



REPORT ON THE

JOINT SELECT COMMITTEE ON

FINANCE AND LEGAL AFFAIRS

1st Report **on an** **Inquiry into** **Criminal Case flow Management**

Second Session (2016/2017) of the
11th Parliament
Of the Republic of Trinidad and Tobago

Ordered to be printed

An electronic copy of this report can be found on the Parliament website:

www.ttparliament.org

The Joint Select Committee on Finance and Legal Affairs

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1st REPORT

OF THE

**JOINT SELECT COMMITTEE ON FINANCE AND
LEGAL AFFAIRS**

ON AN

**INQUIRY INTO CRIMINAL CASE FLOW
MANAGEMENT IN THE JUDICIAL SYSTEM**

Date Laid: HoR:

Senate:

Acronyms and Abbreviations

Abbreviation	Term
CEA	Court Executive Administrator
CPO	Chief Personnel Officer
DPP	Director of Public Prosecutions
IOP	Inspector of Prisons
LAAA	Legal Aid and Advisory Authority
MoAGLA	Ministry of the Attorney General and Legal Affairs
MOE	Ministry of Education
PRESA	Property and Real Estate Services Division

TABLE OF CONTENTS

The Committee	7
Committee’s Mandate and Establishment	7
Powers of the Committee	8
Membership	8
Secretariat Support	8
Executive Summary	9
Summary of Recommendations	11
Introduction	13
Background	13
Objectives of the Inquiry	14
Conduct of the Inquiry	14
Evidence, Findings and Recommendations	17
Appendix I	36
Appendix II	67
Appendix III	158

MEMBERS OF THE COMMITTEE



**Ms. Sophia Chote, SC
Chairman**



**Mr. W. Michael Coppin
Vice-Chairman**



Mr. Clarence Rambharat



Mr. Wayne Sturge



Dr. Lovell Francis, MP



Ms. Marlene McDonald, MP



Mr. Randall Mitchell, MP



Mr. Prakash Ramadhar, MP

THE COMMITTEE

Committee’s Mandate and Establishment

1.1 According to Section 66A of the Constitution of Trinidad and Tobago, not later than three months, after the first meeting of the House of Representatives, Parliament shall appoint Joint Select Committees to inquire into and report to both Houses in respect of Government Ministries, Municipal Corporations, Statutory Authorities, State Enterprises and Service Commissions, in relation to their administration, the manner of exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions.

1.2 Pursuant to the foregoing provision, motions were approved in the House of Representatives and Senate on November 13, 2015 and November 17, 2015, respectively, establishing, inter alia, the **Joint Select Committee on Finance and Legal Affairs**.

1.3 Standing Order 91 of the Senate and 101 of the House of Representatives outline the general functions of a Committee of this nature. They are as follows:

- a. *“To examine Bills and review all legislation relating to the relevant Ministries, departments or bodies or as may be referred to it by the House;*
- b. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of the assigned Ministries, departments or bodies;*
- c. *To study the programme and policy objectives of Ministries, departments or bodies and the effectiveness of the implementation of such programmes and policy objectives;*
- d. *To assess and monitor the performance of Ministries, Departments and bodies and the manner of the exercise of their powers;*
- e. *To investigate and inquire into all matters relating to the assigned Ministries, Departments and bodies as they may deem necessary, or as may be referred to them by the House or a Minister; and*
- f. *To make reports and recommendations to the House as often as possible, including recommendations for proposed legislation.”*

Specific areas of responsibility

1.4 The Joint Select Committee on Finance and Legal Affairs is mandated to inquire into areas related to Finance, Planning, Trade, Tobago Affairs, Office of the Prime Minister, Office of the Attorney General, Justice and Legal Affairs as listed in Appendix IV and V of the Standing Orders of the House of Representatives and Senate respectively.

