url](#)

<sup>47</sup> OSAC, ‘Jamaica 2018 Crime and Safety report’, 26 January 2018, [url](#)

<sup>48</sup> JIS, ‘Reduction in crime attributed to effective policing strategies’, 18 August 2018, [url](#)

‘Statistics from the Jamaica Constabulary Force (JCF) show that since August 11 (2018), there has been a 16.8 per cent decrease in murders, 15.4 per cent decline in shootings, 9.4 per cent fall in robberies, and 7.2 per cent drop in break-ins...

‘Major General Anderson also acknowledged that the Zones of Special Operations, and States of Public Emergency, now in effect, have been particularly pivotal in underpinning and fuelling the security forces’ hard work and success.

‘On Thursday (August 16), Prime Minister, the Most Hon. Andrew Holness, indicated that there is an active national security strategy in place, which is utilising a systematic approach to dealing with crime.

‘The JCF’s overall statistics for 2018 show that 797 murders were recorded between January 1 and August 11, compared to nearly 1,000 for the corresponding period last year.’<sup>49</sup>

- 5.1.6 There have been a number of government initiatives to tackle corruption. The Major Organised Crime and anti-corruption agency is a department within The Ministry of National Security Jamaica that focuses on this. Its website states:

‘In August 2014, the Anti-Corruption Branch (ACB) and the Major Organised Crime and Anti-Corruption Task Force (MOCA TF) combined to form the Major Organised Crime and Anti-Corruption Agency (MOCA). MOCA is now an elite agency which focuses on tackling corruption in the public sector and bringing high-value criminal targets to justice. The goals of the agency are:

- To tackle serious organised crime and to stamp out corruption in Jamaica
- To focus on bringing high-value criminal targets to justice
- To improve governance and security in Jamaica through tackling serious transnational organised crime in all its forms and to provide deterrence.’<sup>50</sup>

- 5.1.7 Speaking at the Eighth Summit of Americas in Lima in 2018, the Prime Minister Andrew Holness addressed the topic of corruption. He stated that Jamaica will continue to partner with international bodies to find a solution to corruption in the country<sup>51</sup>.

- 5.1.8 For more information, see the [Country Policy and Information Note: Fear of Organised Criminal Groups](#).

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## 5.2 Corruption

- 5.2.1 The Jamaica 2019 Crime and Safety report stated that ‘The Jamaican government concluded that corruption and the transnational crime it facilitates presents a grave threat to national security.’<sup>52</sup>

<sup>49</sup> JIS, ‘Reduction in crime attributed to effective policing strategies’, 18 August 2018, [url](#)

<sup>50</sup> The Ministry of National Security Jamaica, ‘MOCA’, undated, [url](#)

<sup>51</sup> JIS, ‘Jamaica committed to cooperating with Int’l Partners to combat corruption’, 16 April 2018, [url](#)

<sup>52</sup> OSAC, ‘Jamaica 2019 Crime and Safety report’, 30 May 2019, [url](#)

5.2.2 Regarding corruption within prisons, the USSD 2018 report stated that ‘Reports existed of corrections officers using their authority to take bribes and control access to prisoners.’<sup>53</sup> Furthermore, the report mentioned that regarding the Montego Bay lock-up, ‘A credible report existed of families (visiting their relatives in prison) paying for meals, without receipts or confirmation that a meal was delivered, suggesting the administrators pocketed the money.’<sup>54</sup>

5.2.3 The Bertelsmann Stiftung 2018 Jamaica country report observed:

‘After years, attempts to create one, powerful anticorruption agency which would include the OCG (The Office of the Contractor General) and other state agencies culminated with the passage of the Integrity Commission Act on 31 January 2017, supported unanimously by both sides of parliament. This will enable the establishment of a single anti-corruption body to investigate, detect, prevent and prosecute acts of corruption in Jamaica, in the public sector and among politicians. Previously, three different state agencies would be involved in this process, none of which had enough legal power, to overcome political, legal or procedural loopholes, and ensure that both public servants and politicians would be held accountable for breaking the law and engaging in corrupt practices.’<sup>55</sup>

