

Jamaican Law Enforcement Guide to Investigation Manual



***Practicalities of* The Trafficking in Persons (Prevention, Supression and Punishment) Act 2007**



IOM International Organization for Migration



Domestic Servitude



Forced Labour



Sexual Slavery

JAMAICAN LAW ENFORCEMENT

'GUIDE TO INVESTIGATION' MANUAL



PRACTICALITIES OF
**THE TRAFFICKING IN PERSONS
(PREVENTION, SUPPRESSION AND
PUNISHMENT) ACT 2007**

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Dear User,

Since 2005, when the Government of Jamaica established a National Task Force (now known as the National Task Force Against Trafficking in Persons [NATFATIP]) to implement its policies with regard to combating the trade in persons, it has had varying successes. Internationally, our ranking in the United States' Department of State's Annual Trafficking in Persons Report has progressed from our original Tier 3 ranking in 2005 to Tier 2 in 2007, having been promoted to the Tier 2 Watch List in 2006.

This escalation did not occur by chance, but is the result of the dedicated and diligent work of the Government of Jamaica and our partners in the fight against trafficking. At this time, we will not rest on our laurels, for the battle has only now begun. We must continue the assault which has already commenced and build on the foundation that has been established as we seek to protect our people and all visitors to our Island from exploitation. We must continue to empower our people by increasing their knowledge of trafficking in persons and its various modalities. The training of our Law Enforcement officials, our Customs and Immigration officials, and our Prosecutors and Judges must continue to adequately equip the State to fight trafficking on all levels.

To our partners in the Private Sector and Civil Society we say thank you and we look forward to a continued productive relationship. In order to defeat human trafficking, we must continue to work hard towards our ultimate goal of its eradication from our shores. Together we can make a difference and make Jamaica safer, freer and more prosperous for all.

Carol Palmer, JP

Chair,

National Task Force Against Trafficking in Persons (NATFATIP)

About the Manual

The 'Guide to Investigation Manual' was researched and developed by a small team of national, counter trafficking experts who are currently engaged in the Jamaican Government's extensive and committed response to combat 'Trafficking in Persons' in Jamaica.

The manual's content is within Jamaica's trafficking context and is designed specifically for the use of Jamaica's law enforcement investigation agencies.

The material is based on the contributor's practical knowledge, work experience and practises within Jamaica. It also contains some overseas best practice methods of investigation, international guidelines as well as the findings drawn from the 'Trafficking in Persons' multi agency working groups training seminars held in Jamaica.

The country's counter trafficking activities in Jamaica that include protection, investigation, prosecution, awareness raising and training are co-ordinated through the pro-active National Task Force against Trafficking in Persons. The intention of this manual is to complement the ongoing training.

The 'Guide to Investigation' manual is to be widely distributed amongst the island's law enforcement agencies of Police, Immigration and Prosecutors. It is designed to equip the front line personnel with the necessary knowledge to apply their practical skills to effectively identify trafficked victims and conduct extensive investigation into cases. The Jamaican law enforcement agencies should be able through their investigations, to accumulate the evidence to prosecute trafficking offenders, whilst offering assistance and protection to the victims.

The following experts in Jamaica have contributed to this manual:

- ◆ Lisa Palmer, Acting Senior Deputy Director of Public Prosecutions and member of Jamaica's National Task Force against Trafficking in Persons
- ◆ Detective Sergeant Morris Martin, Detective Sergeant Dorrette Brown and Detective Constable Kim Gordon from the specialised 'Trafficking in Persons' Unit of the Police Organised Crime Investigation Division (JCF)
- ◆ Amy Johnson-Lynch, Director Immigration, Norman Manley International Airport
- ◆ Joyce Hewett, Independent Consultant and advocate for Women's and Children's Rights, and member of Jamaica's National Task Force against Trafficking in Persons and member of the Public Education and Protection sub committee
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CHAPTER I

The Trafficking in Persons (Prevention, Suppression and Punishment) Act 2007

1.1 INTRODUCTION AND BACKGROUND

The Trafficking in Persons, (Prevention, Suppression and Punishment) Act was passed in March 2007. It not only follows closely the United Nations Palermo Protocol¹ on trafficking of persons which centres on the victim but also provides substantial penalties for the criminal acts, interpretations, restitution orders to the victim, orders of forfeiture, protection and assistance to victims and entry search and seizure procedures for law enforcement personnel.

The Jamaican Government has recognized that there is an urgent need to tackle the problem of Human Trafficking in the Island of Jamaica. Due to the strategic geographical location of the Island, Jamaica is at great risk of being used as a transit and destination point for human trafficking. It is noteworthy that Jamaica has also taken its unique position into account, and as such has included both internal and external trafficking in the domestic legislation.

Internal trafficking entails inter-parish and intra parish trafficking in persons within the island of Jamaica, whereas external trafficking entails the trafficking of the victim from within the island of Jamaica to another country and from overseas into the island of Jamaica.

This law has far reaching effects within the Jamaican criminal justice system of investigation and prosecution of offenders, and for protection and assistance to victims of trafficking cases. It requires careful study, understanding and expertise in its implementation in order to be successful in the global fight against human trafficking. This chapter of the investigation manual covers the main elements of 'The Trafficking in Persons (Prevention, Suppression and Punishment) Act 2007'.

1.2 THE OBJECT OF THE ACT (ARTICLE 3)

The object of this Act is to prescribe measures to prevent and combat trafficking in persons with particular regard to victims who are women and children² by;

- a) protecting and assisting victims of trafficking, having due regard to their human rights;
- b) facilitating the efficient investigation of cases of trafficking in persons;
- c) facilitating the just and effective punishment of individuals and organizations involved in trafficking in persons;
- d) promoting co-operation between Jamaica and other states in order to prevent and suppress trafficking in persons and to punish offenders

¹ Jamaica Act uses the "Palermo Protocol" to refer to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, which supplements the UN Convention Against Transnational Organized Crime.

² Women and child victims of both sexes are regarded as the most vulnerable in our society, although the law accounts for adult male victims

1.3 TRAFFICKING IN PERSONS (ARTICLE 4 SUB SECTION 1)

A person commits the offence of trafficking in persons where, for the purpose of exploitation when he/she

- a) recruits, transports, transfers, harbours or receives another person **within Jamaica**;
- b) recruits, transports or transfers another person **from Jamaica to another country**; or
- c) recruits, transports, transfers, or receives another person **from another country into Jamaica**,

By any of the specified means as stated below:

- 1) threat or use of force or other form of coercion;
- 2) abduction;
- 3) deception or fraud;
- 4) the abuse of – (i) power; or
(ii) a position of vulnerability;
- 5) the giving or receiving of a benefit in order to obtain the consent of a person who has control over another person.

Notwithstanding the absence of the use of any of the means specified in paragraphs (1) to (5) a person who recruits, transports, transfers, harbours or receives a child for the purpose of exploitation of that child commits the offence of trafficking in persons.

Victims consent is no defence:

It shall **NOT** be a defence for a person who commits the offence of trafficking in persons that the offence was committed with the victim's consent.

1.4 FACILITATING THE OFFENCE OF TRAFFICKING

A person who facilitates the offence of trafficking in persons commits an offence. For the purpose of this section an offence under subsection 1 is facilitated when:

- a) where the facilitator knows that such an offence is intended to be facilitated
- b) whether or not the facilitator knows the specific nature of the offence that is intended to be facilitated
- c) whether or not the offence was actually committed

1.5 PENALTIES

A person who commits the offence of TiP or who facilitates that offence is liable on conviction on indictment before a Circuit Court to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

1.6 WITHHOLDING DOCUMENTS

A person who, for the purpose of committing or facilitating an offence of trafficking in persons conceals, removes, withholds or destroys any –

- a) travel document that belongs to another person; or
 - b) document that establishes or purports to establish another person's identity or immigration status,
- is liable on conviction on indictment before a Circuit Court to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

1.7 RECEIVING BENEFIT FROM TRAFFICKING

Every person who receives a financial or other benefit knowing that it results from the offence of trafficking in persons commits an offence and is liable on conviction on indictment before a Circuit Court to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

1.8 TRAFFICKING OFFENCES BY BODY CORPORATE (ARTICLE 5)

The offence of trafficking is committed by a body corporate, whereby every director, manager, secretary or other similar officer concerned with the offence is liable on conviction on indictment before a Circuit Court to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment. But the court must be satisfied

- a) that the offence was committed with his connivance; or
- b) he had not exercised all such diligence to prevent the commission, having regard to the nature of functions in that capacity and to all the circumstances.

A director, manager, secretary or other similar officer concerned with the management of a body corporate shall not be liable for an offence against this act unless the court is satisfied;

- a) that the offence was committed with his connivance or;
- b) he had not exercised all such diligence to prevent the commission, having regard to the nature of functions in that capacity and to all the circumstances.

PENALTY:

A body corporate committing an offence against the act is liable on conviction before a Circuit Court to a fine.

1.9 EXPLAINING TRAFFICKING

Trafficking of Persons has three main elements that can be explained as:

- 1) The **activity** and **movement** of a person that includes the:
Recruitment, transportation, transfer, harbouring or receipt of persons
- 2) The **techniques and means** used for this movement to happen:
By using coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or the "buying" of a person
- 3) The exploitative **objectives** of the above-mentioned elements:
This includes all forms of exploitation, including sexual exploitation, forced labour, servitude, slavery, removal of organs, etc

Each one of the three stages must be present and linked to each other. The activity must be achieved by one of the means and both must be linked to achieve the exploitative purpose and for **children under 18 years the 'Means' do not have to be present.**

1.10 INTERPRETATIONS

"child" means any person under eighteen years of age;

"child pornography" means -

- (a) audio or visual depiction of any kind, whether –
- 1) made or produced by electronic, mechanical or other means; or
 - 2) embodied in a disc, tape, film or other device, whether electronically or otherwise, so as to be capable of being retrieved or reproduced there from, of sexually explicit conduct involving a child; or
- (b) any representation of the genitalia of a child, where such audio or visual depiction or representation lacks genuine literary, artistic, or scientific value;

"exploitation" includes –

- I the exploitation of the prostitution of a person;
- II compelling or causing a person to provide forced labour;
- III keeping a person in a state of slavery or servitude;
- IV engaging in any form of sexual exploitation;
- V illicit removal of organs;

"exploitation of the prostitution of a person" means the deriving by one person of monetary or other benefit through the provision of sexual services for money or other benefit by another person;

"forced labour" means any work or services exacted from a person by threat of penalty and for which the said person did not offer himself to provide such work or services voluntarily;

"illicit removal of organs" means the unlawful removal of organs, tissue or body parts from a victim irrespective of whether the victim consented to such removal;

"servitude" means a relationship of dependency in which the labour or service of a person is provided or obtained by threats of harm or death to that person or another person, or through any scheme, plan, or pattern intended to cause the person to believe that if he does not perform such labour or service he or another person will suffer harm or be killed;

"sexual exploitation" means compelling the participation of a person in prostitution;
the production of child pornography or other pornographic material;
any other sexual activity, as a result of being subjected to threat, coercion, abduction, the effects of narcotic drugs, force, abuse of authority or fraud;

"sexually explicit conduct" includes actual or simulated sexual activity, such as sexual intercourse whether between persons of the same or opposite sex and whether involving genital, anal or oral sex, bestiality, masturbation, sadistic or masochistic abuse;

"slavery" means the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised by another, and includes practices similar to slavery, such as bondage and serfdom;

"travel document" means any document that can be used for travel between states such as –
(a) a passport.

- (b) a visa
- (c) a tourist card
- (d) an airline ticket

and any document used under the laws of a state to establish identity in that state;

"victim" means a person against whom the offence of trafficking in persons has been committed.

