

Eighth Meeting of the Working Group on Cyber-crime

**PREPARATORY QUESTIONNAIRE
FOR THE EIGHTH MEETING OF THE WORKING GROUP ON CYBER-CRIME**

INTRODUCTION

The object of this questionnaire is to collect useful information for the purposes of the Eighth Meeting of the Working Group on Cyber-Crime, which will take place in early 2014, with regard to the recommendations that have been put forward at previous meetings and that been adopted in the framework of the process of Meetings of Ministers of Justice or other Ministers or Attorneys General of the Americas (REMJA), which are in accordance therewith.

To that end, the questionnaire is divided into five thematic areas: (I) Legislation; (II) International Cooperation; (III) Specialized Units and National Efforts; (IV) Results of Cyber-Crime Investigations and Prosecutions; and (V) Training.

Bearing the foregoing in mind, kindly submit the response of your State to this questionnaire by e-mail (LegalCooperation@oas.org) or fax (+ (202) 458-3598) to the OAS General Secretariat (Department of Legal Cooperation, Secretariat for Legal Affairs) by **Tuesday, December 10, 2013.**

Please use any extra space that might be required for each response, or attach additional pages, as necessary.

I. LEGISLATION

A. SUBSTANTIVE LEGISLATION:

1.1. Has your country criminalized the following types of cyber-crime?

- | | |
|--|---|
| a) Illegal access | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| b) Illegal interception | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| c) Data interference | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| d) System interference | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| e) Misuse of devices | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| f) Computer-related forgery | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| g) Computer-related fraud | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| h) Child pornography | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| i) Offences related to infringements of copyright and related rights | Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>) |
| j) Other offences (please list): _____ | Yes (<input type="checkbox"/>) No (<input type="checkbox"/>) |

If you answered yes to any of the foregoing, please list and enclose a copy, preferably electronic, of those laws:

The Cybercrimes Act, the Child Pornography Act and the Copyright Act

1.2. Has your country implemented legislation which:

- a) Criminalizes the attempted commission of any of the above-noted types of cyber-crime? Yes () No ()

If so, please list and enclose a copy, preferably electronic, of those laws: _____

The Cybercrimes Act

- b) Criminalizes aiding and abetting in the commission of any of the above-noted types of cyber-crime? Yes () No ()

If so, please list and enclose a copy, preferably electronic, of those laws:

The Cybercrimes Act

- c) Contemplates the possibility of corporate responsibility for cyber-crimes, i.e., legislation wherein legal persons can be held responsible for criminal offenses related to cyber-crime? Yes () No ()

If so, please list and enclose a copy, preferably electronic, of those laws:

Section 11 of the Cybercrimes Act provides that where a body corporate commits an offence under the Act, the director, manager, secretary, or other similar officer may be liable on conviction to a fine or both a fine and imprisonment.

B. PROCEDURAL LEGISLATION:

- 1.3. If your country does not have a cyber-crime law that criminalizes any of the above conduct, are there currently any efforts to enact such laws: Yes () No ()

If so, please describe those efforts: _____

- 1.4. Does the legislation of your country allow criminal investigators to compel Internet Service Providers to preserve electronic evidence without the need for a court order?

Yes () No ()

If so, kindly provide a brief description of the provisions and/or other measures in place in that regard, together with a copy, preferably electronic, thereof: _____

- 1.5. Has your country adopted legislation or other necessary measures whereby its competent authorities can:

a) Seize, confiscate, or attach computer systems or computer-data storage media? Yes () No ()

b) Copy and keep the computer data accessed? Yes () No ()

If so, kindly provide a brief description of the provisions and/or other measures in place together with a copy, preferably electronic, thereof:

Section 15 of the Cybercrimes Act empowers a Resident Magistrate to issue a warrant if she is satisfied by information on oath that there are reasonable grounds to suspect that there may be in place any computer material that may be relevant as evidence in proving an offence or has been acquired by a person for, or in, the commission of an offence or as a result of the commission of an offence. The warrant may authorize a constable to enter the place specified in the warrant to search for and seize the computer material.

Section 16 of the Cybercrimes Act provides that if any computer material is seized or rendered inaccessible in the execution of a warrant under section 15, the person who executed the warrant shall, during the execution, or as soon as possible thereafter- (a) make a list of what has been seized or rendered inaccessible; and (b) give a copy of the list to the person to whom the warrant is addressed or the occupier of the premises on which the warrant is executed.