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### 5.3 Human rights violations

5.3.1 The Independent Commission of Investigations (INDECOM) is ‘a civilian staffed state agency tasked to undertake investigations concerning actions by members of the Security Forces and other Agents of the State that result in death or injury to persons or the abuse of the rights of persons; and for connected matters. The members of the Security Forces and other Agents of the State for which INDECOM provides oversight include:

- Jamaica Constabulary Force (JCF)
- District Constables
- Jamaica Defence Force (JDF)
- Correctional officers at the Department of Correctional Services (DCS)’<sup>56</sup>

5.3.2 Between 6 January 2019 and 21 February 2019, the agency reported a total of eleven fatalities committed by the JCF<sup>57</sup>.

5.3.3 On 20 March 2019, INDECOM reported the killing of a man by an off duty police officer on 19 March 2019<sup>58</sup>. On 28 April 2019, INDECOM reported a shooting of a civilian by three police officers<sup>59</sup>. The article stated, ‘three men who were in the escaping vehicle were detained, all of whom identified

<sup>53</sup> USSD, ‘Jamaica 2018 human rights report, (section 1c), 13 March 2019, [url](#)

<sup>54</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1c), 13 March 2019, [url](#)

<sup>55</sup> Bertelsmann Stiftung, ‘BTI 2019 country report – Jamaica’, (section 3), 2018, [url](#)

<sup>56</sup> INDECOM, ‘Commission – About us’, undated, [url](#)

<sup>57</sup> INDECOM, ‘2019 - security forces related fatalities’, undated, [url](#)

<sup>58</sup> INDECOM, ‘INDECOM investigating fatal shooting of Nevada Dennis’, 20 March 2019, [url](#)

<sup>59</sup> INDECOM, ‘INDECOM investigating fatal shooting in Spanish Town’, 28 April 2019, [url](#)

themselves as police officers. One of those men has since died, one is in custody and the other has escaped. The escaped officer is Cpl. Kirk Frazer and is being sought by the police. The two officers had been previously charged for murder by INDECOM and were released on bail.<sup>60</sup>

5.3.4 The first quarterly INDECOM report noted incidents between January and March 2019. The report stated:

‘The Commission received 197 categories of complaints from 181 incidents reported for the period. The top five categories of complaints include: assault (68), discharge of firearm (58), shooting injury (21), fatal shooting (19)...and threat (8).

‘The Commission’s Forensic Unit responded to 69 incident scenes for the period. There were two deaths in custody for the period...

‘No member of the Jamaica Constabulary Force (JCF) was arrested and charged during the period, for incidents investigated by INDECOM.<sup>61</sup>

5.3.5 The 2018 year in review report by INDECOM, observed that between October and December 2018:

‘The Commission received 170 categories of complaints from 165 incidents reported for the period. The top five categories of complaints include: assault (75), discharge of firearm (45), fatal shooting (23)... shooting injury (11) and neglect of duty (5).

‘The Commission’s Forensic Unit responded to 57 incident scenes for the period. There were two deaths in custody for the period...

‘One (1) member of the Jamaica Constabulary Force (JCF) was arrested and charged during the period, for incidents investigated by INDECOM.<sup>62</sup>

5.3.6 The 2018 USSD report on Jamaica noted that:

‘The majority of reports described officials using physical force, intimidation, access to water, and extreme exposure to heat or cold to coerce a change in testimony. INDECOM investigated reports of alleged abuse committed by police and prison officials. Representatives from the nongovernmental organization (NGO) Jamaicans for Justice claimed abuse was likely underreported by victims, who feared reprisal or did not believe authorities would act on their complaint.