1.11 RESTITUTION (ARTICLE 6)

Where a person is convicted of the offence of trafficking in persons the court may order that person to pay restitution to the victim for any of the following:

- (a) costs of medical and psychological treatment;
- (b) costs of physical and occupational therapy and rehabilitation;
- (c) costs of necessary transportation, temporary housing and child care;
- (d) lost income;
- (e) attorney's fees and other legal costs;
- (f) compensation for emotional distress, pain and suffering;
- (g) any other losses suffered by the victim which the court considers applicable.

Restitution shall be paid to the victim –

- (a) upon the conviction of the accused;
- (b) as far as possible, from any property forfeited

And the absence of the victim from the proceedings shall not prejudice the victim's right to receive restitution.

1.12 FORFEITURE OF PROPERTY (ARTICLE 7)

All property, including property located in a foreign country of persons convicted of the offence of trafficking in persons that was used or obtained in the course of the crime, or benefits gained from the proceeds of the crime shall be liable to be forfeited to the Crown.

1.13 VICTIM'S IMMUNITY FROM PROSECUTION (ARTICLE 8)

Where a person provides evidence that he/she is a victim of trafficking then they shall not be liable to prosecution for any offence against the laws relating immigration or prostitution that is a direct result of the offence of trafficking in persons committed against him/her.

1.14 ASSISTANCE TO AND PROTECTION OF VICTIMS (ARTICLE 9 & 10)

The Government of Jamaica shall take all reasonable steps to identify victims in Jamaica.

When victims are identified the appropriate authorities shall provide reasonable protection to the victim and to prevent their being recaptured, intimidated or becoming the object of reprisal by traffickers and their associates.

The Government shall take appropriate steps to assist victims where practicable and such assistance may include:

- ☐ understanding the laws of Jamaica and their rights as victims
- ☐ obtaining any relevant documents and information to assist with legal proceedings

- ☐ replacing or providing passports and other travel documents necessary for the victim to return to the home country
- ☐ assistance in language interpretation and translations
- ☐ assistance in meeting expenses related to criminal proceedings against the traffickers
- ☐ the provision of safe shelters and assistance to cover living expenses

The Government have an obligation under the act to support victims in consultations with approved non governmental agencies in their integration, reintegration or resettlement.

IMMIGRATION REGIME FOR VICTIMS:

Where the victim is a person who does not have the right to remain or reside in Jamaica, an immigration officer shall subject to the provisions of this section, grant the victim the appropriate visa or other required authorisation to allow the victim to remain in Jamaica for the duration of time necessary to carry out where feasible:

- a) process of identification of the victim (identity/nationality)
- b) activities necessary to secure accommodation and for other assistance
- c) criminal prosecutions against the traffickers or the facilitators of the offence
- d) investigations necessary to prosecute the offence of TiP or facilitating the offence and other legal and administrative activities.

1.15 POWER OF ENTRY SEARCH AND SEIZURE (ARTICLE 14)

Where a Judge is satisfied by information on oath that there are reasonable grounds for suspecting that evidence of or relating to an offence under this Act is to be found on any premises specified in the information, he may issue a warrant to a constable to enter the premises specified with such assistance and by the use of such force as is necessary and reasonable to:

- a) enter upon the premises;
- b) search the premises for evidence of or relating to an offence under this Act;
- c) seize property found in the course of the search that the constable believes, on reasonable grounds, to be evidence of or relating to an offence under this Act.

The warrant is issued after an information is laid on oath to a Judge. The information must include the grounds on which the warrant is sought.

A warrant issued under this section shall include –

- a) a statement of the purpose for which the warrant is issued, and a reference to the nature of the trafficking offence;
- b) a description of the kind of property to be seized;
- c) the time, not being later than fourteen days, upon the expiration of which the warrant ceases to have effect; and
- d) a statement as to whether entry is authorized to be made at any time of the day or night, or during the specified hours of the day or night.

For the purposes of this section "an offence under this Act" refers to an offence which has been committed or is about to be committed.

1.16 ADDITIONAL OFFENCE (ARTICLE 15)

Any person who threatens, assaults, or obstructs a constable acting in the execution of his duty under this Act commits an offence and is liable on summary conviction in a Resident's Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars (JMD) or to imprisonment for a period not exceeding six months.

1.17 SEIZURE AND FORFEITURE OF PROPERTY (SCHEDULE 1)

Where a constable has reasonable cause to suspect that any article, vehicle or other property or is being used or has been used in the commission of an offence against this Act, the constable may without warrant search the property, and if it appears that the property is being used or has been used for the commission of any offence as aforesaid, the constable may seize and detain the property

And where any property is seized and any person is convicted of an offence under this Act and the Court is satisfied that:

- a) the person owns the property used in the commission of the offence;
- b) the owner permitted it to be used; or
- c) the circumstances are otherwise such that it is just to do so,

The Court shall, upon the application by the Director of Public Prosecutions, order the forfeiture of the property and the Judge may make an order (a) when satisfied the property has been abandoned or (b) in circumstances in which the property was seized give reasonable cause to suspect that it was being used or has been used for the purpose of committing an offence against the act.

CHAPTER II

A Practical Scheme to Investigate the Criminal Cases of 'Trafficking in Persons'

2.1 INTRODUCTION

The Trafficking in Persons (Prevention, Suppression and Punishment) Act 2007 provides law enforcement with the comprehensive law and powers that is necessary in the constant struggle against crimes of human trafficking. Experience has shown the difficulties in conducting investigations and the securing of a prosecution against offenders. Trafficking in Persons require the use of special investigation methods and trained personnel with individual expertise and a comprehensive knowledge of the legislation. This chapter although based on the trafficking law explains the methods and procedures that will assist law enforcement officers in their investigations.

2.2 FLOW CHART OF INVESTIGATION (PRACTICAL SCHEME)

This is a 'step by step' practical scheme designed to show how a trafficking case should be investigated. Each step of the flow chart is explained in the text below

2.3 STARTING AN INVESTIGATION – THE INVESTIGATION OPTIONS

There are three investigation options to consider carefully when the information of a trafficking offence comes to the attention of police:

1. **Re-active investigation** – based on a victim being identified or coming forward and therefore considered as victim led
2. **Pro-active investigation** – an intelligence generated police led investigation that is not reliant on a victim's testimony
3. **Disruptive option** – a police led operation aimed at stopping the illegal action

1) *Re-active investigation – victim led.* Following the identification or complaint by the victim an investigation commences. The following points should be considered:

- ☐ Do you have to act immediately?
- ☐ Are there any witnesses?
- ☐ If so, are they willing to testify? And..
- ☐ Is it safe for them to testify?
- ☐ Is there any corroboration?
- ☐ Is witness protection required?
- ☐ If the witness is the victim, what are the needs?

2) *Pro-active investigation* – indicates a police lead investigation and whereby the arrest and successful prosecution of traffickers is not reliant upon the co-operation and testimony of the victim. It is a combination of intelligence-gathering, human and technical surveillance, using undercover agents and standard investigative techniques, to identify the trafficked victims and investigate proceedings against the traffickers.

The investigations may be initiated by an officer's own initiative or on information received from an informant or by complaint from a victim or a third party of a case of trafficking. It consists of conducting surveillance, observations on specified persons or premises or persons and, or making a test purchase.

When premises are concerned and identified the investigation commences, the premises where trafficking in Jamaica is most likely to occur are:

- ☐ Business premises and or private houses used as sex massage parlours
- ☐ Exotic night clubs or 'Go Go' clubs and bars
- ☐ Private houses and villas where persons are subjected to slavery or domestic servitude or businesses/factories used in labour exploitation
- ☐ Motels, guest houses, hotels or private houses used as brothels

3) *Disruptive option – police led.* Broadly speaking this means the lawful closing down or stopping by legal means of a suspect illicit business or activity. This option is used when the level of risk to a victim demands an immediate response and

- Pro-active approach is not an option
- Where there is a need to address an identified problem very quickly

Key points to note when considering the disruptive option

- ☐ Not a long term solution and may only displace problem to another location
- ☐ Can drive the problem "under ground"
- ☐ Use a multi agency approach (Licensing authorities, Government offices, Fire Department etc, (where there are infringements that can be dealt with by the relevant authority)

2.4 SURVEILLANCE

This amounts to a planned and structured 'keeping watch' of the premises/persons suspected of conducting illegal activities through various methods and according to the Trafficking in Persons Act 2007.

The most appropriate method of surveillance will be chosen based on the location and other variables to prevent detection.

This surveillance is carried out over an extended period of time and in order for the investigation to be effective it is important that all activities are carefully documented for evidential purposes and using wherever possible a camera to record events and binoculars to aid vision etc.

2.5 OBSERVATIONS

An observation is not as concentrated as carrying out surveillance. This may be just a one off occasion where something/someone is observed which based on your experience you have deduced that an offences against the act is being committed. The observation is recorded and passed through to the divisional criminal analyst who will record and match this information against existing intelligence to build a case against traffickers.

2.6 TEST PURCHASE

Test purchase consists of an undercover officer making a planned and coordinated visit to the identified premises and posing as a client. The aim is to accumulate evidence and criminal intelligence that there is a prima facie case

of Trafficking in Persons occurring on the premises and also to determine if there are any minors there.

Any money that is used should be marked so that it can be identified and used in evidence. The test purchase usually follows surveillance or observation and the evidence/information gained should be carefully recorded to use in the statement of purpose that is required when applying for the Judges Warrant under the Trafficking in Persons Act 2007.

It is however very important to note that the undercover officer must never under any circumstances cross the line and becomes involved or engages in the illegal or illicit act that is taking place.

2.7 OPERATION PLANNING/WARRANT

Before a police operation can be carried out a warrant to enter the premises under the Trafficking in Persons Act 2007 must be obtained. The warrant is granted by a Judge.

To obtain this warrant evidence must be presented in the form of a statement of purpose amounting to an affidavit on the grounds of reasonable suspicion that offences under the act are to be found on the premises.

Consultation **must** be made at this stage with the Director of Public Prosecution's office; they will assist in the preparation of the statement of purpose.

2.8 PLANNING AND BRIEFING

Following successfully obtaining a warrant under the TIP Act it is vitally important to carefully plan the execution of the warrant. The section explains how to plan a police operation, sometimes referred to as a raid by using an internationally recognised model known as I.I.M.A.C.

The operational plan is likely to be complex and must also have been the subject of a separate risk assessment and management process that should be fully recorded in the usual way.

Even the lowest categories of trafficking cases have potential to be complex and all arrest operations should be made the subject of an arrest operation plan and briefing that addresses the following key areas in the following sequence using the I.I.M.A.C model.

- I - Intention**
- I - Information**
- M - Method**
- A - Administration**
- C - Communications**

The idea of this format is to provide a logical framework for planning the operation and providing the detailed operational briefing for all of the personnel that are to be engaged on the operation. This framework can be applied to all forms of arrest operations and is designed to be flexible and to provide the officers that are to be deployed on

the operation with detailed and precise instructions as to the overall goal of the operation and of their precise roles and responsibilities within the planned operation. The following points are set out as general guidance;

I – Intention - this part of the plan should state in concise and simple terms the objective(s) of the arrest operation, i.e. to affect the arrest of a number of named suspects; to rescue the victims of their exploitation and to enter specified addresses and to search and seize evidence.