A person who immediately before the execution of a warrant, had possession or control of data seized in the execution, may request a copy of the data from the constable who executed the warrant.

Section 17 of the Act also empowers a Resident Magistrate to make orders requiring a person in possession or control of data or other computer output to produce it in intelligible form to a constable.

II. INTERNATIONAL COOPERATION

2.1. Has your country joined the G8 24/7 High Tech Crime Network? Yes () No ()

If not, has your country taken any steps to join it? Yes () No () Do Not Know ()

If so, please describe those steps: _____

2.2. Do the laws of your country allow for the processing of requests for mutual assistance from other states for the purpose of obtaining evidence in electronic form?

Yes () No () Do Not Know ()

If so, kindly provide a brief description of the provisions and/or other measures in place in that regard, together with a copy, preferably electronic, thereof:

The Mutual Assistance (Criminal Matters) Act provides in section 15 that assistance may be provided to a foreign state, on request. Such assistance shall be in respect of investigations and proceedings in relation to a criminal matter. Such assistance may be provided to a foreign state which makes such request for the purposes only of the criminal law enforcement authorities in that state and only if criminal proceedings have been instituted in that state or if there is reasonable cause to believe that an offence in respect of which such proceedings could be instituted, has been or is likely to be committed. Assistance may be provided in relation to, inter alia, the production of documents and other records and other articles.

- 2.3. Has your government presented or received requests for mutual assistance for the investigation or prosecution of cyber-crimes or for the purpose of obtaining evidence in electronic form and taking other steps necessary to facilitate the investigation or prosecution of cyber-crimes? Yes () No () Do Not Know ()

If so, please indicate the number of requests presented and/or received and the status of those requests.

We have received fourteen (14) requests since January 2013 for mutual legal assistance for the purpose of obtaining evidence in electronic form. Ten (1) of the fourteen (14) have been processed while the remaining four (4) are still being processed.

III. SPECIALIZED UNITS & NATIONAL EFFORTS

- 3.1. Is there a specialized unit or agency in your country specifically charged with the **investigation** of cyber-crimes? (police authority) Yes () No ()

If so, please supply the following information:

- Name of the unit or agency: **__ Communication, Forensics and Cybercrime Unit (CFCU)**
- Institution to which it reports: **The Jamaica Constabulary Force**
- Internet address of the unit or agency: **cfcu@jcf.gov.jm**
- Contact information:
 - o Name of contact: **Inspector Warren Williams**
 - o Address: **Shop 68, 8-10 Ocean Blvd, Kingston**
 - o Telephone(s): **(876) 922-3288 (876) 967-5948** Fax: **(876) 967- 5627**
 - o E-mail address: **warren.williams@jcf.gov.jm**

- 3.2. Is there a specialized unit or agency in your country specifically assigned the responsibility of **prosecuting** cyber-crimes? Yes () No ()

If so, please supply the following information:

- Name of the unit or agency: _____
- Institution to which it reports: _____
- Internet address of the unit or agency: _____
- Contact information:
 - o Name of contact: _____

- Address: _____
- Telephone(s): _____ Fax: _____
- E-mail address: _____

3.3. Has your country established any Internet pages to provide citizens with information on how to avoid falling prey to cybercrimes and on how to detect and report such crimes to competent authorities when they do occur?

Yes () No (**x**)

If so, kindly provide the respective Internet address/es of the page/s, as well as a brief description of the website/s:

The Jamaica Constabulary Force, however, has a notice board on its website to advise the public of basic practices to avoid falling prey to cyber-attacks and cyber criminals.

3.4. Has your country implemented any probity or awareness-raising programs on the dangers of cyber-crime, or produced manuals or guides to orient and alert the public on the dangers of cyber-crime and how to avoid becoming a victim thereof:

Yes (**x**) No ()

If so, kindly provide a brief description of those programs, manuals, or guides:

The CFCU has been actively engaged in conducting awareness raising programmes in schools, communities, government facilities and private organizations island wide.