‘In one case an elderly woman, Desrine Morris, died while in police custody on or about March 1. The JCF arrested Morris for an unspecified bench warrant. Less than six hours later police reported she had hanged herself. There were no followup police reports, and the autopsy did not confirm a cause of death. Friends and family members were skeptical of this being a suicide. Media reports suggested that excessive punitive force may have led to the death.<sup>63</sup>

5.3.7 Furthermore, the report stated:

<sup>60</sup> INDECOM, ‘INDECOM investigating fatal shooting in Spanish Town’, 28 April 2019, [url](#)

<sup>61</sup> INDECOM, ‘The INDECOM quarterly 1<sup>st</sup> January – March 2019’, (page 4), undated, [url](#)

<sup>62</sup> INDECOM, ‘The INDECOM quarterly 4<sup>th</sup> October – December 2018’, (page 4), undated, [url](#)

<sup>63</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1c), 13 March 2019, [url](#)

‘The government had mechanisms to investigate and punish police abuse, but they were not always employed. There were hundreds of abuse and wrongful harm complaints regarding the security forces. INDECOM investigated actions by members of the security forces and other agents of the state that resulted in death, injury, or the abuse of civil rights. When appropriate, INDECOM forwarded cases to the Office of the Director of Public Prosecutions for agents to make an arrest. INDECOM remained one of the few external and independent oversight commissions that monitored security forces, but it was unable to investigate each case thoroughly. As of October 23, INDECOM reported 122 security force-related fatalities.’<sup>64</sup>

5.3.8 The report added:

‘There were numerous reports that government security forces committed arbitrary and unlawful killings. The Jamaica Constabulary Force (JCF)... was responsible for the majority of the cases. As of October 23, the Independent Commission of Investigations (INDECOM), the body parliament established in 2010 to investigate abuses by agents of state, had received 122 reports of security force-related fatalities, compared with 168 in 2017. These were cases where police or joint military-police activity led to the death of a civilian.’<sup>65</sup>

5.3.9 The USSD report also observed ‘In the ZOSOs the government began taking biometrics from persons it temporarily detained. Security forces were able to apprehend wide swaths of the male population in ZOSOs under broad arrest authority. NGOs contended that ZOSOs became a subterfuge for the government to capture biometric data indiscriminately from the public without consent. Reports estimated that as many as 6,000 persons were affected.’<sup>66</sup>

5.3.10 Furthermore, the report noted that ‘There were no reports of political prisoners or detainees.’<sup>67</sup>

5.3.11 Amnesty International also reported the killings in 2017 by security forces. A 2018 article stated: ‘Last year, Jamaican law-enforcement officers killed 168 people, an average of three people a week in a nation of 2.8 million. Over the past decade only a handful of police have been convicted for such killings.’<sup>68</sup>

5.3.12 In its 2017/2018 annual report on Jamaica, Amnesty International observed: ‘More than a year after a Commission of Enquiry published its findings into the events that took place in Western Kingston during the 2010 state of emergency that left at least 69 people dead, the government had still not officially responded on how it planned to implement the recommendations, or made a public apology. In June, the Jamaica Constabulary Force completed an internal administrative review into the conduct of officers named in the

<sup>64</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1d), 13 March 2019, [url](#)

<sup>65</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1a), 13 March 2019, [url](#)

<sup>66</sup> USSD, ‘Jamaica 2018 human rights report’ (section 1e), 13 March 2019, [url](#)

<sup>67</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1e), 13 March 2019, [url](#)

<sup>68</sup> AI, ‘petition for PM to take action after 3 people a week killed by police last year’, 15 Mar 2018, [url](#)

Commissioners' report. However, it found no misconduct or responsibility for human rights violations during the state of emergency.<sup>69</sup>

5.3.13 Freedom House observed in the 'Freedom in the World 2018' report that 'there were several high-profile convictions during 2017, including in July of a policeman for his involvement in shooting and killing a teenager in 2007...'<sup>70</sup>

5.3.14 Furthermore, the report stated:

'Killings by police remain a serious problem in Jamaica. According to the Independent Commission of Investigations (INDECOM), 168 individuals were killed by security personnel in 2017.