I – Information – this part of the plan and briefing should set out a brief outline of the investigation to date, so that the officers know the background as to why they are being deployed to affect arrests of suspects and rescues of victims

M – Method – this is the detailed part of the plan used during the operational briefing and it should incorporate precise instructions, as given in the following examples:

- The posting and deployment of the officers into their respective teams. Team 1 is responsible for the arrest of suspects, search of the premises and the security of evidence. Team 2 is responsible for the care and protection of victims. Team 3 is responsible for back up and perimeter security of crime scene. It is also good practice to have a forward meeting point near the target's premises.
- Consider the sequence, timing and co-ordination of each phase of the plan and in particular the preliminary surveillance, timing and identity of the officer responsible for giving the orders to affect the planned arrest, the execution of the arrest of the suspects, deployment of the search and seizure teams etc. (In more complex arrest operations involving multiple suspects and venues, getting this sequence, timing and coordination of the arrest phases will be of prime importance to the success of the plan).
- Give precise instruction as to the legal and procedural powers that are to be used and instructions as to the execution of those powers – for example; Team 1 to affect the arrest of Suspect A for suspected human trafficking under the Trafficking in Persons Act 2007; to comply with the rights of arrested persons by ensuring that he/she is informed of the fact of the arrest, the grounds upon which it is based, the date and time of his arrest etc. and to search for and seize only those evidential items specified under the warrant. Team 2 to quickly identify victims taking special care to identify minors and to ensure their dignity and protection whilst removing them to a place of safety. (Assistance to and protection of victims Article 9 & 10, TIP Act see chapter 1.14)
- Give specific instructions as to the best practice and force procedures in crime scene management and specific deployments to meet these standards – for example, Team 3 officers to identify and secure the perimeter of the scene, ensuring that no-one leaves or enters, and to be prepared to readily assist team 1 and 2 in case of assistance is required.

A – Administration – this section of the framework should be used for all other administrative detail that is not directly related to the operational execution of the plan – for example, instructions as to which police station the arrested suspects are to be taken to; where any victims are to be taken to; the officer to whom all of the seized evidential exhibits are to be handed to; to whom all of the arrest and search notes are to be handed to etc.

C – Communications – this section provides instruction on the methods by which the officer in charge of the oper-

ation and the arrest and search team(s) will communicate with each other – for example, using only designated police radio channels, designated call signs, the contingency planning such as the use of mobile or landline phones, the use of the communications by the arrest team(s) to report and update their progress through the phases of the operation to the officer in charge – for example, 1. Immediately notify the officer in charge when the team has arrived at the forward meeting point near to the home address of their allocated target, 2. Report when the team is moving out to start the operation and then their arrival at the target's address. From then on report all occurrences including the arrests made and the victims secured.

It is very important to allocate sufficient time for the professional and detailed preparation of the arrest plan and for the briefing of the officers deployed on it. ('Failing to plan is planning to fail')

2.9 OBJECTIVES IN CHRONOLOGIC ORDER OF THE ACTUAL OPERATION

- 1) Consult with DPP and obtain warrant under the TiP Act
- 2) Convene a briefing with all operational staff
- 3) Execute the warrant (enter the premises named in the warrant) and secure the crime scene
- 4) Conduct comprehensive search of premises for evidence specified in the warrant and relating to the Act
- 5) Identify, rescue and give assistance to victims with special care for the identification of minors
- 6) Detain all suspects and record details of clients
- 7) Seize and secure evidence found e.g. monies, pornographic material, records or documents, any other item relating to any form of explicit activities being practised on the premises.
- 8) Record the scene on still or video camera
- 9) To identify and determine who is ³ the mastermind and arrest the person if present

It is important to restrict and monitor the movement of persons and prevent the use of mobile and landline phones during the operation, in order that no messages can be relayed by persons in the premises to other criminal members warning them of the police operation. Be aware that criminal suspects or victims who are under instructions to warn others involved in the criminal network including the mastermind.

2.10 POST OPERATION

The following points should be considered immediately following the operation

- 1) Ensure that victims are safe by immediate referral to the government agencies of victim assistance. Are interpreters required?
- 2) Convene a debriefing that thoroughly reviews and assesses the operation
- 3) After carrying out an operation and execution of the warrant it is essential to label and properly secure and store the evidence to ensure only the best evidence is presented to the court.
- 4) If the mastermind was not at the premises, it becomes necessary to prepare an arrest warrant for the

³ The mastermind is considered to be the head of the criminal organisation who could be the owner of the premises.

immediate arrest

- 5) After the operation, gathering of evidence and collecting witness statements, it becomes essential to make early consultation with the DPP's office for advice and guidance

2.11 VICTIMS

It is very important to make the early identification and assessment of victims and verify their ages. Special attention must be given to minors (under 18 years) they must be given priority assistance. Minors are often told by their employers to always give their age as 18 years or older. Their age must be thoroughly checked out if there is any doubt as to the true age of the victim.

The safety of victims is paramount and the first consideration. Therefore law enforcement should seek early assistance from the Government and Non Government Organisations (NGO's) to assist in victim safety, protection and assessing immediate care needs. A referral system should be adopted. An example of steps a referral system would be: 1) Inform the prosecutor once a victim is identified. 2) The prosecutor will inform the chairperson of the Task Force and the Government's victim's assistance network is activated. The network includes an NGO's that can provide shelter, and international organisations such as IOM which can provide victim assistance guidance and voluntary return and reintegration services in the country of origin and UNHCR which is able to provide assistance particular in the case of a foreign national who is in need of protection (see chapter 4.9)

Victims are often traumatised and this must be taken into consideration very early on. Seek assistance from the Government's trained counsellors from within the victims unit and approved NGO's to assess each case.

Victims may be able to provide vital evidence that can secure a conviction against the trafficker or facilitator but they are often unwilling to provide a testimony because of fear or reprisals etc. Pressure must never be put on the victim to provide a written statement. If a victim is willing and it has been assessed as safe and appropriate for them to do so then only an experienced and trained officer should record this statement. If the victim is a minor then a parent or legal guardian must be present or a legal representative (see chapter 5.2/3)

2.12 EVIDENCE TRAIL

The evidence trail starts very early on when the information first comes to light of the existence of a trafficking case. The police must inform the prosecutor and together they formulate an information or affidavit to place before a Judge. The information is laid on oath stating the reasonable grounds for suspecting that evidence of or relating to an offence under this Act⁴ is to be found on any premises specified in the information. The Judge may then issue a warrant to a constable who by the use of such force as is necessary and reasonable with such assistance to

- ☐ enter upon the premises;
- ☐ search the premises for evidence of or relating to an offence under this Act;

⁴ Article 14 Trafficking in Persons Act 2007

- ☐ seize property found in the course of the search that the constable believes, on reasonable grounds, to be evidence of or relating to an offence under this Act.

The property and evidence seized is vital to prove an offence under the Act whilst property seized can be awarded as restitution to the victim. The safety and security of evidence is therefore vital and police must also look for corroborative evidence to support the case.

2.13 ADDITIONAL CORROBORATIVE MATERIAL/EVIDENCE

Additional supporting material may be used to corroborate the victim's account and help in the decision-making process. Documents or other supporting material may be available from the victims themselves. The following are examples:

- ☐ Police or immigration reports
- ☐ Any travel documentation or travel tickets or receipts
- ☐ Immigration departure or landing cards
- ☐ Reports of any medical treatment provided for any injuries prior to referral
- ☐ Copies of employment contracts or copies of the original advertisement
- ☐ Still or video pictures taken at the scene of crime during the police control
- ☐ Diary entries, letters written by the victim
- ☐ Corroborating evidence from victims associates or family of the trafficking process
- ☐ Any relevant photographs or documents that are found either in possession of the victim or suspects that may assist the investigation
- ☐ Mobile phone data

2.14 ARREST OF MASTERMIND AND CONTROL OF PREMISES

It may be necessary to plan a second operation to arrest the mastermind. Trafficking is an organised complex crime with many people involved who have specific roles within the criminal network. There is hierarchy with the top person often referred to as the mastermind. Upon arrest all premises stated in the warrant can be controlled by the police whilst the mastermind is held accountable for the assets.

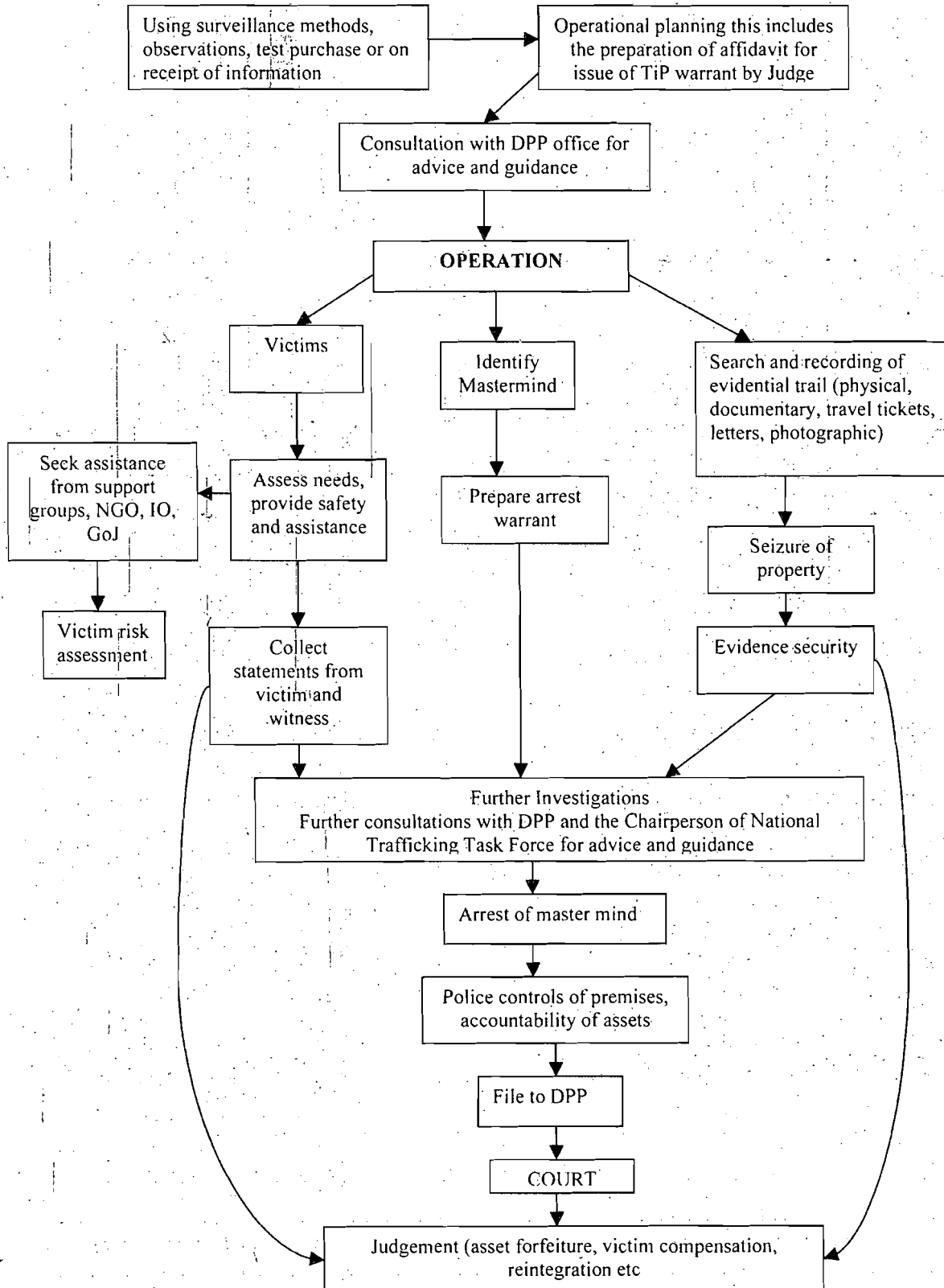
2.15 DIRECTOR OF PUBLIC PROSECUTIONS AND SUBSEQUENT COURT HEARINGS

The file is compiled and forwarded to the DPP's office for court proceedings to begin.

