THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY JAMAICA

ARTICLE 8 UNCAC

CODES OF CONDUCT FOR PUBLIC OFFICIALS

JAMAICA (EIGHTH MEETING)

Article 8 – Codes of Conduct for Public Officials

In 2011, Jamaica passed the Protected Disclosures Act ("PDA"). The object of the Act is to encourage and facilitate the making by employees of specified disclosures of improper conduct, in the public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subject to occupational detriment. The Act also provides that any provision of an agreement will be void and of no effect if the provision precludes an employee from making a protected disclosure.

The Act provides that employees, who include public officials, shall not be subjected to any occupational detriment on the basis that he seeks to make, has made, or intends to make a protected disclosure. Occupational detriment includes disciplinary action, dismissal, suspension, demotion, harassment, intimidation, refusal of promotion, denial of appointment and threat. Persons making disclosures who are subsequently dismissed can be treated under the Act as being unjustifiably dismissed and provided appropriate remedies.

1 Available at http://www.jis.gov.jm/revisedStaffOrders.pdf
The Act also provides for secrecy and confidentiality of, among other things, the identity of the employee making the disclosure. The Act also establishes a long list of prescribed persons to whom a disclosure may be made thus allowing a person to choose the person who he deems would be best able to preserve confidentiality and his identity.

The PDA applies to all persons wishing to make a protected disclosure including any public official such as those from the criminal justice institutions. The PDA is appropriately supplemented by regulations regarding the disclosure procedures that should be adopted.

**Codes of conduct and enforcement mechanisms**

In relation to criminal justice, Jamaica has a number of bodies that enforces codes of conduct and ethics. These include:

- The Judicial Services Commission – The functions of the Judicial Service Commission is to appoint, remove and exercise disciplinary control over judges including Parish Judges, Judges of the Traffic Court, Registrar of the Supreme Court, Registrar of the Court of Appeal, Puissance Judges, Judges of the Court of Appeal and all other Judges. The Judicial Service Commission is entrenched in the Constitution of Jamaica (see Sections 111-113).

- The Public Service Commission - The purpose of the establishment of the Commission was to provide for an independent and impartial body charged with the responsibility of dealing with matters relating to the appointment, removal and exercise of disciplinary control in respect of public officers.

- There is also a Police Service Commission and a Local Government Service Commission which all fall under the auspices of the Office of the Service Commission which serves as the Secretariat of these Commissions with the main aim being to ensure that promotions and selections for training are done on the basis of merit and that the disciplinary and separation processes are properly managed.
• The Police Service Commission is established pursuant to Section 129 of the Constitution in relation to the Police Force (also known as the Jamaican Constabulary Force). The primary function of this Commission is to advise the Governor-General with respect to the appointment, removal and exercise of disciplinary control over Members of the Police Force pursuant to section 130 of the Constitution. Nevertheless, the Commission has the power to directly institute disciplinary proceedings against members below the rank of Inspector. The Commission holds disciplinary proceedings for misconduct in accordance with the Police Service Regulations (sections 45 – 59). The Office of Professional Service (OPS) of the Jamaican Constabulary Force and the Police Public Complaints Authority also serve to enforce compliance with the standards of conduct set out.

On the matter of a code of conduct the Staff Orders for the Public Service, governs the Conditions of Service for public officers (that is, persons employed in the Central Government Service, in accordance with the Public Service Regulations), and provides an important and comprehensive code of conduct, including, among others, rules that prevent corruption, conflicts of interest and prohibit participation in partisan political activity by public officers. Some of the relevant provisions are as follows:

• Provisions limiting engagement in private work, unless conducted under specified conditions and previously permitted by the appropriate authority/Service Commissions, after an assessment of potential for conflict of interest (Section 4.2.8).

• Provisions, such as those found in Section 4.2.9, setting out the circumstances for the existence of a conflict of interest and requiring that officers inform the appropriate authority of any such undertaking, seek clarification and get permission.

• Provisions prohibiting public officers from engaging in any type of partisan political activity in any elections at any level (Section 4.2.6(i)) and from denying or providing, in the exercise of official duties, any service or benefit to anyone on the basis of partisan political affiliation (Section 4.2.6(ii)).
• Provisions prohibiting public officers, in their official capacity, from soliciting or accepting gifts or gratuities for the performance or neglect of official duties and responsibilities, with the exception of small tokens of appreciation, subject to the aforementioned conflict of interest provisions. Officers are also advised to act with prudence and, when in doubt, seek advice and approval from the appropriate authority (Section 4.3).

In addition to the Staff Orders, section 4 of the *Corruption (Prevention) Act* ("CPA") states that every public servant to which the Act applies shall produce to the Commission for the Prevention of Corruption a statutory declaration of his assets and liabilities and his income. This does not apply to public servants earning below the threshold or to persons under the mechanisms of the *Parliament (Integrity of Members) Act* including members of the House of Representatives and the Senate. Those persons are to make the statutory declarations required under that Act.

**Conflict of Interest**

The CPA provides part of the legal framework dealing with the conflict of interest of members of criminal justice institutions. Section 14(1)(a) of the CPA, provides that a public servant may not solicit or accept any article or money or other benefit, being a gift, favour, promise or advantage for himself or another person, for doing any act or omitting to do any act in the performance of his public functions.

Section 14(6) of the CPA makes it an offence for a public servant to improperly use, for his own benefit or that of a third party: (1) any classified or confidential information that he obtains as a result of or in the course of the performance of his functions; or (2) any property belonging to the Government or any statutory body or authority or any government company or anybody providing public services to which he has access as a result of or in the course of the performance of his functions.

Section 14(8) of the CPA makes it an offence for a public servant to, for his own benefit or for that of a third person, divert any property belonging to the Government or any other person, which is in his custody for the due administration of his duties.