



United States Embassy
Kingston, Jamaica
(876) 702-6450 or (876) 702-6000 (afterhours)
KingstonACS@state.gov
<http://kingston.usembassy.gov/>

Information for U.S. Citizen Victims of Crime in *Jamaica*

2014

Being the victim of a crime in a foreign country can be a devastating and traumatic experience. While no one can undo the emotional trauma, physical injury, or financial loss you may have experienced, the U.S. Embassy in Kingston, Jamaica is ready to help. We are very concerned about violent crimes committed against U.S. citizens in Jamaica. We will assist you in managing the practical consequences of being a crime victim and provide you with information about accessing the local criminal justice system, as well as other resources for crime victims abroad and the United States. This office can assist you to find appropriate medical care, contact family or friends on your behalf and explain how funds can be transferred. We can also help you to better understand the criminal justice system in Jamaica, which is different from the system in the United States.

The information included in this guide relating to the legal requirements in Jamaica is provided for general information purposes only. The information may not be accurate or relevant to a particular case. Questions involving interpretation of Jamaican laws should be addressed to legal counsel licensed to practice law in Jamaica. The investigation and prosecution of the crime is solely the responsibility of local authorities. The Federal Bureau of Investigation (FBI) may assist local authorities in certain cases of kidnapping, hostage-taking and terrorism.

REPORTING CRIMES: If you are the victim of a crime in Jamaica, your first step will be to report the crime to the local police. You can reach the police by calling 119. The police will usually come to the scene of the crime, although depending on the number of officers available, it can take a few hours for someone to arrive. Alternatively, you can report a crime at the local police station in the district where the crime occurred. The police will usually ask you to accompany them to the police station to make a formal statement, but in very limited cases, they may be able to take a statement in an alternative location. A formal report is necessary for any further criminal investigation. For a formal report, your statement will be put in writing, read back to you, and then given to you to sign. If you do not sign a report, then there will be no formal report on file, even if you gave a verbal statement to the police. You must file a police report in person; the Embassy is unable to file a report on your behalf, even if you have returned to the United States. You will also not be able to file a report at the Jamaican Embassy in the United States. You should be able to obtain a copy of your police report within a few days of filing the report. Once the report is filed, the U.S. Embassy is also able to obtain a copy of the report on your behalf and email it to you.

Cases involving tourists are automatically referred to the regional tourism liaison officer. The tourism liaison officer is not responsible for the actual investigation, which remains with the local police or a specialized unit, but becomes the point person for future follow up on the case. The tourism liaison officer will also notify the Embassy of the incident and can assist you in contacting other relevant

offices. If you request the Embassy's assistance in following the status of the case, the Embassy will work closely with the tourism liaison officer to get any additional information.

If you have difficulties filing your police report with an official, please contact the U.S. Embassy or consular agency immediately. You may need a police report to file for crime victim compensation or insurance reimbursement. If you do decide to file a report please send a copy to us, along with your address and phone number in the event we need to communicate with you. While we are not authorized to act as your legal representative, prosecutor or investigator, our office can help you track the progress of your case and advise you of any developments.

INVESTIGATIONS AND ARRESTS: Each case will be assigned an investigating officer once a police report is filed. Police will collect forensic evidence and interview witnesses. There are often delays with receiving the forensic evidence. If a suspect is identified during the initial investigation, the police will attempt to make an arrest. You will not be automatically notified at the time of the arrest, but you can check the status of the investigation by following up with the tourism liaison police or asking the Embassy to follow up on your behalf. After an arrest is made, you and/or other witnesses will be asked to pick out the perpetrator from an identification parade at a police station. Certain police stations use video identification parades, where the witnesses identify the perpetrator from electronic images. In stations without video capability, the police station holding the identification parade generally have a one way mirror in order to prevent the arrestee from seeing the victim or the witnesses. Video identification parades are significantly faster, because police often have trouble finding persons to serve in more traditional identification parades. Therefore, you can ask the tourism liaison police if the lineup can occur at a station with video identification. Either the suspect's lawyer or a Justice of the Peace will be present during the identification to ensure the integrity of the process. Once charged, a suspect may be detained until the trial or may be granted bail by a judge.