Powers of the Committee

1.5 Standing Orders 101 of the Senate and 111 of the House of Representatives delineate the core powers of the Committee which include *inter alia*¹:

- a. to send for persons, papers and records¹;
- b. to sit notwithstanding any adjournment of the House;
- c. to adjourn from place to place;
- d. to report from time to time;
- e. to appoint specialist advisers either to supply information which is not otherwise readily available, or to elucidate matters of complexity within the Committee's order of reference;
- f. to communicate with any other Committee on matters of common interest; and
- g. to meet concurrently with any other Committee for the purpose of deliberating, taking evidence or considering draft reports.

Membership

1.6 The Committee comprises the following members:

1. Ms. Sophia Chote, SC – Chairman
2. Mr. Michael Coppin -Vice- Chairman
3. Dr. Lovell Francis, MP
4. Mr. Prakash Ramadhar, MP
5. Ms. Marlene Mc Donald, MP
6. Mr. Randall Mitchell, MP
7. Mr. Clarence Rambharat
8. Mr. Wayne Sturge

Secretariat Support

1.7 The following officers were assigned to assist the Committee:

- Mr. Julien Ogilvie - Secretary
- Mr. Indar Sieunarine- Assistant Secretary
- Ms. Cindy James- Research Assistant

¹ Also see SO 102 and 112 of the Senate and House of Representatives respectively which outlines the procedure for seeking evidence

EXECUTIVE SUMMARY

2.1 At its second meeting held on January 15, 2016 the Committee resolved to pursue an inquiry into Criminal Case Flow Management at the High Court. After discussion, the Committee determined that an inquiry into this matter was necessary given the low rate of disposal of criminal matters, in the country's criminal courts.

2.2 The inquiry process involved gathering and collating oral and written evidence with respect to this issue from primary and secondary stakeholders as well as from the public. As far as possible, the Committee ensured that oral and written evidence received was relevant to the terms of reference or objectives of the inquiry. In this regard, the committee received evidence from several major stakeholders in the Criminal Justice System including the Director of Public Prosecutions, officials of the Legal Aid and Advisory Authority (LAAA), the Ministry of the Attorney General and Legal Affairs (MoAGLA) and the Inspector of Prisons.

2.3 Requests for participation in the enquiry and for information were made of the Registrar of the Supreme Court and the Court Executive Administrator. After being advised that these officials were in the process of collecting information for the enquiry, the Committee received correspondence at a very late stage, from these office-holders, which included an opinion by a Senior Counsel who expressed the view that these officials did not fall under the enquiring jurisdiction of the Committee.

2.4 Nonetheless, correspondence was sent to these officials requesting information which may have assisted the Committee in its deliberations, without their personal appearance before the Committee. To date, the Committee has received neither response nor information from these officials.

2.5 From the evidence received, the Committee took particular note of what, in its view, were some of the significant issues and developments concerning criminal case flow management in the High Court. These were as follows:

- i. the disparity between the small number of criminal practitioners and the volume of criminal cases in the Assizes;
- ii. the challenges faced by the Office of the Director of Public Prosecutions in the recruitment and retention of State Counsel;
- iii. the security risks faced by prosecutors and their families due to their involvement in criminal cases;
- iv. the need for building the human resource and technical capacity of the DPP's Office;
- v. the increasing number of prisoners being held on remand for extended periods and the increasing acts of violence done by persons held on remand;
- vi. the failure of Police Officers to provide disclosure and other information in a timely manner;

- vii. The capacity of the LAAA had been increased so much so that there is now in-house Counsel who are briefed in criminal matters; and

- viii. The inability of the LAAA to have attorneys sent to remote magisterial courts and also to make arrangements for complex trials.

