

APPENDIX I. DRAFT - MARCH 31 2015 TIP Database Development Project

MEMORANDUM OF UNDERSTANDING (August 24, 2014)

BETWEEN
THE MINISTRY OF JUSTICE
AND
THE MINISTRY OF NATIONAL SECURITY
AND
THE JAMAICA CONSTABULARY FORCE
AND
THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
AND
THE SUPREME COURT OF JAMAICA (OFFICE OF THE CHIEF JUSTICE)
AND
THE PASSPORT IMMIGRATION AND CITIZENSHIP AGENCY
AND
THE CHILD DEVELOPMENT AGENCY
AND
THE OFFICE OF THE CHILDREN'S ADVOCATE
AND
THE OFFICE OF THE CHILDREN'S REGISTRY

Comment [L1]: This list may need to be expanded to include Ministries of Health, Education, and agencies e.g. SDC, as well as NGOs e.g. PANOS among several others.

This **MEMORANDUM OF UNDERSTANDING** is dated this **day**,..... of....., 2014 **BETWEEN** the **MINISTRY of JUSTICE**, a Ministry of the Government of Jamaica, with offices located at NCB South Tower, 2 Oxford Road, Kingston 5, the **MINISTRY OF NATIONAL SECURITY**, a Ministry of the Government of Jamaica, with offices located at NCB North Tower, 2 Oxford Road, Kingston 5, the **JAMAICA CONSTABULARY FORCE** **with** offices located at 101-103 Old Hope Road, Kingston 6, the **OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**, with offices located at Public Building West, King Street, Kingston, the **SUPREME COURT OF JAMAICA (OFFICE OF THE CHIEF JUSTICE)**, with offices located at Public Building West, King Street, Kingston, the

Comment [HD2]: We had discussed Mins. of Health, Education, Technology SDC, PANOS among several others.

Comment [GJ3]: This may be drafting style to have the word "day" placed in this position.

Comment [GJ4]: As a matter of drafting style, the status of each Participant e.g. Division, unit, statutory body etc can be inserted in the respective sections.

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PASSPORT IMMIGRATION AND CITIZENSHIP AGENCY with offices located at 25 Constant Spring Road, Kingston 10, the **CHILD DEVELOPMENT AGENCY**, with offices located at 48 Duke Street, Kingston, the **OFFICE OF THE CHILDREN’S ADVOCATE**, with offices located at Air Jamaica Building, 72 Harbour Street Kingston and the **OFFICE OF THE CHILDREN’S REGISTRY**, with offices located at 12 Carlton Crescent, Kingston 10, (hereinafter together referred to as “the Participants”).

WHEREAS the Government of Jamaica in accordance with its obligations as a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (hereafter called The Palermo Protocol) **is** committed to the punishment of offenders, protection of victims and prevention of Trafficking in Persons through proactive action and cooperation among state agencies

Comment [GJ5]: May be reference to the local legislation could be inserted in this paragraph?

AND WHEREAS these various state agencies remain committed in their cooperative efforts in the elimination of Trafficking in Persons and seek to increase their collection of data and the sharing of information among each other as a critical tool to combat Trafficking in Persons

AND WHEREAS data information sharing will enhance the development of effective evidence based anti-Trafficking in Persons policies

AND WHEREAS the existence of a data and information sharing protocol among these critical stakeholders will provide a reliable framework for the complete and more accurate reporting of anti-Trafficking in Persons achievements by the Government of **Jamaica**

Comment [GJ6]: This and previous paragraph could be combined.

THEREFORE the Participants have reached the following understanding:

ARTICLE 1 – PURPOSE OF THE AGREEMENT/DATA TO BE DISCLOSED

This Memorandum of Understanding (MOU) signifies the agreement among the Participants to collaborate with each other for the purpose of establishing an effective, ongoing and sustainable

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partnership framework which will embed the operation of the data and information sharing protocol.