PRETRIAL PERIOD: During a preliminary hearing, depending on the evidence presented, a judge will decide whether a case will be tried in a Resident Magistrate's Court or in the Supreme Court. Each parish has a Resident Magistrate's court with jurisdiction mainly within the parish. The Supreme Court has unlimited original jurisdiction. The majority of serious crimes, such as homicide or rape, are tried in the circuit courts of the Supreme Court, which are located in each parish. However, some criminal offences, depending on the degree or severity of the crime, may be tried in the Registrar Magistrate's court. Maximum sentence statutes are lower for cases tried in the Resident Magistrate's Court than for those tried in the Supreme Court. Traditionally, if the accused pleads guilty, he will be given a much more lenient sentence than if the case goes to trial. Although plea bargaining is permitted under Jamaican law, it is not often used in practice, because a prosecutor has no role in sentencing and therefore cannot recommend a sentence to a judge and there are fewer minimum/maximum sentence statutes than in the U.S. However, there has been a recent push to increase the use of plea-bargaining in order to reduce the backlog in the court system.

TRIAL: Most court hearings are open to the public, though there may be space limitations in the courtroom. Certain cases, particularly those involving minors, may be deemed "in camera hearings" and closed to the public. Protocol is usually formal. For example, modest dress is required and everyone must stand when a judge enters the courtroom. Most cases before the Supreme Court are tried before a sitting judge and a jury. There are twelve jurors in cases of murder and treason, and seven jurors in all other cases. With the exception of capital cases, which require unanimity, a guilty verdict requires a majority consensus. Registrar Magistrate courts also follow formal protocol, but do not have a jury.

Trials can take months, even years, to move forward. Common reasons for postponement include delays in receiving forensic evidence reports, difficulties in making arrangements for witnesses to testify, attorneys not being present, and a large backlog in the court system. There are strict procedural rules for accepting evidence and testimony. You will be expected to testify, and there are no provisions for submitting a written statement in lieu of testimony. The Jamaican court can theoretically fund the travel of foreign victims or witnesses who must testify in Jamaica. However, in practice, such arrangements rarely materialize because of constantly postponed hearings. A victim's travel to Jamaica does not guarantee that a hearing will take place as scheduled, and hearings are often postponed for months at a time. At the end of 2012, the Jamaican legislature passed the Evidence (Special Measures) Act, which opened the door for live link testimony for certain witnesses, including children, victims of sexual crimes, and witnesses living overseas. Implementation of this Act is still in its early stages, but this it is expected to eventually allow witnesses to testify from overseas.

SENTENCING: Sentencing generally takes place within a week or two of the verdict. You will be able to submit a Victim Impact Statement for the court's consideration during sentencing. The judge is also likely to consider the severity of the crime, the age of the perpetrator, the effect the perpetrator's sentence would have on his dependants, and the minimum sentencing statutes. The length of a sentence tends to vary considerably based on the judge issuing the sentence, and is often shorter than it would be in the U.S. for an equivalent crime. A judge may also impose a suspended sentence, in which the perpetrator does not serve the sentence time in confinement, but often has to pay a fine. The sentence is usually served immediately. Although you will theoretically be able to offer input during parole hearings, there is no automatic process to notify the victim of any pending parole hearings, transfers, or release dates.

APPEALS: The accused may appeal a ruling to the Appeals Court, which is the highest court in Jamaica, or in limited cases, the Judicial Committee of the Privy Council, which is the final court of appeal for Commonwealth countries, and is located in the United Kingdom. If the original conviction occurred in a Resident Magistrate's court, the accused will likely be released on bail during the appeal. If the original conviction is for a more serious crime and took place in the Supreme Court, bail is less likely for the appeal process. The appeal process is generally longer than the initial trial, and victims may be required to testify, depending on the nature of the appeal.

ATTORNEYS: You may want to consider hiring a local attorney to secure appropriate legal guidance. Local legal procedures differ from those in the United States. Although the Office of the Director of Public Prosecution is responsible for prosecuting your case, a private attorney may be able to explain the criminal justice process in detail and assist with any civil suits. While our office cannot recommend specific attorneys, we can provide you with a list of attorneys who have expressed interest in representing U.S. citizens. This list is available at Kingston.usembassy.gov/attorney_services3.html.