Because the DPP's office was consulted for advice and guidance at an early stage and before the police operation took place the prosecutors will already have a good working knowledge of the case. Therefore all possible prosecution and judicial avenues are comprehensively explored with the overall aim of securing a conviction against those responsible within the organised criminal network of trafficking; this will include the whole criminal net of mastermind, facilitators and mediators etc

The court besides having powers of judgement against offenders can also order forfeiture of property seized by the police under the Act. The court can also order a person convicted of trafficking to pay restitution to the victim.

2.2
Practical Scheme to Investigate Trafficking in Persons
The Police Investigation Process and Measures to be taken based on information received or acting on own initiative



CHAPTER III

Profiling and Victim Identification for Immigration Control

3.1 INTRODUCTION

This chapter explains law enforcement profiling, the practical points and how it can be used in the pre-interview stage of passenger profiling by the immigration controls at the point of entry/exit in Jamaica. Furthermore it covers the indicators that can be used by all law enforcement officers as a guide to assist in the process of determining whether or not a person is a victim or potential victim of trafficking and includes the recommended border control interview techniques.

3.2 PRE-INTERVIEW ASSESSMENT (PROFILING).

What is profiling? This section defines profiling as a pre-interview assessment as used in border control and explains its purpose as:

- ☐ Passenger analysis or 'profiling' is the consideration of all the available information to make educated assessments. Just about any situation or circumstance can be profiled.
- ☐ Profiling has an overall objective to assist investigations in order to reduce the number of potential suspects, and in some cases, to estimate the value of focusing on a specific suspect.
- ☐ A profile is used as an instrument in the investigation; the profile is not used as evidence. It is used in order to create a more scientific picture of both the criminal elements as well as people requiring assistance e.g. as a pre interview assessment indicator to assist in the identification of victims of trafficking.
- ☐ However, profiling is not one hundred per cent accurate. It provides us with an indication that can be used in border management work, but final judgements should never be solely based on a profile.

3.3 ANALYSING GENERAL INFORMATION AT THE PORTS OF ENTRY

There are two main areas of passenger analysis in border control:

Analysing the general information available e.g. high risk flight

Analysing the passenger specifically

This means considering what information we have available which is not specific to one particular passenger.

Examples include the following:

1. Knowledge about the flight/boat etc
 - ☐ The passengers origin
 - ☐ Transit points during journey
 - ☐ The quality or track record of the carrier
 - ☐ History of destination points that gives rise to suspicion
2. The classification of passengers that are expected with regard to their:
 - ☐ Nationalities
 - ☐ Common reasons for entry
 - ☐ Usual documents presented
3. Previous problems/trends

- ☐ Have there been any problems with passengers on that flight previously?
- ☐ Have any problems been reported?
- 4. National/International threats
- ☐ Consider the situation locally (crime) and internationally (suspected organised crime, trafficking and smuggling of persons etc.)

3.4 ANALYSING THE PASSENGERS

Behaviour:

The human body involuntarily leaks body language. If observed keenly, a lot can be learnt from the passenger's disposition. Victims of trafficking are likely to disclose their true status involuntarily through body signals / movements. The following are some characteristics that may guide the border control officer in identifying a victim of human trafficking: **It must be noted that body language is a guide only; it can be easily misread and does not account for cultural differences.**

Unusually passive - The passenger will not make eye contact and will generally be withdrawn. This may be due to the trauma of the situation and the effort to say little so as not to expose the trafficker.

Unusually cooperative - The passenger can be very talkative. If the line of questioning is not difficult they may attempt to fill the time you spend with them on matters outside the subject area (distraction).

Nervous - In visibly nervous passengers you must bear in mind that there may be entirely innocent reasons for someone being nervous, such as fear of flying.

Aggressiveness - This is a common ploy used by people attempting to avoid questioning. They know that you are the professional and so they hope that you will attempt to avoid a public argument. If your line of questioning is valid and defensible then continue with it but remain calm and do not respond in an aggressive manner.

A spokesperson -

- ☐ The trafficker will often travel with their victim.
- ☐ Usually there will be nothing wrong with the trafficker's own documentation and will have little reason to be nervous as he/she may well have done the same journey numerous times before.
- ☐ The trafficker will try to do all the talking for the group to prevent you from speaking to the victim/s.
- ☐ Speak to all the occupants if possible. If you are unable to speak to them at least consider their behaviour.
- ☐ Speak to each occupant separately and in private away from the hearing of others.

Language:

For the purposes of profiling you need to recognise the language being spoken and then consider several questions (this does of course depends on your language skills) such as:

- ☐ Does the language being spoken match the travel document held?
- ☐ If claiming residency can they speak the appropriate language?
- ☐ If naturalized, can they speak the language of their birth country?
- ☐ What languages are they able to speak?

Travel documents:

Detailed examination of the passengers travel documents is required and in particular noting the following points:

- ☐ The date of issue of all travel documents
- ☐ What reasons are given for their travel?
- ☐ The documents produced with particular regard to previous documents held and the first document produced
- ☐ Are there any endorsements or restrictions in the document?
- ☐ Can a travel history be built for the passenger?
- ☐ Do they have the necessary visa for whom and what they say they are?
- ☐ Are they carrying the sort of documentation that you think they should?
- ☐ Does the type of documentation they carry match what they say they are doing?
- ☐ Check if there are any other travel documents they are carrying other than the one produced.

Often a migrant person entering illegally will conceal documents on their person or in their luggage

Ticketing:

The ticket and corresponding paperwork should be examined, looking specifically at the following details:

- ☐ Is the routing logical?
- ☐ Are the transits necessary?
- ☐ Open dated or one way ticket? Why?
- ☐ Confirmed ticketing?
- ☐ Do they have consecutively numbered tickets to other passengers?
- ☐ When and where was it purchased?
- ☐ How much did it cost and does that make sense?

Luggage:

Examine the luggage the passenger has with particular relevance to:

- ☐ Is the luggage consistent with the purpose of the trip?
- ☐ Is the amount of luggage consistent with the duration of the trip?

Clothing:

It is worth paying attention to the clothing the passenger is wearing and carrying, i.e.

- ☐ Does it match their circumstances and...?
- ☐ The duration of the stay?
- ☐ The passenger's occupation/ status?
- ☐ The climate?
- ☐ Are they their clothes they are carrying?

Cash:

Many people will overlook the fact that they are carrying cash, especially coins.

- ☐ Does it match the travel document country?
- ☐ Does it match the routing they are supposed to have taken?
- ☐ Do they have the appropriate amount of money?

Accommodation:

Determine the accommodation arrangements and with regard to:

- ☐ Where are they staying?
- ☐ Why there?
- ☐ Is it pre booked?
- ☐ Who made the booking and who is paying for the accommodation?

Group Travel:

For instances of group travel consider:

- ☐ Who organised it?
- ☐ How do they know each other?
- ☐ Are they all returning together?

Often it will be the passenger that alerts the border control officer to the problem mainly through behaviour nevertheless passenger analysis is an ongoing consideration that also takes place at the next stage of the border control process; the primary interview.

3.5 INDICATORS TO IDENTIFY A TRAFFICKED VICTIM

This is an accumulation of known or suspected facts that indicate a person *is, could be* or even a *potential* victim of trafficking and is a means of building up a profile of a victim of trafficking in Jamaica.

Types of Indicators:

Direct Indicators which correspond and confirm some of the elements of the Trafficking in Persons (TiP) definition (active)

Indirect Indicators which are based on practical data and social researches of real cases of TiP (overall average social and psychological profile of a trafficked person, atmosphere and environment, which surrounds the potential victim (anecdotal)

The process of identification consists of three stages:

1. The assessment of a range of pre-interview assessment indicators that can be evaluated before actually interviewing the individual.
2. An interview by a specialist with the individual consisting of a set of questions focusing on the recruitment, transportation and exploitation phases of the trafficking experience
3. An assessment of any available additional corroborative material

The interview is carried out by a Specialist Investigative Interviewer and following the interview if trafficking in persons is suspected or is evident the victim is referred to the Police TiP unit.

3.6 BORDER CONTROL - THE INTERVIEWERS APPROACH

The primary interview and general behaviour of the interviewer should be:

- ☐ Polite and friendly yet firm and in control in a professional manner – engaging with the person will encourage conversation. It will also underline the fact that you are simply gathering information and have no hidden agenda.
- ☐ Remain approachable, sensitive and professional during the interview.

- ☐ Answer questions if you can: Usually these will be about either the purpose or processes of the interview, however, do not get diverted from your interview.
- ☐ Always consider and protect the passengers human rights

Questioning:

Questioning skills are an important part of the interview and pre screening procedure and the interviewer should pay particular regard to:

- ☐ Ask "open" questions i.e. 5 'W's + 'H' use Who? Why? What? When? Where? and How? in the question. This allows the passenger to give you the information you need using their own words without being led by you. E.g. "What is your purpose of visit?" Rather than "Are you here on business?" which is a closed question that should only be used to clarify a fact to ensure that there is no misunderstanding. Closed questions are generally those that can be answered with a simple yes or no.
- ☐ Avoid using leading and multiple questions, **leading questions** – Suggesting an answer e.g. "You are here on business, right?" and **multiple questions** – Asking many questions in one before giving the passenger an opportunity to answer. E.g. "Are you travelling alone or is that person with you, and what exactly is your purpose of coming to Jamaica is it business or pleasure?"
- ☐ Keep a track of the interview by noting
 - What questions have you asked?
 - What information do you need?
 - What information have you received?
 - Consider taking notes (but be brief and state that you are taking them only to ensure accuracy of the information)

And some practical points to aid the interview process:

- ☐ Continually consider the passenger's behaviour and reactions. Does it change when certain subjects are raised or questions asked? This may indicate untruths but it is only an indication!
- ☐ Actively listen to what they are saying. By paying attention to exactly what the passenger is saying to you and by demonstrating an interest, this will encourage them to speak freely
- ☐ Avoid assumptions just concentrate on facts

Closure:

When you consider you have reached the end of the interview you need to close it correctly in order there are no misunderstandings. This is done by:

- ☐ Spending a few moments considering what you have discovered – is it enough on which to base a good decision?

The purpose of proper closure to an interview is to:

- ☐ Ensure there is mutual understanding about what has happened
- ☐ Explain what will happen next
- ☐ Give the passenger the opportunity to ask questions

Suggested closure questions would be:

- ☐ Have you understood me/ interpreter?

- ☐ Have you understood all the questions?
- ☐ Is there anything you want to add or change?
- ☐ Is there anything you want to ask?

Follow up Action:

Once a victim has been identified through profiling and the primary interview process the network set up with the relevant agencies should immediately be activated. (See Standard Operating Procedures Chapter IV)

CHAPTER IV

Immigration Investigation - 'Standard Operating Procedures' for Victims of Trafficking

4.1 INTRODUCTION

Jamaica's ports of exit and entry are always vulnerable to the transit of trafficked persons. It is therefore imperative that adequate operational procedures are in place to effectively identify and refer victims. This chapter explains the recommended procedures to assist immigration officials in the process of identification, assistance and referral of victims whilst using a standard approach. It includes the basic interviewing guidelines whilst providing some practical examples to assist in passenger pre-screening and profiling.

There is also a list of practical examples of indicators that has been prepared by the operational people working in many fields including Government, Law enforcement Judiciary and NGO which is intended to be used as a guide to identify a trafficked person.