ARTICLE 2 – ROLE AND RESPONSIBILITIES OF PARTICIPANTS

The Ministry of Justice (MOJ)

2.1 The MOJ

- a) Will have general oversight responsibility for the collection of data on total Trafficking in Persons cases filed, those which have been disposed of by the courts or by other means within the justice system and the methods of disposal (including convictions and probation orders and other orders issued by the court) for all Trafficking in Persons offences.
- b) Will be the sole entity responsible for the provision and dissemination of final cross-validated Trafficking in Persons data to international institutions in fulfillment of treaty obligations relating to Trafficking in Persons.
- c) Will take all reasonable steps within available resources to support partnering institutions under this MOU in capacity building and technical assistance endeavors that will allow for the collection of quality data on all Trafficking in Persons offences and offences akin to Trafficking in Persons.
- d) Will provide all necessary policy support to allow its agencies/departments which are participants in this MOU to fulfill their commitments as set out herein.
- e) Will take steps to have the data collected from the Participants cross validated for accuracy.

The Ministry of National Security (MNS)

2.2 The Ministry of National Security:

- a) Will provide all policy support necessary to allow its agencies/departments which are participants in this MOU to fulfill their commitments as set out herein.

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b) Will allow the MOJ access to all primary data sources, relating to Trafficking in Persons.

The Jamaica Constabulary Force –Trafficking in Persons Unit

2.3 The Trafficking in Persons Unit, JCF:

a) Will, in addition to other relevant information recorded in relation to Trafficking in Persons cases, include the following information in their reporting:

- i. Persons identified and confirmed by the authorities as victims of trafficking
- ii. Persons who self-identify as victims
- iii. Suspected but unconfirmed victims
- iv. Persons trafficked for sex (adult)
- v. Persons trafficked for sex (child)
- vi. Persons trafficked for forced labor (adult)
- vii. Persons trafficked for forced labour (child)
- viii. Persons trafficked for domestic servitude (adult)
- ix. Persons trafficked for domestic servitude (child)
- x. Persons trafficked for debt bondage (adult)
- xi. Persons trafficked for debt bondage (child)
- xii. Number of domestic and international incidents of trafficking
- xiii. Number of victims overall
- xiv. Citizenship of victims
- xv. Geographic distribution of trafficking incidents
- xvi. Relationship between the accused and the victim
- xvii. Characteristics of rescued victims
- xviii. Number of trafficking offences linked to organized crime
- xix. Characteristics of the incident

Comment [L7]: recommend that data should be disaggregated by sex, age and other characteristics considered important to improve the quality of data collected for analysis and reporting

Comment [GJ8]: Why is there a 2.3(a) when there is no 2.3(b)?

Comment [GJ9]: For completeness it could be stated the frequency of reporting and to whom the reports are submitted.

Comment [GJ10]: See general comments regarding this section. Suggested that, with modifications, this list can be moved to Article 1 as a definition of data to be disclosed.

Comment [GJ11]: Definition of child in accordance with TIP legislation, Protocol?

Office of the Director of Public Prosecutions (ODPP)

2.4 The ODPP commits to:

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Collect and compile data on total Trafficking in Persons cases filed, cases which have been disposed of by its office and the courts, cases which are still before the court for determination and, on the methods of disposal of Trafficking in Persons Cases (including convictions and probations.)

Comment [GJ12]: See general comments regarding ODPP also providing MOJ with reports and frequency of such reports. It should be considered whether the information collected should also be disaggregated as required in art. 2.3.

Comment [L13]: recommend that data should be disaggregated by sex, age and other characteristics considered important to improve the quality of TIP data collected for analysis and reporting

The Child Development Agency (CDA)

2.5 The CDA thereby agrees to:

Provide the Office of the Children’s Registry on a timely basis all information on reported and actual cases of Trafficking in Persons and cases involving children being handled by the agency, as well as information on cases akin to Trafficking in Persons. Such data will also include information on the steps which have been taken to bring resolution to the cases reported and cases being handled by the agency, whether such cases are currently before the court, have been prosecuted by the court, whether the victims are currently receiving relevant intervention services from the state, whether the victims are under the care of the state or whether the cases have been successfully resolved and how such cases have been resolved.