'A Commission of Inquiry in 2016 submitted a report on the state of emergency declared in 2010 in response to violence in the Tivoli Gardens neighborhood of Kingston, in which more than 70 civilians were killed in an operation aimed at arresting an alleged drug trafficker. The report found that security forces had acted disproportionately, and recommended that the government apologize for the event and provide victims with compensation and counseling services; the government issued an apology and provided some compensation to relatives of those killed in December 2017. However, the JCF in August 2017 issued its own report on the raid, which cleared members of wrongdoing and questioned the integrity of the earlier report.'<sup>71</sup>

5.3.15 Freedom House added that 'harassment of and violence against LGBT people remains a major concern and is frequently ignored by the police...'<sup>72</sup>

5.3.16 The Bertelsmann Stiftung 2018 Jamaica country report observed:

'Civil rights are protected under law, especially the constitution and the Charter of Rights, but are often not properly respected and protected. Jamaicans for Justice (JFJ) through their legal team receives credible reports, from family members of persons detained at police stations, of the serious physical abuse of detainees while in police custody. Without the intervention and legal action of NGOs like JFJ or state agencies like the Public Defender (when the offending party is a state agency), the rights of detainees are not properly respected and protected, and detainees face threats to their life, safety and fundamental human rights. Mechanisms and institutions to prosecute, punish and redress violations of civil rights exist, but are not consistently effective as the many vulnerable citizens, primarily young black men do not have access to legal services to intervene on their behalf. Discriminatory action on the basis of sexual orientation is given a key reason that LGBT people are afraid to report incidents of assault against them, as they fear further abuse from police officers while in police custody.'<sup>73</sup>

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<sup>69</sup> AI, 'Amnesty International report 2017/2018', (police and security forces), 22 February 2018, [url](#)

<sup>70</sup> Freedom House, 'Freedom in the World 2018', (section F1), 27 August 2018, [url](#)

<sup>71</sup> Freedom House, 'Freedom in the World 2018', (section F3), 27 August 2018, [url](#)

<sup>72</sup> Freedom House, 'Freedom in the World 2018', (section F4), 27 August 2018, [url](#)

<sup>73</sup> Bertelsmann Stiftung, 'BTI 2019 country report – Jamaica', 2018, [url](#)

## 5.4 Surveillance and tracking systems

- 5.4.1 Flight Global, a source for news, data, insight and knowledge for the aviation industry, noted in a November 2018 article that the JDF commissioned a maritime surveillance aircraft on 14 November 2018. The article stated that it was ‘one of the single largest investments that any government of Jamaica has made in the area of security’, says the country’s prime minister Andrew Holness.<sup>74</sup>
- 5.4.2 The same report stated that as well as search and rescue operations and police work, ‘the aircraft will be used to spot and stop trafficking of illegal guns and drugs...’.<sup>75</sup>
- 5.4.3 On 11 April 2019, Janes reported that the Jamaican government ordered a coastal surveillance system that will detect ‘surface and air targets ranging from inflatable dinghies to warships, helicopters and aircraft in low-level flight.’<sup>76</sup>
- 5.4.4 On 19 March 2019, in a report titled ‘Jamaica Eye’, the Jamaica Information Service noted that the ‘Ministry of National Security has launched a tool that will increase surveillance of public spaces island wide and aid in Jamaica’s crime prevention efforts.’<sup>77</sup>
- 5.4.5 The Jamaica Eye website stated that the Jamaica Eye project is ‘an initiative of the Ministry of National Security.’<sup>78</sup>
- 5.4.6 The website further added ‘JamaicaEye is part of an islandwide network of camera surveillance systems designed to increase the safety of all citizens. These cameras will monitor public spaces across the island and assist the authorities in responding to incidents in the event of an incident, disaster, act of criminality or accident.’<sup>79</sup> And that ‘If you have a camera system outside your home or office, facing a public space you may help by registering your camera with JamaicaEye to share your camera feed.’<sup>80</sup>
- 5.4.7 The Minister of National Security stated in a message on the Jamaica Eye website:

‘...Our investment in the development and expansion of Jamaica Eye represents an important part of this secure foundation. This investment will utilize technology as a force multiplier for our police, expanding their reach and providing useful information for criminal investigations and overall surveillance.