4.2 BASIC INTERVIEW PRINCIPLES

To effectively identify through an interview procedure persons who should be referred for assistance as a possible or potential victim of trafficking.

To ensure that throughout the interview process:

- a the rights of all those interviewed are always respected;
- b the rights of children (anyone under 18) are always respected and every effort is made to meet the needs of children;
- c no harm is done to the interviewee;
- d the interviewee is not traumatised;
- e the interviewee is not pressured to denounce traffickers;
- f assistance is offered whether or not the person is willing to make a formal denunciation of their traffickers;
- g every effort is made to understand the interviewee's circumstances so that risks can be properly assessed;
- h promises made regarding assistance can be fulfilled;
- i emergency situations are anticipated.
- j persons are not held or detained against their will without a strong legal basis
- k victims face no criminal charges relating to immigration laws

4.3 INTERVIEWS WITH MINORS

Special consideration must be given towards minors (anyone under 18 years of age). The following guidelines should always be observed:

- ☐ Child victims should be questioned in a child-sensitive manner.
- ☐ Questions should be adapted in order to take into consideration the age and mental capacity of the child.

- ☐ Only specially trained members of the law enforcement authority should question child victims.
- ☐ Wherever possible, child victims should be questioned by law enforcement officers of the same sex.
- ☐ In depth information regarding the child's trafficking experience, and any knowledge they may have of illegal activities etc. should not be sought at this point. Follow-up visits will be required.
- ☐ Interviews of minors must take place in the presence of a parent or legal guardian. In some cases this may not be possible because the parent is not present or there is suspicion that the family/parent was involved with trafficking the child. In these situations a trained psychologist must be present.

Provided the above requirements are met, the interview may proceed

4.4 INDICATORS TO NOTE THAT REQUIRE SPECIAL ATTENTION

Paying careful attention to the behaviour that is being displayed and the prevailing circumstances will assist the investigator/interviewer. Consider the following:

- ☐ Interviewee or those accompanying the individual display unusual nervousness or fear.
- ☐ Interviewee seems withdrawn
- ☐ Interviewee is unable to speak coherently
- ☐ Interviewee refuses to cooperate with interviewer.
- ☐ Interviewee maintains covert ties (i.e., secret contact, surreptitious use of cell phone, etc.) with others during process.
- ☐ Interviewee rushes interviewer to complete the procedure.
- ☐ Interviewee displays exceptional interest in procedure.
- ☐ Interviewee responds to interview questions in a contradictory, evasive, deceptive, inaccurate, or uncooperative manner.
- ☐ Amount of baggage unusual for ticketed itinerary.
- ☐ Appearance and behaviour not consistent with price of ticket.
- ☐ Interviewee in possession of illegal and/or dangerous materials.

4.5 RELEVANT FACTS TO BE ASCERTAINED TO DETERMINE A TRAFFICKING CASE

The following is a non exhaustive list of relevant information to be established that will assist in the investigation to determine if there is a trafficking case, by using open questions to ascertain:

- ☐ The true identity, age and citizenship of the person
- ☐ Their personal travel arrangements/instructions, and were they given specific instructions on arrival, e.g. call a telephone number and get a taxi to take them to a certain address.
- ☐ Whether they are accompanied/unaccompanied and meeting someone, or are they being met?
- ☐ What is the address at destination?
- ☐ What is the purpose of travel?
- ☐ What is the length of intended stay?
- ☐ Have there been previous visits to Jamaica?
- ☐ Who made the travel arrangements and paid for the ticket
- ☐ What are the transport arrangements routes or patterns?
- ☐ What occupation and verification of occupation was given
- ☐ Who is the contact person and the relationship to them

- ☐ Closely examine all flight tickets and boarding passes and the travel itinerary and...
- ☐ Examine all travel documents, passport and visa
- ☐ Establish what belongings, money and personal possessions they have in their possession.

4.6 VISA EXTENSIONS/WORK PERMITS – WARNING SIGNS

There are a number of indicators to suggest the case warrants special attention that gives rise to suspicion that it involves a victim that is a subject of trafficking. The indicators are non exhaustive and should be compared against factual evidence.

- ☐ Living conditions
- ☐ Restrictions of movement
- ☐ Wording of benefactor and/or applicants letter
- ☐ Relationship of benefactor to applicant
- ☐ Language difficulties of applicant
- ☐ Length of stay in Jamaica
- ☐ Salary being paid
- ☐ Contractual arrangements
- ☐ Who has possession of travel documents
- ☐ Necessary work experience/qualifications
- ☐ Place of employment
- ☐ Confirm student status for student visas by checking documentation from school
- ☐ The monitored nationals
- ☐ Checking out of addresses to confirm if genuine
- ☐ Situation of family back home
- ☐ The ticket is paid by someone else?
- ☐ Physical appearance any signs of stress and anxiety

4.7 INDICATORS USED TO PROFILE A TRAFFICKED VICTIM: (TRAFFICKING IN PERSONS (PREVENTION, SUPPRESSION AND PUNISHMENT) ACT 2007

The Criminal Actions:

When a victim has been subjected to the following criminal activity:

- ☐ Recruitment
- ☐ Transportation
- ☐ Harboursing
- ☐ Transfer
- ☐ Receipt

The Methods of Coercion:

When a victim has been subjected the following means:

- ☐ Threats
- ☐ Use of physical force, rape
- ☐ Confiscation of documents
- ☐ Deception
- ☐ Servitude

- ☐ Abuse of position of vulnerability
- ☐ Abuse of power
- ☐ Use of inhumane or degrading treatment, targeted to subdue a person
- ☐ Use of physical dependence

The Objectives:

When a victim has been subjected to exploitation of:

- ☐ Sexual exploitation
- ☐ Sexually explicit conduct involving a child
- ☐ Exploitation of forced labour or services, including begging
- ☐ Exploitation in slavery or slavery like conditions
- ☐ Illicit removal of organs
- ☐ Compulsion into begging

See Chapter VI for the full list of indicators

4.8 PRE-SCREENING AND STATUS DETERMINATION

The examination and inspection process should help determine the status of travelers and in particular in ascertaining whether a person is in any way involved in trafficking or smuggling of persons either as a victim or as a trafficker. The process is called pre-screening and status determination.

Screened individual's status, to examine the category of travelers within the mixed flow of migrant people who are:

- ☐ Bona-fide traveler – *who could be a foreign national resident or a citizen*

This makes up the vast proportion of migrant travelers, but within this mixed flow there are:

- ☐ Asylum seeker/ refugee
- ☐ Irregular migrant
- ☐ Smuggled migrant
- ☐ Victim of trafficking in persons
- ☐ The smuggler
- ☐ The trafficker
- ☐ And mediator/ Couriers

4.9 STATUS OF VICTIMS AND RESPONSIBILITIES OF IMMIGRATIONS OFFICERS

Immigration Officers are responsible for screening all people (nationals and foreigners) who are entering and leaving Jamaica and should be aware of the profile of a trafficked victim to detect cases at the earliest opportunity.

This is also relevant for situations when foreigners are applying for work permits/visa extensions. Immigration investigators should carefully consider all the facts and surrounding circumstances of the application. There may well be facts that indicate a case of labour or sexual exploitation and the case should be thoroughly investigated.

It is often very difficult to determine when assessing a possible victim if the case is of trafficking or smuggling of people and it may be some time before the actual exploitation is determined therefore the same criteria of identification screening applies.

There is a responsibility to ensure that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who express a fear of being trafficked in the future, are given an opportunity to have their protection needs assessed by the Government asylum system. This would necessitate access to fair and efficient asylum procedures, including proper legal counseling to support the submission and correct analysis of trafficking related claims. The assistance of the appropriate international agency (UNHCR) should be sought in such cases.

Within the meaning of the United Nations Convention Relating to the Status of Refugees, refugees are persons who are outside the country of their nationality and have a well-founded fear of being persecuted for reasons of:

- ☐ race, religion, nationality, political opinion, or
- ☐ membership of a particular social group

Not all victims or potential victims of trafficking fall within the scope of the refugee definition. To be recognised as a refugee all elements of the refugee definition have to be satisfied. However, protection may also be extended to persons who are outside of their country of nationality or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.

4.10 PROCEDURE AND ACTIONS TO BE TAKEN ON CASES OF POSSIBLE/POTENTIAL 'VICTIM OF TRAFFICKING' INCLUDING THE REFERRAL PROCEDURES.

The investigating officer shall take all reasonable steps to ensure the safety and security of all evidence relevant to the case. This includes documentary and physical evidence. (Some examples are listed below).

Examples of procedures to be adopted on identifying a victim/potential victim and suspect covered in this section are as follows, consider:

1. Security of evidence
2. Immigration step-by step procedures
3. Victim referral

1. Security of evidence:

The first step is to ensure that all evidence is collected and secured. Often vital evidence is lost at the point of an intervention. Suspects will discard or conceal incriminating documents and will also instruct victims to do the same. Carefully identify and secure the evidence and check:

- ☐ All travel documents and corresponding paperwork
- ☐ Receipts, travel itinerary, boarding passes etc
- ☐ Personal belongings of victim
- ☐ Cell phones
- ☐ Photographs and other documents that prove the movement of someone, e.g. receipts, train tickets, invoices, bus tickets etc proving that a person has been in a given place
- ☐ Whilst noting physical appearance, scars or injuries etc and obtain identity of witness in order that statements can be taken.

Immigration procedures:

Step by step procedures following the detection of a suspected trafficking case are as follows:

- ☐ Primary officer to determine status and record the basic information, whilst taking due regard of collection of evidence (see 1. security of evidence)
- ☐ Immediately refer the case to immigration investigation unit who will.....
- ☐ Investigate the nature of the case and conduct the prelim enquiries by conducting interviews, this could include visiting the house or place of work
- ☐ Confirming the ID of an employer
- ☐ When necessary consultation with appropriate Embassy/ Consulate /High Commission/ or with Ministry of Foreign Affairs
- ☐ Retention and safe keeping of all travel documents and evidence seized. The hand over of documentary evidence to police/prosecutor
- ☐ Consultation throughout the case with police TiP unit and DPP's office until the eventual repatriation of victim
- ☐ Observance of non contravention of immigration laws by identified victim

Victim referral:

Following the initial identification of a trafficking case by immigration the victim is to be referred to the appropriate agencies following a strictly monitored procedure. The TiP unit of the JCF is the first referral point for a victim of trafficking of both national and foreign citizens. Whilst in the case of a foreign citizen who is seeking protection and asylum the referral system is through the relevant government departments and the UNHCR: (See 4.9)

In the case of an identified victim of trafficking the immigration investigation unit shall:

- 1) Immediately call the Police TiP unit at OCID who will then promptly consult with the DPP's office
- 2) Relate the full facts of the case, followed by a full written report
- 3) Exchange all evidential documents
- 4) Monitor the case situation and assist in any visa passport request
- 5) Ensure that a victim of trafficking does not face any immigration offence

CHAPTER V

Response, Assistance to and Protection of victims of "Trafficking in Persons"

5.1 INTRODUCTION

In order to ensure that adequate and appropriate treatment is rendered to victims of human trafficking, a balance must be achieved between requirements set forth under international protocols, and the local socio-cultural norms alongside recent legislation.

Within the framework of that critical balance lie the role and responsibilities of a network of agencies in Jamaica that fall under the jurisdiction of the Ministry of Justice; particularly the National Task Force against Trafficking in Persons (NATFATIP) with a direct reporting link to the Cabinet Office (Office of the Prime Minister (OPM)).