Comment [L14]: recommend that data should be disaggregated by sex, age and other characteristics considered important to improve the quality of data collected for analysis and reporting

The Office of the Children’s Advocate (OCA)

2.6 The Office of the Children’s Advocate thereby agrees to:

Provide the Office of the Children’s Registry on a timely basis all information on reported and actual cases of Trafficking in Persons and cases involving children being handled by the OCA, as well as information on cases akin to Trafficking in Persons. Such data will also include information on the steps which have been taken to bring resolution to the cases reported and cases being handled by the OCA, whether such cases are currently before the court, have been prosecuted by the court, whether the victims are currently receiving relevant intervention services from the state, whether the victims are under the care of the state or whether the cases have been successfully resolved and how such cases have been resolved.

Comment [L15]: recommend that specific timeframes for reporting be agreed

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The Office of the Children’s Registry (OCR)

2.7 The Office of the Children’s Registry thereby agrees to:

Provide the MOJ on a **timely** basis with all information on reported and actual cases of Trafficking in Persons as well as information on cases akin to Trafficking in Persons.

Comment [L16]: recommend that data should be disaggregated by sex, age and other characteristics considered important to improve the quality of data collected for analysis and reporting

Comment [GJ17]: Could be more specific.
Agreed

OTHER SOURCES

ARTICLE 4 - REPORTING

- (a) Subject to Article 6 the MOJ reserves the right to make public, reports on the tangible effectiveness and success of the Data and Information Sharing Protocol.
- (b) The Participants, through close collaboration, will ensure that for the purpose of national reporting, information reported is standardized.

Comment [L18]: OTHER recommend that data from other sources considered relevant to TIP should be collected and that this data should be disaggregated by sex, age and other characteristics considered important to improve the quality of data collected for analysis and reporting.

The MOU should also include collection of narrative reports with TIP-related data for the Database.

ARTICLE 5 - INTELLECTUAL PROPERTY

- (a) **The** Participants agree that all Intellectual Property rights whatsoever existing in as a result of the operation of this MOU will belong to the GOJ.

Comment [GJ19]: There is no art. 5 (b) therefore art. 5 (a) is not appropriate.

ARTICLE 6 – CONFIDENTIALITY

The Participants agree that information and matters relating to data shared under this MOU and which are deemed sensitive by the Participants are confidential, save for any disclosure made by the MOJ in the national interest or for reasons of national security. The Participants will not, during the term of this MOU or at any time thereafter disclose information coming to their knowledge by virtue of commitments and undertakings performed under this MOU unless:

- (a) At the date of this MOU the information is already in the public domain or, through no fault of any party the information subsequently comes into the public domain.
- (b) The disclosing party may be required by Statute or an order of the Court to disclose the information.

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- (c) Where disclosures are contemplated subject to clause (b) the MOJ should be informed forthwith in writing and, prior to and well in advance of the deadlines for such disclosures where deadlines for such disclosures **apply**.

Comment [GJ20]: See general comments regarding suggesting additions.

ARTICLE 7 - CONFLICT OF INTEREST

The Participants agree that they will not enter into any similar or other collaborative agreements with other organizations or agencies which conflict with the understandings and agreements arrived at in this MOU or which put at risk or frustrate the work and intended outcome of this MOU.

GENERAL PROVISIONS:

ARTICLE 8 – DURATION

The MOU will take effect upon signing by the duly authorized representatives of the Participants hereto and will continue to remain in force unless terminated by **mutual** consent. The Participants will continue to monitor the operation of this MOU and its provisions will be reviewed annually and amended or supplemented as may be mutually agreed upon in writing.

Comment [GJ21]: See general comments

ARTICLE 9 - WITHDRAWAL

A party wishing to withdraw from this MOU will indicate in writing its intention to withdraw by giving at least two months' prior notice to the Trafficking in Persons' Secretariat of the MOJ.