IV. RESULTS OF CYBERCRIME INVESTIGATIONS AND PROSECUTIONS

4.1. Please indicate the number of **investigations** that your country has carried out with respect to each of the following cyber-crime offenses or conduct, from January, 2012 to the present:

- | | |
|---|---|
| a) Illegal access | Number of investigations Fewer than 10 |
| b) Illegal interception | Number of investigations: _____ |
| c) Data interference | Number of investigations: _____ |
| d) System interference | Number of investigations: _____ |
| e) Misuse of devices | Number of investigations: _____ |
| f) Computer-related forgery | Number of investigations: _____ |
| g) Computer-related fraud | Number of investigations: _____ |
| h) Child pornography | Number of investigations: _____ |
| i) Offences related to infringements
of copyright and related rights | Number of investigations: _____ |

4.2. If your country has criminalized any of the cyber-crime offenses referred to in question 1.1. above, please indicate the number of **prosecutions** that your country has carried out with

respect to each of the corresponding cyber-crime offenses, from January, 2012 to the present, as well as the number of cases that resulted in a **conviction**:

- | | | |
|---|-------------------------|-------------------|
| a) Illegal access | Cases prosecuted: _____ | Convictions _____ |
| b) Illegal interception | Cases prosecuted: _____ | Convictions _____ |
| c) Data interference | Cases prosecuted: _____ | Convictions _____ |
| d) System interference | Cases prosecuted: _____ | Convictions _____ |
| e) Misuse of devices | Cases prosecuted: _____ | Convictions _____ |
| f) Computer-related forgery | Cases prosecuted: _____ | Convictions _____ |
| g) Computer-related fraud | Cases prosecuted: _____ | Convictions _____ |
| h) Child pornography | Cases prosecuted: _____ | Convictions _____ |
| i) Offences related to infringements
of copyright and related rights | Cases prosecuted: _____ | Convictions _____ |

- 4.3. Have you encountered any difficulties with respect to the investigation and/or prosecution of the above offenses? Yes () No ()

If so, please provide a detailed and specific description of the type of difficulties that have been encountered:

With respect to prosecution, there are limited of human resources to prosecute the matters. This is further compounded by the fact that the human resources currently available lack the requisite training to effectively prepare and prosecute the matters.

With respect to investigations, there is a lack of adequate international support for investigations being conducted locally.

- 4.4. Are there any areas related to the fight against cyber-crime in which your country could benefit from technical cooperation provided by other Member States? Yes () No ()

If so, please provide a detailed and specific description of the type of technical cooperation that would be of benefit to your country:

We would benefit significantly from training for prosecutors at both the Supreme Court and Resident Magistrates Court levels. It would also be useful for Judges and Resident Magistrates to receive training.

There is also a need for robust mechanisms to facilitate improved communication and intelligence sharing through advanced forensic training and investigative techniques.

V. TRAINING

- 5.1. Does your country provide training to law enforcement personnel on cyber-crimes and the collection of electronic evidence? Yes () No ()

If so, please provide a brief description on the type of training and number of personnel trained: _____

- 5.2. Does your country provide training to prosecutors on cyber-crimes and the collection of electronic evidence? Yes () No (x)

If so, please provide a brief description on the type of training and number of personnel trained:

However, some prosecutors have received training via funding from external agencies. Such training has been facilitated by the Government of Jamaica.

- 5.3. Does your country provide training to judges on cyber-crimes and the collection of electronic evidence? Yes (x) No ()

If so, please provide a brief description on the type of training and number of personnel trained:

Limited training/sensitization sessions have been held for Judges and Resident Magistrates. The relevant legislation was examined but not with the depth required to address all the relevant issues. There is need for continued judicial education and training. Approximately 60 persons have participated in the training conducted.

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

(a) State: Jamaica

(b) The official to be consulted regarding the responses to the questionnaire is:

() Mr.: O'neil Francis

() Ms.: _____

Title/position: Assistant Attorney General

Agency/office: Attorney General's Chambers

Address: 1st Fl. NCB North Tower, 2 Oxford Road, Kingston 5

Telephone number: (876) 906-2414

Fax number: (876) 754-5158

E-mail address: ofrancis@agc.gov.jm

(a) State: Jamaica

(b) The official to be consulted regarding the responses to the questionnaire is:

() Mr.: Lincoln Allen

() Ms.: _____

Title/position: Director, Protective Security

Agency/office: Ministry of National security

Address: 7th Fl. NCB North Tower, 2 Oxford Road, Kingston 5

Telephone number: (876) 906-4908

Fax number: (876) 906-5153

E-mail address: _____

(a) State: **Jamaica** _____
(b) The official to be consulted regarding the responses to the questionnaire is:
() Mr.: Mrs Kamar Henry-Anderson _____
() Ms.: _____
Title/position: Deputy director of Public Prosecutions (Ag.) _____
Agency/office: Office of the Director of Public Prosecutions _____
Address: P.O. Box 633, Kingston _____

Telephone number: _____
Fax number: _____
E-mail address: _____