Appropriate treatment and adequate response will determine the extent to which a victim may successfully begin recovery from the ordeal of the trafficking experience, but also will assist in any investigative procedures or other aspects of the judicial process, including acting as a witness. As such, the initial treatment of trafficked victims should follow best practice principles that should be applicable to all cases:

5.2 BEST PRACTICE PRINCIPLES APPLICABLE TO ALL CASES

The principles upon which this humanitarian approach is based are as follows:

- ☐ Genuine trafficked victims should be treated as **victims** of serious crime and **must not be re-victimised nor should their case be criminalised**.

International humanitarian standards are quite specific that genuine trafficked victims should not be re-victimised and criminalized by the criminal justice process and this must be avoided wherever possible:

- ☐ The **safety** of the victims and their families and loved ones shall be the **paramount** consideration at all times for all personnel of counter-trafficking agencies.

The only effective response to trafficking victims is a multi-agency one. (NATFATIP and relevant network agencies. While the issue of safety resides primarily with the law enforcement agencies, (i.e. **JCF** and **DPP**, Jamaica Constabulary Force and the Director of Public Prosecutions), the safety and welfare of trafficked victims and their families and loved ones are issues to be shared by all concerned parties.

- ☐ The conduct of a **continuous process of risk assessment** in respect of the safety and welfare of the victims and their families at every stage of the assistance, investigative and judicial process is an essential component of ensuring the safety of trafficked victims.

Safety and the possibility of reprisals against the victims and their families will always be a feature of trafficking crime and it will never be possible to completely eradicate the risk factors. However, it is the duty of all counter-trafficking personnel to ensure that the risks in each case are assessed from the outset and that the assessment process is continuously reviewed and updated.

Moreover, in those cases where the victims have testified, the duty of care does not end with the conclusion of the trial process.

5:3 LAW ENFORCEMENT BEST PRACTICE PRINCIPLES APPLICABLE TO ALL CASES

- ☐ That counter-trafficking personnel have a clear duty to be open and honest at all times with trafficked victims so that the victims are made fully aware of the issues, responsibilities and potential consequences and risks attached to any decision that they may be called upon to make

Co-operation with the criminal justice system will always involve an element of risk for the victims of trafficking and possibly their families. The critical point is that the victims are made fully aware of all the issues and risks attached to any decision they are asked to make so that they can reach a fully informed decision.

Deceiving the victim is a constant theme in trafficking crimes; the situation should never arise whereby trafficked victims can justifiably claim that they were deceived for a second time by personnel of counter-trafficking agencies.

- ☐ That the staff of counter-trafficking agencies in Jamaica have a clear duty to ensure that the victims are made fully aware of their rights and obligations and of all available support measures and services that exist to help them overcome their ordeal and that the victims are enabled to establish initial contact with assistance providers.
- ☐ Trafficked victims may never recover from the physical, sexual and psychological damage that they have suffered. Nevertheless, it is vital that they are empowered by being provided with full information as to their legal rights and given access to the full range of support and care services that exist to aid them in the recovery process.

The critical point is that the victims are fully informed of the help that is available to them and that access to relevant organisations is facilitated.

To facilitate this duty effectively, the counter-trafficking agencies should develop and draw upon a network of liaison contacts with the relevant governmental and non-governmental organisations that will provide such support services

- ☐ That the principle of **full and informed consent in writing** in a language that the victim can fully understand is applied on each occasion that a proposed course of action requires the consent of the victim.

During both the assistance and criminal justice processes, victims are frequently required to provide their consent to a range of activities and it is essential that on each occasion, victims receive a clear explanation as to the nature and purpose of the proposed activity and of their rights and obligations in relation to it.

If there is any doubt as to the ability of the victim to fully understand the detailed explanation, the services of an interpreter in the language of the victim must be secured

In Jamaica this will include the assistance of foreign language interpreters from the International Agencies such as IOM, High Commissions, Foreign Embassies and Consulate offices where it is expected such agencies will be established as a part of the support network for "on-call" service.

5.4 Rationale and understanding towards assistance to-and protection of victims

Trafficking in Persons constitute two essential aspects that impact negatively and in a "long term" effect on the victim and their sense of well-being. Although the concept of Trafficking in Persons has not been readily recognised by the general public as a critical social issue on a large scale, it is a phenomenon that is known to be growing in both numbers of victims, as well as the profits made by the national and international criminal network controlling it.

Trafficking in Persons continues to thwart the development of individuals who become the victims and also hampers the development of countries in which it thrives. It is rightfully referred to as:

- **A type of modern day slavery**
And is
- **A violation of Human Rights**

Although boys and young men are subject to being trafficked, it's important to note that it is mainly women and children who are the victims since they are generally more vulnerable to exploitation.

It has been many years since slavery was declared illegal and yet in the modern era, women and children especially are being sold, coerced, and lured into situations where they are forced to engage in forms of forced labour and prostitution.

In 'modern day' slavery human trafficking takes on a more cynical approach and is thought to be much more lucrative. As the issue of TiP has become more exposed, the connection to illegal gun and drugs trade has become apparent. The key difference in historical and modern day slavery is that during the cross-Atlantic slave trade of Africans it was the men who were highly sought after, but in modern day slavery" it is primarily women and children.

In the days of distant past, manual labour was the key; in today's environment, although labour is still involved, the majority of cases are for sexual exploitation. While it holds true that traffickers continue to engage in practices of labour abuse, and other forms of bondage the most lucrative and most active strategy employed is that of sexual exploitation.

5.5 THE PLIGHT OF THE VICTIM

The factors of coercion, force and bondage relegate the victim{s} to a mental and physical state of fatigue that eventually renders them to a state of hopelessness and helplessness. Modern day slavery {TiP} carries with it the level of sophistication that makes it complex and extremely difficult to identify (and rescue) victims of TiP.

This is therefore of utmost importance to recognise the mental and physical state of victims as sometimes one may be confronted with a victim who seems disinterested in participating in the investigative process, in the trafficker{s} getting caught, and perhaps being penalised; or even being 'rescued'.

The long-term physical and psychological impact on a TiP victim can be most devastating in many cases for the experience of having been coerced, transported, and held in isolation is often only a part of the overall picture. The victims have likely suffered beatings, rape and other forced sexual acts, labour servitude, and the like.

Much like women who suffer from chronic domestic violence, as a result of threats, isolation and inability to escape, the TiP victim will exhibit a range of emotional trauma including confusion, disorientation, high levels of anxiety and fear. Other TiP victims may be completely withdrawn, severely depressed and/or suicidal.

Lack of access to health care will have taken an added toll on the victim.

It is under these circumstances that the first point of contact must be handled with due care.

5.6 DUTY OF THE INTERVIEWER AND INTERVIEW OBJECTIVES

It is well understood that the social and economic development of the TiP victim has been impacted in a negative way on the physical condition, and more so on the psych of the individual so there is little or no trust with anyone. Thus, the victim when first identified and rescued will be in need of constant reassurance, and careful interviewing.

The interviewing techniques employed at the outset of each case should be conducted in a manner that will ensure the safety and protection of the TiP victim. It is at this point that the network of referral agencies should be drawn upon, since case management begins at the first point of contact, and generally will be by the members of JCF or immigration.

The relevant best practice guidance set out here may be applied to initial interviews designed to identify victims of trafficking.

The principles underlying the best practice in the interviewing of the victim-witness is based upon the following key factors:

- ☐ The duty of the interviewer is to treat the victim-witness sensitively and professionally and with full respect to their human rights
- ☐ To conduct the interview process in a way that ensures that it does not cause any further harm to the victim-witness.
- ☐ To create the optimum conditions within which the victim can provide their evidence and give a testimony in a manner that minimises the inevitable trauma that the process will inevitably entail

To provide the victim with a fair and equal opportunity to gain access to justice and to give their side of the story.

The interviewer should embrace these best practice rules not only as a matter of humanitarian and professional duty but also because repeated case experience shows that such treatment will maximize the potential of the victim to give their account both before and during a trial process and thereby provide a proper access to justice.

5.7 THE THREE OBJECTIVES OF THE INTERVIEW

The aim of the guidance is to help the interviewer to record a coherent and extremely detailed history from the victim so as to enable the investigation to attain the following three objectives:

- ☐ To establish the full facts of the case
- ☐ To use the facts to corroborate the victim's story and establish their credibility as a witness of truth.
- ☐ To use the evidence to identify, arrest and successfully prosecute the traffickers.

5.8 THE SCALE OF THE INTERVIEW CHALLENGE

The interview of a trafficked victim-witness is likely to be one of the most challenging tasks that an interviewer can face. To achieve the objectives of the interview, the interviewer must be able to overcome serious challenges associated with the victim and the sheer evidential content of the interview.

All personal beliefs, feelings, including the tendency to judge according to one's own values must be put aside when dealing with trafficking victims.

This is particularly critical for all TiP victims and no more so than in the instances of young male victims in Jamaica who face particular problems. The best practice techniques for intervention, protection and support must prevail

5.9 DEALING WITH TRAUMATISED VICTIMS

Victims are likely to be traumatised by the trafficking experience and will be required to speak in evidential detail about events that are both intensely personal and painful and the recall of these incidents may involve a significant risk of the victim being traumatised again.

During the initial phases of contact, the victim-witness is almost certain to be anxious or even fearful of the interview process. In addition, during the initial phases, the TiP victim is likely to be very suspicious of the interviewer as the majority of victim-witnesses are likely to have had very negative experiences of law enforcement officers.

In order to combat this, each JCF counter-trafficking unit should have personnel available who are trained in sensitivity and empathetic strategies to be employed in the initial and subsequent interview processes.

Victims should be referred to the Care Shelter by approved referral sources: for example, the JCF, NGO (non-governmental organizations) such as Woman Incorporated, Government Departments such as the CDA or Ministry of Health and the Trafficking in Persons Rescue Team ('the TiPRT'). It is recommended that the TiPRT be comprised of the following: At least two plain clothes police officers; A social worker or trained counsellor that deals with victims; A representative of the Victim Support Unit (VSU); and at least one person who is a medical personnel.

5.10 MINIMUM STANDARDS OF CARE

In Jamaica, one of the 'key' measures that have been put in place to effectively criminalise and suppress the crime of trafficking, and also to identify offenders and victims is 'The Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007'

All personal beliefs, feelings, including the tendency to judge according to one's own values must be put aside when dealing with trafficking cases.

The Act has provisions for the assistance and protection for the victim.

One way in which protection is available to the victim is through the provision of care facilities that provide for the safety, privacy, physical and psychological recovery for the TiP victim.

An important tool in achieving this goal is the provision of: "Minimum Standards of Care" as is recommended by the Protection sub-committee of NATFATIP. The {Jamaica} guidelines for care encompass both International requirements and local legislation and include:

- ☐ "Ensuring, in cooperation with Non-Governmental Organisations, that safe and adequate shelter to meet the needs of victims is made available"
- ☐ "The provision of such shelter should NOT be made contingent on the willingness of victims to give evidence in criminal proceedings"

While this is so, the initial interviewer must be certain that TiP victims are informed of their rights

- ☐ "Ensuring, in partnership with Non-Governmental Organisations, that victims are given access to primary health care and counselling. Victims should not be required to accept any such support and assistance and they should not be subject to mandatory testing for diseases including HIV/AIDS"
- ☐ "Ensuring that victims are informed of their right of access to diplomatic and consular representatives from their state of nationality"
- ☐ "Ensuring that legal proceedings in which victims are involved are not prejudicial to their rights, dignity or physical or psychological well-being"
- ☐ "Subject to Clause 12 (Legal Support) of the guidelines, referring victims to legal and other services in relation to any criminal, civil or other actions against traffickers/exploiters. Victims should be provided with information in a language that they can understand"
- ☐ "Ensuring that victims are effectively protected from harm, threats or intimidation by traffickers and associated persons"

To this end, there should be no public disclosure of the identity of TiP victims and their privacy should be respected and protected to the extent possible, while taking into account the right of any accused person to a fair trial.