SUMMARY OF RECOMMENDATIONS

2.6 The following are key recommendations proffered by the Committee:

- i. The MoAGLA in collaboration with the Director of Personnel Administration and the Chief Personnel Officer should rectify the human resource deficit at the Office of the DPP;
- ii. The provision of necessary security arrangements to prosecutors and their families;
- iii. Recruiting attorneys from other jurisdictions and engaging retired attorneys to address the current shortage of attorneys practicing at the Criminal Bar;
- iv. Provision of training to Police Officers regarding their role in providing updates on witnesses and evidence within timelines developed by the Judiciary in collaboration with the Commissioner of Police;
- v. The conduct of complainants, police witnesses responsible for obtaining expert reports and Property Keepers, in relation to court proceedings should be reflected on their Performance Appraisal Report;
- vi. Information and communication technology should be used to enhance communication between the Prison System and the Courts, and the Office of the DPP and the Police Service;
- vii. The introduction of a ticketing system for certain summary offences;
- viii. A review of all cases awaiting trial by the DPP in order to identify those that cannot be sustained;
- ix. Mediation procedures should be applied to not only offences involving minors but also certain matters in the Magistrates' Court involving adults;
- x. The implementation of timelines for analysis of exhibits and the collection of reports by Police Officers;
- xi. Processing legal aid applications in a timely manner;
- xii. Reviewing and adjusting stipends paid to witnesses to ensure it is adequate;
- xiii. The MoAGLA must provide an update on the steps taken to implement the systems required for the *Administration of Justice (Electronic Monitoring) Act 2011*;
- xiv. The MoAGLA must provide the Government's proposal to abolish preliminary enquiries along with the necessary measures to ensure this does not become another clog;
- xv. Consideration should be given to hearing cases involving capital offences between 9 a.m. to 1 p.m. and non-capital matters between 1 p.m. to 4 p.m. at the High Court;
- xvi. Full disclosure should be mandatory to complement plea bargaining proceedings;

- xvii. Cataloguing forensic exhibits and ensuring this catalogue is available through electronic means to the Court; and
- xviii. Interaction between the Judiciary and Parliamentary Oversight Committees.

INTRODUCTION

Background

3.1 According to Mr. Travers Sinanan, Attorney-at-Law, in a submission to the Committee, “...*the large number of cases before the courts every day is a reflection of the very high level of criminality in society. Society is plagued with delinquency and disregard for the Rule of Law as evidenced by the level of violence in certain secondary schools.*”

3.2 The criminal courts of Trinidad and Tobago have become mired in an accumulation of cases in the system that are yet to be heard or set to trial. Based on the Annual Administrative Report of the Judiciary of Trinidad and Tobago (2011-2012), this problem stems from both a rise in crime and the consequential increase in matters to be heard before the courts with less cases disposed of each year.

3.3 The Honourable the Chief Justice, Mr. Justice Ivor Archie O.R.T.T., in his address at the opening of the 2015-2016 Law Term, shared some statistics that revealed the state of Trinidad and Tobago’s Criminal Justice System. While the High Court disposed of 130 Criminal Indictments in the last year, the Chief Justice stated that 190 new Indictments had been filed and that the number of people now awaiting trial for murder had risen to 514. This does not include the non-capital cases yet to be heard. Not having received information from the Judiciary, the Committee is unable to say the exact number of cases currently awaiting trial or other disposition.

3.4 The Director of Public Prosecutions plays a major role in the administration of justice. Section 90 (3), Chapter 6, Part 1 of the Constitution of Trinidad and Tobago provides that:

“The DPP shall have power in any case in which he considers it proper to do so:

- (a) To institute and undertake criminal proceedings against any person before any Court in respect of any offence against the law of Trinidad and Tobago;
- (b) To take over and continue any such criminal proceedings that may have been instituted by any other person or authority;
- (c) To discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.”

3.5 Section 90 (6) enables the DPP to carry out his constitutional functions through persons to whom he gives instructions:

“The functions of the DPP under subsection (3) may be exercised by him in person or through other persons acting under and in accordance with his general or specific instructions.”

3.6 The Legal and Advisory Authority (LAAA) provides free legal advice and representation to members of the public who are charged with criminal offences. The LAAA was established by the Legal Aid & Advice Act, Act 25 of 1976.