The Ministry of National Security recognizes that improvements to the efficiency and capacity of the police force, is crucial in our pursuit of a safer Jamaica. Jamaica Eye has been developed as an acknowledgement of the

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<sup>74</sup> Flight Global, ‘JDF commissions maritime surveillance aircraft’, 27 November 2018, [url](#)

<sup>75</sup> Flight Global, ‘JDF commissions maritime surveillance aircraft’, 27 November 2018, [url](#)

<sup>76</sup> Janes, ‘Jamaica orders Thales’s coastal surveillance system’, 11 April 2019, [url](#)

<sup>77</sup> JIS, ‘Jamaica Eye’, 19 March 2019, [url](#)

<sup>78</sup> Jamaica Eye, ‘About Jamaica Eye’, undated, [url](#)

<sup>79</sup> Jamaica Eye, ‘About Jamaica Eye’, undated, [url](#)

<sup>80</sup> Jamaica Eye, ‘About Jamaica Eye’, undated, [url](#)

opportunities presented by technology, to assist the police in their responsiveness to critical incidents and their surveillance capabilities...'<sup>81</sup>

- 5.4.8 On 4 August 2018, the Jamaica Observer reported that 'Within the next three years, Jamaica Constabulary Force (JCF) personnel will be using more technological solutions in their daily operations in a bid to reduce incidents of crime and their likely occurrence.'<sup>82</sup> The technology designed will be to 'support the National Security Ministry's focus on situational prevention under the comprehensive five-pillar crime prevention and reduction strategy.'<sup>83</sup>

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Section 6 updated: 16 August 2019

## 6. Rule of law and the judiciary

### 6.1 Structure

- 6.1.1 The Supreme Court Jamaica website explained 'The structure of the Jamaican Judicial System is based on five basic tiers. The lowest tier is the Petty Sessions Court. This court is presided over by Justices of the Peace. The Petty Sessions Court requires a minimum of two justices to be properly constituted. Sometimes Magistrates exercise jurisdiction in these courts and the presiding magistrate exercises the jurisdiction of two Justices of the Peace.'<sup>84</sup>
- 6.1.2 For more information on the court system, see [The Supreme Court Jamaica](#) website.
- 6.1.3 Freedom House noted in its 'Freedom in the World 2018' report that 'The judicial system is headed by the Supreme Court and includes a court of appeals and several magistrates' courts. The Trinidad-based Caribbean Court of Justice is the highest appellate court.'<sup>85</sup>

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### 6.2 Trial procedures

- 6.2.1 The 2018 USSD report noted:

'The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. The law provides defendants a presumption of innocence, the right to counsel, and the ability to confront witnesses. Defendants have the right to be informed of the charges against them and the right to a trial within a reasonable time. Defendants had ample time to prepare defense and may not be compelled to testify or confess guilt. They have the right to appeal. Public attorneys were available to defend the indigent, except those charged with drug-related crimes or high-level criminal conspiracy. The government provided free

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<sup>81</sup> Jamaica Eye, 'About Jamaica Eye', undated, [url](#)

<sup>82</sup> Jamaica Observer, 'JCF increasing use of technology in crime fight', 4 August 2018, [url](#)

<sup>83</sup> Jamaica Observer, 'JCF increasing use of technology in crime fight', 4 August 2018, [url](#)

<sup>84</sup> The Supreme Court Jamaica, 'The court structure and hierarchy', undated, [url](#)

<sup>85</sup> Freedom House, 'Freedom in the World 2018', (section F1), 27 August 2018, [url](#)

assistance of an interpreter as necessary. The Supreme Court tries serious criminal offenses, which include all murder cases.’<sup>86</sup>