Victims should be given full warning, in advance, of the difficulties inherent in protecting identities and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies in this regard.

5.11 PRINCIPLES OF CARE AND ASSISTANCE

JCF and immigration officers who are the "front-line" {the first point of contact} for TiP victims must bear in mind the following basic principles of care, according to minimum standards implicit in the operation of Care Shelters in Jamaica:

- ☐ **The Shelter as a first resort** -The well-being of all victims is to be promoted through the reliance on the established network and referral made as quickly as possible.
While it is recognized that preliminary investigative information must be obtained, it is critical that the TiP victim is not subjected to additional victimization and trauma.

The Care Shelter as the first option will ensure that guidelines and mechanisms are in place for follow through with all the relevant agencies, including the JCF, for formal institutional legal, medical and psychological care. The Care shelters in Jamaica will provide safe accommodation, food, clothing, access to medical help, as well as other fundamental support services geared to the safety, protection and recovery of the TiP victim.

- ☐ **Reintegration** - The obligation of the Government of Jamaica (GOJ) will be considered with a view to reintegrating the victim into the family or an alternate community setting within a reasonable period of time in the case of Jamaican nationals or residents; and to organize in the instance of non-nationals or non-residents of Jamaica the return of TiP victims to their country of origin, or to a third State as the circumstances may warrant or dictate.

- ☐ **Consent.** -TiP victims are only to be housed in the Care Shelter with their informed consent”.

In the event that a child victim is unaccompanied, and no parent or guardian can be found, the Child Development Agency (CDA) should be consulted, as this case will fall under the purview of the CCPA (The Child Care and Protection Act-Jamaica)

Other prevailing basic principles of care, will include consideration of the following:

- ☐ Access to family and association with others -To be determined case-by-case basis in conjunction with network of agencies and taking into account the Victim’s vulnerability and risk assessment. This will be further determined by a periodic review and Risk Assessment to be done in consultation with the Case Manager and representatives of the TiP inter-agency network
- ☐ Access to appropriate information - – All victims have the right to be provided with all information about their situation, identity, family and medical condition, and other matters relevant to their case. Denial of the provision of information is acceptable only for reasons of protection or psychological distress”.
- ☐ Participation in decisions – “All TiP victims have the right to express their opinions and to participate in decisions on all matters affecting them, including residency, treatment, education and occupational training, provided that the expression of such opinions and participation must be done in an organized and civilized manner”.
- ☐ Healing environment –This takes into account the social and physical environment with adequate time and opportunity for recreational activities, personalized space, and therapeutic counselling support.

All decisions are to be made with the psychological, physical and/or emotional well-being of the victim in mind.

Decisions regarding each case under the care and protection of Jamaica should be based on periodic review and guided by the principles and process of continuous risk assessment.

5.12 THE PRINCIPLES AND PROCESS OF CONTINUOUS RISK ASSESSMENT

While risk assessment in respect of trafficked victims is principally an activity for law enforcement agencies, all counter-trafficking agencies in Jamaica have a role to play in the risk assessment process for the simple reason that an element of risk attaches itself to many forms of victim-based counter-trafficking activity.

When and by what means counter-trafficking agency personnel will react to information concerning trafficked victims will be largely determined by the risk assessment process that must begin as soon as the victim comes to notice.

5.13 THE KEY PRINCIPLES OF RISK ASSESSMENT

A number of key principles should always guide this process that underpins the risk assessment process, they are as follows:

- ☐ Counter-trafficking agencies have a clear humanitarian duty of care to the victims of trafficking crime.
- ☐ In accordance with a number of international legal conventions, and under the Jamaican law counter-trafficking agencies have a legal duty of care to the victims of trafficking crime that are within their care

5.14 THE RISK ASSESSMENT PROCESS

A critical part of fulfilling this duty is to conduct a risk assessment in relation to identified victims and or potential victims. The risk assessment should be carried out as soon as possible after a trafficking victim has come to notice and then be followed through as a continuing process. Case Management begins here, at the onset of a situation where one is identified a TiP victim.

The risk assessment procedure should always be applied sequentially to the three following categories of victims:

- ☐ The **current victim** that has come to notice and is the subject of the risk assessment
- ☐ **Other victims** that are still under the control and exploitation of traffickers
- ☐ Other **potential victims** that maybe on the brink of being trafficked and exploited

The four critical questions:

Within these three contexts, the person making the evaluation should ask himself or herself the following sequential series of questions:

1. What is the level of risk posed to the current victim?
2. Are there other outstanding victims that are still being exploited, to be considered
– if so, what is the level of risk posed to them ?
3. Are there other potential victims about to be trafficked
– if so, what is the level of risk posed to them ?
4. Is the level of risk posed to current, outstanding or potential victims so high that it demands some form of immediate intervention?

The risk levels:

Before considering the key assessment questions as set out herein, the interviewer must bear in mind that the level of risk referred to needs to be assessed within the following two contexts:

- ☐ The **existing level of risk** posed to the safety and welfare of the victims and their loved ones
- ☐ Any **new or additional levels of risk** that may arise as a result of the type of response elicited...– e.g. any additional risks arising as a result of a police decision to launch an investigation

5.15 THE PRINCIPLES OF CONFIDENTIALITY

When confronted with cases of TiP victims it is critical to maintain full and absolute confidentiality regarding victims' identities, past experiences and present concerns. It is imperative, given that victims can face severe problems of stigma, discrimination, social rejection and violence if their situation is indiscriminately revealed and the emotional strain and trauma from the trafficking experience can be exacerbated. In addition, victims' psychological or social problems can be aggravated if their personal experiences are shared or publicly displayed.

The interviewer of a TiP victim must take extra care to ensure that the victim is not subjected to any disclosure save and except to persons who are a part of the anti-trafficking network Care Team, and on a "need to know" basis. Measures to ensure privacy are necessary to maintain a sense of self-autonomy and well-being, as well as to protect the confidentiality of the private concerns of a TiP victim.

Overall it is worth of note:

The appropriate treatment and adequate response to a TiP victim in Jamaica will determine the extent to which the victim may successfully begin recovery from the ordeal of the trafficking experience, but also will assist in any investigative procedures or other aspects of the judicial process, including the victim ultimately acting as a witness.

CHAPTER VI

Indicators to assist in the identification of a trafficked victim

6.1 INTRODUCTION

Every crime has a victim. Unlike most criminal offences where a victim is easily identified the crime of trafficking in persons is often proving difficult to identify victims. There are many reasons for this as explained in Chapter 5.5 and this adds to the complexities of an investigation.

6.2 INDICATORS TO ASSIST IN THE IDENTIFICATION OF A TRAFFICKED VICTIM

The following is a unique list of indicators researched and compiled by representatives of the Police, Immigration, Customs, DPP, NGO and Government departments during working groups. The definitions where they have not been taken directly from Jamaican law were derived from public trafficking material. This list is non exhaustive and serves only as an indication or guide for the investigator to investigate further. It is designed to assist Jamaican law enforcement officers engaged in the process of identification and assistance to victims of trafficking.

INDICATORS TO IDENTIFY A VICTIM OF TRAFFICKING

CRIMINAL ELEMENTS	DESCRIPTION OF THE ELEMENTS OF TRAFFICKING IN PERSONS CRIME BASED ON THE <u>TRAFFICKING IN PERSONS PREVENTION, SUPPRESSION AND PUNISHMENT ACT 2007</u>	DIRECT INDICATORS, WHICH COULD BE USED TO IDENTIFY TRAFFICKED PERSONS IN JAMAICA
CRIMINAL ACTIONS (THE ACTIVITY)		
Recruitment	Not defined in the Act Recruitment pre-supposes involvement of persons by selecting them for trafficking. Circumstances, in which it was carried out is irrelevant; in places of leisure, by offering jobs or training, from classified advertisements, by closing a fictitious marriage.	The victim was recruited by: 1) Answering a local/national job classified advertisement in a newspaper for massage, nightclub work, exotic dancer or similar. 2) Job advertisement for overseas position as dancer, massage etc 3) Applications to employment agencies of 'questionable character' 4) By internet 5) By telephone 6) Recruited by job agencies for modelling work or similar 7) By receiving information from a trafficking recruiter
Transportation	Not defined in the Act Transportation should be understood as transfer of a person from one place to another within the territory or across borders, by foot or any other possible means of transport	The victim was transported by taxi, boat, small aircraft, private & public transportation under suspicious circumstances, and includes: 1) Several persons travelling together of the same disposition & unable to give an account for cost, destination, route of travel etc. 2) Multi staged travelling without

		<p>adequate explanation/planning</p> <ol style="list-style-type: none"> 3) Persons with inadequate monies, clothing etc, as per their travel itinerary 4) The inability to speak the language of their travel document 5) Method or route is sponsored and planned 6) Travelling with fraudulent documents
Transfer	<p>Not defined in the Act</p> <p>Transfer of a person is transfer of a victim by one person to another on the basis of a sale, purchase, exchange, rent, transfer on account of debt, donation or the basis of similar onerous gratuitous transactions</p>	<p>In cases where:</p> <ol style="list-style-type: none"> 1) There has been a contractual arrangement 2) Transfer on account of a debt owed 3) Offering of better prospects to victims family 4) Offering work to minor or other adult in return for money given to family 5) There has been an irregular route of travel and the person is unfamiliar with the geography of their location 6) A person of foreign nationality moving to 2nd, 3rd or 4th location within short periods without specific skills (and more so to a foreign location) 7) Persons/foreigner working without money, accounts, bills possessions in their name 8) Undocumented persons/foreigner 9) Fee /transfer of portion of salary
Harbouring	<p>Not defined in the Act</p> <p>Harbouring of the victim, is placement of the victim to a secret place so as to avoid disclosure thereof by law enforcement, or the third persons able to report the trafficker in person</p>	<p>In cases where it is established or suspected that a victim has been:</p> <ol style="list-style-type: none"> 1) Confined to a place of work 2) Persons are always privately transported 3) Persons have never left or are frightened to leave the premises on which they have been found 4) The person has been kept in a motel, cheap villa and private homes 5) Where a job is stipulated that a person must live in and their movement is severely restricted 6) Where it is found a number of young women (including foreign women) living in the same residence and their movement is restricted or they appear confined or there is some threat. (sexual exploitation)(including men for labour exploitation)
Receipt of a Person	<p>Not defined in the Act</p> <p>The receipt of a victim, is receiving of the victim by one person from another on the basis of a sale-purchase, rent, donation or on the basis of other onerous or gratuitous transactions.</p>	<p>In circumstances whereby the person is found to be:</p> <ol style="list-style-type: none"> 1) Has little or no person personal belongings and documentation 2) Adult travelling in company with other adult without reasonable excuse or reason and unable to account for oneself 3)the same as above but in the case of