VICTIM COMPENSATION IN JAMAICA The Ministry of Justice's Victims Support Unit (VSU) offers a wide range of victims' services, including mediation and counseling, crisis intervention, referrals, and court support. They also provide longer term support groups and education programs. Although most VSU services are geared towards residents of Jamaica, the VSU offers these services to foreigners, including U.S. citizens. Certain cases, including crimes against children and sexual assaults, may be automatically referred to the Victim's Support Unit by the police. However, you may also contact VSU independently. Each parish has a local VSU office that offers appointments or walk in services, as well as general information. The offices are not widely advertised or labeled, but you can find out the location of the nearest office by calling the main VSU office in Kingston at (876) 946 -0663 or by contacting the American Citizen Services Unit at the U.S. Embassy in Kingston. The Jamaican

government does not generally provide monetary compensation to crime victims. However, you may be able to file a civil suit for damages such as medical expenses, pain and suffering, and loss of property. Civil suits must be filed within six years of the incident. Even if an individual is found liable in a civil suit, it is likely that the judgment will go unpaid. Judgments are paid more often when they are against a larger institution. For those wishing to pursue civil claims, the Embassy strongly recommends contacting a legal advisor who is familiar with the Jamaican court system for additional information.

EMBASSY LOCATION: Americans living or traveling in Jamaica are encouraged to register with the nearest U.S. Embassy or Consulate through the <https://step.state.gov/step/> so that they can obtain updated information on travel and security within Jamaica. Americans without Internet access may register directly with the nearest U.S. Embassy or Consulate. By registering, American citizens make it easier for the Embassy or Consulate to contact them in case of emergency. The U.S. Embassy is located at 142 Old Hope Road, Kingston 6, Jamaica , (876)-702-6450. For afterhours emergencies, please call (876) 702-6000. The American Citizen Services Unit can also be reached by email at KingstonACS@state.gov.

SPECIAL INFORMATION FOR CASES OF SEXUAL ASSAULT AND RAPE: Physical evidence is very important in sexual assault cases, and can deteriorate as time passes. As such, victims should not change clothes, avoid bathing if possible, and have a physical exam at the first opportunity. You should take these steps even if you are unsure about whether to report the crime to police. If you decide to pursue a prosecution at a later time, these steps preserve evidence that will assist the prosecutor. A consular officer or after-hours duty officer from the U.S. Embassy may be able to accompany victims of sexual assault for the medical exam.

In Jamaica, the Sexual Offences Act of 2009 defines multiple categories of rape and sexual assault. Rape is defined as vaginal sexual intercourse between a man and a woman where a woman does not consent. The law only recognizes marital rape in cases where spouses are no longer living together, legally separated or formally in the process of a separating, when the husband knows he is suffering from a sexually transmitted disease, or when a woman has an order of protection against her husband. The charge of “grievous sexual assault” occurs when a body part or object other than the penis is placed into or onto the vagina, anus, or mouth of the victim without the victim’s consent. Lastly, the charge of “indecent assault” encompasses other potential sexual acts that do not fall under rape or grievous sexual assault, such as groping. By legal definition, males cannot be victims of rape. However, male rape cases can be tried under grievous sexual assault or under buggery laws. Because of attitudes towards gender roles and homosexuality in Jamaica, male rape cases are very rarely prosecuted.

Under the law, the age of consent for sexual activity is the age of 16. There are laws against sexual intercourse with a person under 16, incest, sexual touching or interference. Consent for these acts is immaterial. Consent is also immaterial in certain other cases, such as when the victim has a severe mental disability. Unfortunately, in many cases, consent is viewed differently in the Jamaican justice system than it would be in the United States and may lead to placing unfair blame on the victim. Alcohol use or drug use are viewed as promoting consent, and date rape is often not taken seriously.

Sexual crimes are prosecuted by the Centre for Investigation of Sexual Offences and Child Abuse (CISOCA), which is a special branch of the Jamaican Constabulary Force. The main CISOCA office is located at 3 Ruthvent Road, Kgn 10, Half Way Tree, St. Andrew, Jamaica. However, there is a designated CISOCA officer at the police headquarters in every parish capital. Additionally, there should be a police officer at each local police station who was trained by CISOCA, although this may not always be the case. A victim can report a rape or sexual assault to the officer on duty at a local police station. The duty officer will take a preliminary report, and then contact CISOCA. In Kingston or St. Andrew parishes, the victim will be taken to CISOCA headquarters, where they can receive a medical examination and counseling. Rape Kits generally consist of swabs, smears, and samples taken from the victim. The clothing the victim wore during the attack will also likely be sent to a forensics laboratory for testing. In other parts of Jamaica, the victim may be taken to a hospital for a medical examination. On the North Coast, a stockpile of rape kits is kept at Cornwall Regional Hospital. If another hospital does not have a rape kit, CISOCA can arrange for Cornwall to send one over immediately. Although CISOCA is doing a lot of work on this end, not all doctors have been trained on the use of rape kits and sensitivities of post-assault medical examinations. Victims have reported a lack of privacy, disorganized environments, and judgmental staff at hospitals. Emergency contraception and HIV prophylaxis are available, though the victim may have to directly ask for them. The cost of the rape kit, medical examination, and medication is covered by CISOCA. Before or after a medical evaluation, a CISOCA officer will likely interview the victim for a second time. CISOCA will also notify the Embassy about the incident if they are aware that the victim is a US Citizen.