ARTICLE 10 - AMENDMENT

Any amendment to this MOU will be in writing and ratified by all the Participants. .

ARTICLE 11- DISPUTE RESOLUTION

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The Participants commit to using their best efforts to resolve all disputes arising under this MOU.

Comment [GJ22]: See general comments regarding suggested additions to the MOU.

IN WITNESS WHEREOF, the Participants to this MOU, acting through their representatives duly authorized have caused this MOU to be signed in their respective names on this day _____ of _____ 2014 and may become effective upon signing.

Executed for and on behalf of the **Ministry of Justice**
by Mrs. Carol Palmer, J.P.)
Permanent Secretary)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Ministry of National Security**
by Major Stewart Saunders , (Ret'd), CD, JP)
Permanent Secretary)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Jamaica Constabulary Force**
by Mr. Carl Williams)
Commissioner of Police,)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Office of the Director of Public**

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Prosecutions)

by Miss Paula Llewellyn, C.D., Q.C.)
Director of Public Prosecutions)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Supreme Court,
Office of the Chief Justice)**
by Honourable Mrs. Zaila McCalla, O.J.)
Chief Justice)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Passport Immigration
and Citizenship Agency)**
by Miss Jennifer McDonald)
Chief Executive Officer)

Signature

In the presence of:

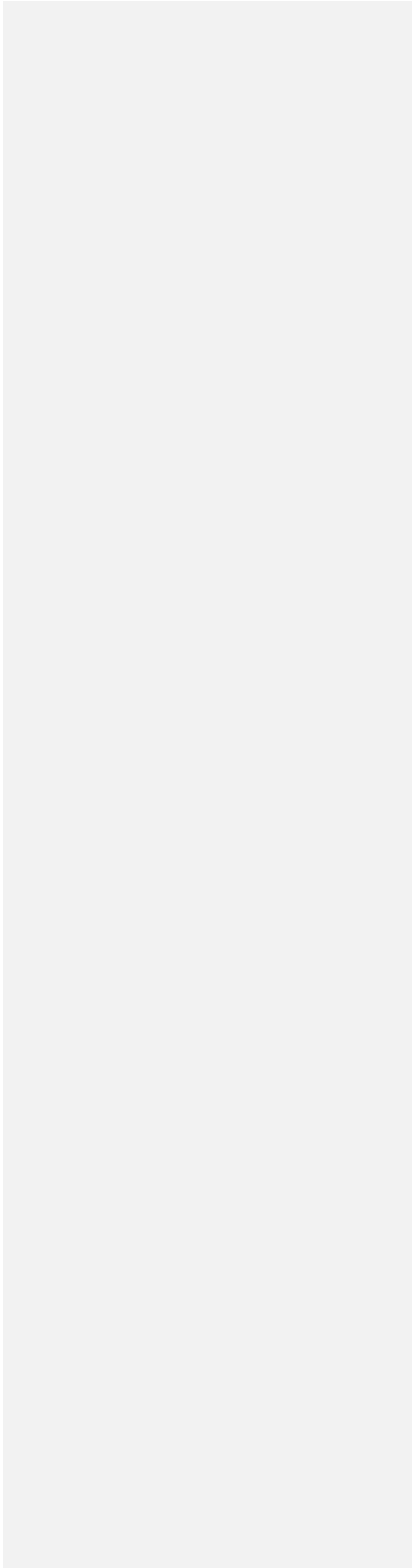
Witness

Executed for and on behalf of the **Child Development Agency)**
by Mrs. Rosalee Gage Grey)
Chief Executive Officer)

Signature

In the presence of:

Witness



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Executed for and on behalf of the **Office of the Children's Advocate)**
by Mrs. Diahann Gordon-Harrison)
Children's Advocate)

Signature

In the presence of:

Witness

Executed for and on behalf of the **Office of the Children's Registry)**
by Mr. Greig Smith)
Registrar)

Signature

In the presence of:

Witness