		<p>minors</p> <p>4) Single adult inadequately equipped for travel (no money, ignorant of specific destination, absence of adequate luggage)</p> <p>5) There is evidence or even suspicion that the person has been the subject of a transaction</p> <p>6) Establish whether there is any nexus between the alleged victim and the owner/operator of the residence/facility</p>
METHODS OF COERCION (THE MEANS)		
<p>Threats to use physical force or other forms of coercion</p> <p>Threats to use physical force or other forms of coercion, to threaten to harm damage or kill the victim, their loved ones or possession.</p>	<p>Not defined in the Act</p> <p>Threats to use physical force or other forms of coercion, to threaten to harm damage or kill the victim, their loved ones or possession.</p>	<p>Where it is proved or suspected that, threats to use physical force have been made:</p> <p>Actual Threats</p> <ol style="list-style-type: none"> 1) To harm the victim or the victims family 2) To rape the victim 3) To destroy property 4) Burning of homes of family members 5) The victim is subject to a sudden relocation (night flight) <p>And indicators that show the effect of threats</p> <ol style="list-style-type: none"> 1) Irregular attendance/absence from school 2) The signs of intimidation/fear, withdrawn behaviour, patterns 3) Excessive traits of aggression, emotional, moodiness, 4) Excessive spending
<p>Actual use of physical violence, including use of any kind of weapon or torture</p>	<p>All types of physical violence</p>	<p>The actual use of physical force against the victim of:</p> <ol style="list-style-type: none"> 1) Raping the victim 2) Imprisonment 3) Beating 4) Indecent assault 5) A knife, gun or other weapon has been used <p>The effects of such physical violence:</p> <ol style="list-style-type: none"> 1) The victim has visible scars, burns, lacerations and marks, complains of pain, repeated injuries signifying abuse 2) The victim is traumatised
<p>Kidnapping of a person</p>	<p>Kidnapping pre supposes an action against their will or desire, connected with a change a residence or even a temporary stay with deprivation of freedom.</p> <p>Kidnapping pre-supposes three elements:</p> <ol style="list-style-type: none"> 1. Capture of the victim, 2. Moving the victim from a permanent place to a temporary place 3. Detention of a person with deprivation of freedom against persons will or without taking the persons will into account 	<ol style="list-style-type: none"> 1) Abduction of a victim by taking them off the streets, whilst pretending to be a friend/legitimate taxi operator 2) Where it established that the person seems to be restricted, relocation. 3) Frequent movement and unfamiliar with surroundings 4) The victim has been kept captive e.g. told they would shouldn't leave in fear of facing reprisals

Confiscation of documents	<p>As defined in the Act Travel document means any document that can be used for travel between states such as: Passport, Visa, tourist card or airline ticket and any document used under the laws of a state to establish identity. A person who, for the purpose of committing or facilitating an offence, conceals; removes, withholds or destroys any a) travel document that belongs to another; or b) document that establishes or purports to establish another's identity or immigration status</p>	<ol style="list-style-type: none"> 1) Withholding for any reason the person's identity or travel documents such as an employer. 2) Whereby the travel document is purported to be lost without good reason and in suspicious circumstances 3) Where there is a promise to deliver a work permit/visa or to secure travel documents 4) Where there are no documents, no money, just a one way ticket 5) Lost or stolen travel documents 6) Withholding of travel documents by the employer/sponsor 7) Where the identity of the employer/sponsor has been concealed 8) An unwillingness to report to authorities (withheld documents) and an inability to provide a reasonable explanation for missing documents
Servitude	<p>As defined in the act: Means a relationship of dependency in which the labour or services of a person is received or obtained by threats of harm or death to that person or another, or through any scheme, plan or pattern intended to cause the person to believe that if he does not perform such labour or service he or another person will suffer harm or be killed</p>	<p>In circumstances whereby:</p> <ol style="list-style-type: none"> 1) Long work hours with little or no pay 2) Restriction of movement 3) Fear of harm to self or loved ones 4) The victim is withdrawn in demeanour 5) Being paid less than the minimum wage
Deception or fraud	<p>Not defined in Act It includes giving false information about certain circumstances or deeds, also concealment, secretion of real facts and false promises. The person may be either fully deceived or partially deceived (half truths are told)</p>	<p>In cases whereby:</p> <ol style="list-style-type: none"> 1) Change in work arrangements on arrival. 2) Performing other tasks than agreed upon or expected to do. 3) Often in extreme conditions of danger 4) Not given the full facts of the job and the reality was something completely different 5) Subject of ambiguous advertisement with no land line number or proper address and use of alias or not giving correct name 6) Name appears on a watch/alert list (available to immigration officials)
Abuse of position of vulnerability	<p>Not defined in the Act When the trafficker uses the victim's vulnerabilities such as:</p> <ol style="list-style-type: none"> 1) Social economic or social status 2) Position caused by age, pregnancy, illness etc 3) His/her unreliable situation caused by illegal entry or stay 	<p>The victims are those who:</p> <ol style="list-style-type: none"> 1) Desire a better life style 2) May be poor, unemployed, unskilled, uneducated 3) Desperate need of money for an emergency, e.g. medicine or an operation 4) An orphan or a child 5) Illegally in the country 6) Taken advantage by a person in power (Don/ Mr Big, Godfather)

Abuse of power	Not defined in the act This is misuse of power to traffic the person e.g. civil servant, parent/legal guardian, trusted leader/mentor	Abuse by a corrupt civil servant, official or anyone who has the power over someone e.g. police or immigration officer There is a demand for money or favours
Use of inhumane or degrading treatment, targeted to subdue a person	Not defined in the act Any action with the intent of subduing or making a person submissive	The person has been a victim of: 1) Photographing, blackmail, unnatural sexual practices and pornography
Rape	Rape is often used as a method of control in trafficking cases. Rape as defined by Jamaica's existing criminal law can only occur against a woman although there is a proposed amendment in law	Look out for: a) Marks and signs of violence b) Physical examination c) The person is fearful and suffering from deep stress
Use of physical dependence	Not defined in the Act. Physical dependence is a physical or mental state induced by drugs including medication and psychotropic substances or alcohol	The person is unstable, drunk, nervous, with wild looking eyes, all of which is unnatural and not apparently common.

OBJECTIVES (THE PURPOSE)

Sexual Exploitation	<p>As defined in the Act Exploitation of the prostitution of a person means the deriving by one person of monetary or other benefit through the provision of sexual services for money or other benefit by another. Sexual exploitation means compelling the participation of a person in:</p> <ol style="list-style-type: none"> 1) Prostitution 2) The production of child pornography or other pornographic material 3) Any other sexual activity <p>As a result of being subjected to threat, coercion, abduction, the effects of narcotic drugs, force, abuse of authority or fraud.</p>	<ol style="list-style-type: none"> 1) The victim has been working in a brothel, massage parlour, night club 2) Responded to the classified newspaper ads and now in this working environment as above... 3) Forced or duped to be a drug mule (forced or deceived into transporting drugs) accompanied by sexual abuse or violence 4) Victim of internet pornography 5) Prostitution, racketeering and rape <p>There are two types of indicators DIRECT and INDIRECT</p> <p>INDIRECT:</p> <ul style="list-style-type: none"> ○ Low self esteem ○ Depression deprivation etc ○ Anti social behaviours particularly for victims of child pornography ○ Nervousness, unduly submissive, ○ Withdrawn behaviour ○ Body language which suggests uneasiness ○ Unresponsive to questions being evasive ○ Precocious behaviour <p>DIRECT:</p> <ul style="list-style-type: none"> ○ Frequency of travel ○ Restriction of movement ○ 'Bling bling' (without obvious means of obtaining same) or in possession of expensive adult material possessions e.g. razor phones, brand name clothes and jewellery
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		<ul style="list-style-type: none"> ○ Evidence of physical abuse/drug abuse (evidence of body piercing and self inflicted injuries etc) ○ Victim appears incoherent and sedated ○ Having possession of fraudulent documents
Sexually explicit conduct involving a child	<p>As defined in the Act Any representation of the genitalia of a child, where such audio or visual depiction or representation lacks genuine literary, artistic or scientific value.</p>	<ol style="list-style-type: none"> 1) Minors in possession of expensive items and valuables 2) Dress and behavioural patterns 3) School drop outs/abandoned orphans 4) Barrel children and runaways <p>DIRECT:</p> <ul style="list-style-type: none"> ○ Open soliciting ○ Minor found working in a nightclub or bar <p>INDIRECT:</p> <ul style="list-style-type: none"> ○ Readily gravitate to older men as mentors, role models ○ Overt sexual behaviour ○ Withdrawn behaviour ○ Aggressive behaviour ○ Retardation in academic performance ○ Expressions in drawing or writing ○ Covert soliciting (use parent or guardianship as a cover or excuse)
Exploitation of forced labour or services, including begging	<p>As defined in the Act: Forced labour means any work or services exacted from a person by threat or penalty and for which the said person did not offer himself to provide such work or services voluntarily</p>	<ol style="list-style-type: none"> 1) Forced to work 2) Retention of a person in serfdom for debt repayment 3) The victim shows signs of malnutrition 4) Receipt of work or services be means of deceit, coercion, violence or threats 5) Working under sub human conditions e.g. long hours and sub standard living conditions 6) Health/hygiene problems (evidence of neglect) 7) Unhygienic physical appearance (unkempt) 8) Operating contrary to terms of work permit 9) Not being in possession of travel docs 10) Withholding of travel documents by employer 11) Restricted movement and confined living conditions, always accompanied, constant monitoring by sponsors 12) No set working hours 13) Irregular behavioural patterns 14) No ties to community 15) No knowledge of local language or immediate surroundings
Exploitation in slavery or slavery like conditions	<p>As defined in the Act. Is the status or condition of a person over whom any or all of the powers attached to the right of ownership are exercised by another, and includes practises similar to slavery such as bondage and serfdom (no rights or freedom)</p>	<ol style="list-style-type: none"> 1) Not given rights or freedom on the job e.g. long hours, no day or time off, withdrawal of personal privileges 2) Not allowed to acquire assets, paid below the minimum wage 3) Violations of basic human rights 4) Displaced isolated individuals

		<p>5) Withdrawn behaviour in certain working situation</p> <p>6) No social interaction</p> <p>7) Evidence of physical abuse (frequent visits to Doctor)</p>
Illicit Removal of Organs	<p>As defined in the Act</p> <p>Means the unlawful removal of organs, tissue or body parts from a victim irrespective of whether victim consented to such removal.</p>	<p>No reported cases in Jamaica however there are missing persons or kidnapped victims where there are no traces or bodies found (trends)</p> <ul style="list-style-type: none"> ○ Where a person or child has been exchanged for money/material possessions/objects of value and or body parts or organs sold ○ Poor and destitute families are more vulnerable ○ Missing persons (from particular regions or circumstances)
Compulsion into begging	<p>Not defined in the Act</p> <p>Forced a person to beg. Usually managed or organised by persons in a position of authority or power, group, gang or other criminal network</p>	<p>Elements</p> <ul style="list-style-type: none"> ○ Involuntary soliciting ○ Displays withdrawn behaviour, mannerisms or tentativeness ○ Impoverished ○ A child ○ Organised begging/vulnerable to TiP ○ Child found begging during school hours ○ Showing signs of persistence, intensity, emotions ○ Signs of established pattern in begging routine ○ Evidence of abuse (physical/emotional, sexual)

CHAPTER VII

Bibliography

In addition to the contributors own material information was obtained from the following sources:

The Trafficking in Persons (Prevention, suppression and punishment) Act 2007

UNHCR Guidelines on International Protection (April 2006)

UNICEF reference guide on protecting the rights of child victims of trafficking 2006

The working groups of:

- ☐ Immigration
- ☐ JCF
- ☐ CDA
- ☐ Bureau of Women's Affairs
- ☐ Woman Inc
- ☐ Office of DPP
- ☐ And Jamaican Government Ministries

(Including Ministry of Justice, Labour and Social Security, Ministry of National Security and Ministry of Education) held in February and March 2007

Part II of the UN Protocol to prevent, suppress and punish trafficking (Palermo Protocol 2000) and the UN protocol against smuggling of migrants by land, sea and air

The IOM training manual for law enforcement and judiciary on combating trafficking in persons, irregular migration and smuggling of people (CARDS regional training project for the Western Balkans)

Investigative interviewing (lesson plans and training manual) for law enforcement by Peter Bryant 2007.

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