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### 6.3 Independence

- 6.3.1 The 2018 USSD report stated that ‘The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. An extreme backlog of criminal cases, however, led to a denial of fair public trial for thousands of citizens.’<sup>87</sup>
- 6.3.2 The Bertelsmann Stiftung 2018 Jamaica country report observed, ‘The judiciary is independent and free both from unconstitutional intervention by other institutions and from corruption. It is institutionally differentiated, and there are mechanisms for judicial review of legislative or executive acts.’<sup>88</sup>
- 6.3.3 Freedom House noted in its ‘Freedom in the World 2018’ report that ‘Judicial independence is guaranteed by the constitution, though corruption is a problem in some lower courts.’<sup>89</sup>

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### 6.4 Effectiveness of the judiciary

- 6.4.1 Regarding security force related fatalities, the USSD observed in its human Rights report covering events in 2018 on Jamaica that:
- ‘Even egregious charges against members of the security forces could take years to process. In 2007 police constable Mark Russell shot and killed an unarmed teenage boy in Kingston. The court concluded Russell planted a police-issued rifle on the victim’s person as he lay wounded in the street to corroborate a false report. Defense counsel used various procedural maneuvers to delay the case. In September [2018] the court sentenced Russell to 24 years in prison.’<sup>90</sup>
- 6.4.2 The report further stated:
- ‘The Ministry of Justice estimated that more than 400,000 criminal cases were awaiting trial. This delay occurred from numerous causes. Defense attorneys often requested committal proceedings, which are lengthy and resource intensive. Additionally, the legal infrastructure in terms of buildings, judges, courts, and other facilities remained virtually the same despite the huge backlog. Finally, the courts were hesitant to implement technological improvements such as teleconferencing witness testimony or admitting videos recorded from a telephone. Consequently, criminal proceedings could extend for years. The government’s statistical office reported the legal system failed to convict in more than 90 percent of murder cases. During the

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<sup>86</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1e), 13 March 2019, [url](#)

<sup>87</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1e), 13 March 2019, [url](#)

<sup>88</sup> Bertelsmann Stiftung, ‘BTI 2019 country report – Jamaica’, (section 3), 2018, [url](#)

<sup>89</sup> Freedom House, ‘Freedom in the World 2018’, (section F1), 27 August 2018, [url](#)

<sup>90</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1a), 13 March 2019, [url](#)

year courts made significant efforts to address the backlog by closely monitoring and reporting case throughput to the Ministry of Justice.<sup>91</sup>

#### 6.4.3 The Bertelsmann Stiftung 2018 Jamaica country report mentioned:

‘There are unsubstantiated reports and attempts to link the disappearance of case files and inordinately long-waiting periods for cases to be heard to acts of corruption. It is well established that there are too few courts, not enough judges and old-fashioned reporting practices, which have all contributed to huge back-log and waiting time for cases to be heard. The judicial system is not adequate for the number of cases, especially criminal cases related to the very high levels of violent crimes and murders in Jamaica.

‘Ongoing legal education is provided and required, for both judges and attorneys, and channels of appeal do exist. In recent times, various reforms of court administration have been undertaken, including the opening of night courts, the referral of certain non-criminal cases for mediation, and the introduction of technology for the taking of notes and preparation of judges’ findings. In addition, there is a certain class bias and lower-class people show less confidence in the justice system.

‘Office holders who break the law and engage in corruption are not adequately prosecuted, but occasionally attract adverse publicity. During the period under review, the mayor of a rural parish was accused of using her authority to wrongfully award contracts worth millions of Jamaican dollars to various members of her family. The Office of the Contractor General (OCG) initiated an investigation, the matter was referred to the police and the case is currently in the courts. Despite interventions and investigations by the OCG in other cases, politicians and senior public officials are rarely convicted of corruption.’<sup>92</sup>

#### 6.4.4 Freedom House also reported in 2018 that ‘A large backlog of cases and a shortage of court staff at all levels continues to undermine the justice system. Trials are often delayed for years, and at times cases are dismissed due to systematic failures, including antiquated rules regarding evidence.’<sup>93</sup> Furthermore, the report noted that, ‘according to a May 2017 report published by the Office of the Contractor General, 68 percent of respondents believed judges had integrity.’<sup>94</sup>