Although charges can be filed without a medical exam, medical exams are generally considered critical to the case, and it may be difficult for the case to proceed without one. The Embassy is unaware of any judges accepting medical examinations performed outside of Jamaica.

Although rape cases and certain grievous sexual assault cases involving a weapon or firearm carry a maximum life sentence, in reality most sentences are closer to 3-5 years when a conviction can actually be achieved. Final sentencing is often very inconsistent among judges. In cases where the perpetrator is under the age of 23 and faces a first time conviction, judges are particularly likely to hand down suspended sentences. Convictions rates exceedingly low, and most cases are considered resolved once the victim decides to no longer pursue the case years after the crime occurred. The Embassy is unaware of any successful rape or sexual assault convictions for foreign victims in recent years.

There are laws protecting the identity of the victim and specifically prohibiting the publication of the name of the victim in the media. Although high profile rape cases, especially those involving children or larger incidents, make headlines, the majority of rapes and sexual assaults do not attract press attention. For counseling after an assault, the victim can call the Woman Inc. Crisis Centre's 24 hour hotline. Police will also refer sexual assault victims to the Victims Support Unit, which offers both short and long term counseling services.

SPECIAL INFORMATION FOR CASES OF DOMESTIC VIOLENCE:

Although domestic violence is not itself a crime in Jamaica, perpetrators of domestic violence can be charged with assault, battery, and other relevant criminal charges. A judge may issue a protection order, including in cases of stalking or harassment, even if physical violence has not taken place. A judge can also issue an occupation order, allowing the victim of domestic violence to occupy a home that was previously shared with the alleged perpetrator (with the perpetrator being forced to vacate). Occupation orders are most common in cases where there are children living in the home. Both protection orders and occupation orders can be issued ex-parte in emergency situations, and victims should contact the police and the NGO mentioned below as soon as possible for any situation where they are in imminent danger. Unfortunately, enforcement of restraining orders is often lax, as local police have at times been reluctant to get involved in what they perceive to be a family issue. Although violating a restraining order can theoretically lead to fines or imprisonment, violators often end up not facing any consequences.

Resources and shelters for victims of domestic violence in Jamaica are extremely limited. Many women rely on neighbors or friends for assistance. However, a local NGO, Woman Inc, operates a Crisis Centre (7 Denehurst Avenue- Kingston 10). The Centre offers private walk in counseling services, including medical and legal referrals, Monday-Friday, 9:00 – 5:00. The Centre also runs a 24 hour hotline (in English), which can be reached at (876) 929-2997. Woman Inc also runs Jamaica's only emergency shelter for female victims of domestic violence. The shelter is in a secure location and operates under strict privacy rules. Women can bring young children with them. However, the shelter can only accommodate approximately fourteen women and is often at full capacity. Women are placed in the shelter by the Crisis Center after referrals from the counselors or the police. In emergency situations, arrangements can be made quickly. The shelter is meant to be transitional, though there is no strict limit on how long a woman may stay. The Crisis Centre, including the hotline and shelter, is available to both Jamaican and foreign women.

SPECIAL INFORMATION FOR CASES OF CHILD ABUSE:

The Jamaican Child Development Agency (CDA), which falls under the Ministry of Health, is responsible for ensuring the health, safety, and well being for all children who become or may become wards of the state. They are mandated by law to act in the best interest of these children by providing a wide variety of services, including investigating allegations of child abuse, finding safe and suitable homes for victims of child abuse, and engaging in public advocacy. CDA works closely with CISOCA, a branch of the Jamaican Constabulary Force which is responsible for the criminal investigation in cases of child abuse. When possible, medical examinations for children who were physically or sexually abused will take place at CISOCA headquarters or at a local hospital with the involvement of CISOCA. CISOCA and CDA have an arrangement at CISOCA headquarters where they can interview the child simultaneously in order to avoid making the child provide multiple reports.