#### 6.4.5 Amnesty International reported in its 2017/2018 international report covering Jamaica, ‘Female relatives of those allegedly killed by the police continued to battle an underfunded, sluggish court system in their fight for justice, truth and reparation.’<sup>95</sup>

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## 6.5 Legal aid and other assistance

### 6.5.1 The Bertelsmann Stiftung 2018 Jamaica country report noted:

<sup>91</sup> USSD, ‘Jamaica 2018 human rights report’, (section 1e), 13 March 2019, [url](#)

<sup>92</sup> Bertelsmann Stiftung, ‘BTI 2019 country report – Jamaica’, (section 3), 2018, [url](#)

<sup>93</sup> Freedom House, ‘Freedom in the World 2018’, (section F2), 27 August 2018, [url](#)

<sup>94</sup> Freedom House, ‘Freedom in the World 2018’, (section F1), 27 August 2018, [url](#)

<sup>95</sup> AI, ‘Amnesty International report 2017/2018’, 22 February 2018, (police and security forces), [url](#)

‘Dominant environmental interest groups include Jamaica Environment Trust (JET). JET is well-recognized globally, and is able to consistently attract funding for public advocacy and legal challenges when state agencies break laws. Jamaicans for Justice (JFJ) remains the most vocal and respected presence in the human rights sector. JFLAG remains the strongest advocacy group for members of the LGBT community. Women’s Resource and Outreach Centre (WROC) remains a strong, national voice, working against violence against women, and for women’s human rights and empowerment. WE-Change is a new entrant in the human rights sector. WE-Change is making its presence felt through its aggressive defense of women’s human rights, empowerment and education, and against all forms of discrimination, in particular sexual/violent abuse...’<sup>96</sup>

- 6.5.2 Regarding the discrimination of sexual orientation and HIV/AIDS that exists in Jamaica, the report noted that ‘there are a number of legal provisions against discrimination (e.g., constitution of Jamaica and the Charter of Rights), but their implementation is highly deficient, with gaps in access and consistency of opportunities to exercise their full citizenship rights.’<sup>97</sup>
- 6.5.3 Freedom House reported in 2018 that ‘Legal protections for women and girls are poorly enforced...’<sup>98</sup>
- 6.5.4 Regarding government legal aid, the Jamaica Information Service (JIS) reported:
- ‘The Government of Jamaica is committed to ensuring that all Jamaicans can access quality legal representation, irrespective of their financial resources.
- To this end, the Legal Aid Council was established to provide legal services to members of the public who have been charged with criminal offences and especially to those who are unable to afford private legal representation.
- The Council offers services free of cost. Some of these are:
- Legal advice for persons who have been detained, but not charged
  - Legal representation during trial
  - Legal representation during police questioning
  - An Attorney to apply for court or station bail on behalf of the person detained’<sup>99</sup>
- 6.5.5 For further information, see [Get the facts – The Legal Aid Jamaica Information Service](#).

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<sup>96</sup> Bertelsmann Stiftung, ‘BTI 2019 country report – Jamaica’, (section 5), 2018, [url](#)

<sup>97</sup> Bertelsmann Stiftung, ‘BTI 2019 country report – Jamaica’, (section 10), 2018, [url](#)

<sup>98</sup> Freedom House, ‘Freedom in the World 2018’, (section G3), 27 August 2018, [url](#)

<sup>99</sup> JIS, ‘Get the facts – The Legal Aid’, 9 March 2018, [url](#)



# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Security apparatus
  - Overview
  - Jamaica Constabulary Force
  - Armed forces
  - Private security
- Arrest and detention
  - Legal rights
  - Arbitrary detention
  - Prison and detention centre conditions
- Capabilities of the security forces
  - Effectiveness
  - Corruption
  - Human rights violations
  - Surveillance and tracking systems
- Rule of law and the judiciary
  - Structure
  - Trial procedures
  - Independence
  - Effectiveness of the judiciary
  - Legal aid and other assistance

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **19 August 2019**

## Changes from last version of this note

Update of assessment and country of information.

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