Allegations of child abuse should first be reported to the Office of the Children's Registry (OCR), which is the central registry for receiving, recording, assessing and referring all reports of child abuse. The OCR can be reached at 1-888- PROTECT (776-8328). The OCR then refers most substantiated claims of child abuse to the CDA for further investigation. Claims involving child abuse where the perpetrator is a state agent (such as a teacher or other civil service employee) are referred to the Office of the Children's Advocate rather than the CDA for investigation. Unfortunately, because of the large number of child abuse claims, it may take months for CDA to start an investigation in all but the most egregious cases. Allegations of child abuse against U.S. citizen children should also be reported to the American Citizen Services unit at the U.S. Embassy. If a CDA investigation shows that the child needs to be removed from a home, the CDA will first try to place the child with another family member. Although the CDA does a home study on relatives who will take the children, such placements are often done informally in the sense that they do not go through the court system and the guardian does not automatically receive any legal guardianship documents. This does not terminate the rights of the parents even if the parents are accused of abuse. In cases where a suitable family placement cannot be arranged, the CDA can place the child into a government or private children's home, or into foster care through a more formal legal process that may terminate parental rights.

If criminal charges are filed against an alleged perpetrator, a child would be required to testify at trial. CISOCA automatically refers children to the Victim Support Unit, which has a special program where witness specialists prepare children for testifying. Efforts are generally made to minimize the trauma of the legal process for children by limiting the number of interviews, providing interview rooms designated for children, facilitating the child's testimony in a timely manner, and protecting the child's privacy. CISOCA is in the process of implementing video testimony procedures for children.

SPECIAL INFORMATION FOR CASES OF KIDNAPPING:

Adult kidnappings in Jamaica are extremely rare and are often connected to ransom demands. Kidnappings are usually investigated by a multi-unit elite police task force led by the Organized Crime Investigations Division. The other entities involved in the investigation are case specific, but may include the firearm tactical unit, the Criminal Investigations Branch, the National Intelligence Bureau, and the Jamaican Defense Force. The team will include trained hostage negotiators, and negotiations will generally be the preferred option for resolving a case. The police task force may also decide on a rescue attempt involving special tactical teams who may resort to the use of force if necessary. Ransom operations would be discussed on a case by case basis by the police task force, though they are discouraged.

With regards to abductions of minors, Jamaica has an “Ananda Alert” program, similar to the “Amber Alert” program in the United States. This program is designed to alert the public about children who go missing, especially in cases where abduction is suspected. Parents can begin the process of activating an Ananda Alert by contacting the local police at 119. If a child has been missing for more than 24 hours, the Ananda Alert becomes a High Alert, and an official investigation can be opened.

SPECIAL INFORMATION FOR CASES OF HOMICIDE:

In all cases of sudden death, including those where foul play is suspected, the police will start a preliminary investigation. Autopsies are required for all deaths that occur outside of a hospital, and in cases where cause of death is suspect, the police will request that a forensic pathologist conducts the autopsy. The pathologist may send forensic samples to a forensic laboratory, which can take anywhere from a month to two years to process. If there are indications of murder or manslaughter, the coroner may request a formal inquest. The case is then taken to a coroner’s court, where a jury decides whether the crime of murder or manslaughter has been committed and who should be held responsible. If a person is ruled to be potentially responsible, that person may then face criminal charges. As a result, it can sometimes take years to obtain a death certificate.

As with many other crimes, convictions are difficult to obtain because of systemic problems and backlogs in the legal system. Furthermore, witness intimidation is an issue, particularly in gang related deaths. As a result, Jamaica’s conviction rate for murder is less than 5%. Although a person convicted of murder may be sentenced to death, death sentence cases have an extremely long appeals process, and no one has been executed since the 1980s. Sentences for homicide are usually longer than for most other crimes and may potentially lead to life imprisonment.

In the immediate aftermath of a tourist’s homicide, the Jamaican Tourist Board (JTB) may be able to assist in finding alternative lodging arrangements, such as a new hotel, for surviving friends or family members who are traveling with the victim. The JTB may also be able to liaise with airlines to get the tickets for family members changed without a fee if the survivors want to leave early or must stay longer for case related purposes.