3.7 Both the Office of the DPP as well as the LAAA perform important functions in the criminal justice system.

Objectives of the Inquiry

- 3.8 The Committee agreed that the following will comprise the objectives of the inquiry:
- 1. To gain an appreciation of the number of outstanding matters (indictable and non-indictable) before criminal courts;**
 - 2. To understand the systemic reasons for the backlog of cases in the criminal courts;**
 - 3. To understand the efforts being made and the challenges that exist in alleviating the backlog; and**
 - 4. To make recommendations for the improvement of the system of criminal justice (both in the short-term and long-term).**

Conduct of the Inquiry

3.9 At its 2nd Meeting held on January 15, 2016, the Committee resolved to pursue an inquiry into criminal case flow management in the Judicial System and decided that a public hearing would be convened starting with Senior Administrators of the Judiciary and the Inspector of Prisons. Given the position taken by the Registrar of the Supreme Court and the Court Executive Administrator, no submissions were received from the Supreme Court. The absence of the input of the Judiciary in this important inquiry adversely affected the Committee's ability to acquire a more holistic perspective of the matter under consideration.

3.10 On Friday February 19th 2016 a public hearing was held with the Inspector of Prisons who answered questions on relevant aspects of the criminal justice system.

3.11 At the second public hearing of the Committee, the following witnesses appeared:

Table 1
Persons who appeared and provided oral evidence

Name of Official	Portfolio	Organisation
Mr. Daniel Khan	Inspector of Prisons	Office of the Inspector of Prisons
Ms. Ingrid Seerattan	Permanent Secretary	The Ministry of the Attorney General and Legal Affairs
Ms. Lydia Jacobs	Permanent Secretary	The Ministry of the Attorney General and Legal Affairs
Mr. Roger Gaspard, SC	Director Public Prosecutions	Office of the Director of Public Prosecutions
Mr. Nicholas Suban	Senior Project Manager	The Ministry of the Attorney General and Legal Affairs
Mr. Israel B. Khan, SC	Director/Chairman Legal Aid Advisory Authority	Legal Aid and Advisory Authority
Ms. Nancy A. Arneaud	Secretary – Legal Aid and Advisory Authority	Legal Aid and Advisory Authority
Mr. Richard Ragoobarsingh	Asst. Secretary Legal Aid and Advisory Authority	Legal Aid and Advisory Authority
Ms. Joan Eversley-Gill	Head Legal – Legal Aid and Advisory	Legal Aid and Advisory Authority
Mr. Travers Sinanan	Barrister and Attorney-at- Law	Private Bar

Written submissions

3.12 The Committee received written submissions from the following entities/stakeholders:

- i. Ministry of the Attorney General and Legal Affairs;
- ii. Commissioner of Prisons;
- iii. Legal Aid and Advisory Authority;
- iv. Amalgamated Security Services Limited; and
- v. Travers Sinanan, Barrister & Attorney-at-Law.

3.13 Subsequent to the public hearing of March 18, 2016, additional information was requested from the MoAGLA, the LAAA and the DPP. Information was also sought from the Chief Personnel Officer, the Director of Personnel Administration and the Property and Real Estate Services Division (Ministry of Public Administration and Communications).

3.14 The Minutes of the Meetings during which the public hearings were held are attached as Appendix I and the Verbatim Notes as Appendix II.

EVIDENCE, FINDINGS AND RECOMMENDATIONS

OUTSTANDING MATTERS BEFORE THE CRIMINAL COURT

4.1 The Committee obtained figures from the submission of the Office of the Director of Public Prosecutions regarding the number of cases currently before the criminal Assizes in Port of Spain, San Fernando and Tobago. The table below outlines this information by Assizes.

Criminal Assizes, Port of Spain

4.2 There are currently six (6) Criminal Assizes operating in Port of Spain. The 1st Court was engaged in a capital matter from 2014 to 2016 and the 3rd Court was also being used to accommodate that high profile capital matter.

Table 2

TIME PERIOD	NO. OF MATTERS IN THE CRIMINAL ASSIZES, POS					
	1 st Assize	2 nd Assize	3 rd Assize	4 th Assize	5 th Assize	6 th Assize
January-March 2010	52	69	63	73	79	62
January-March 2012	81	58	81	94	91	68
January-March 2014	2	123	8	132	106	135
January-March 2016	1	112	No Court	265	191	184

4.3 Based on the table above, the average workload of prosecutors at the Port of Spain Assizes for the first quarter of the years identified would be:

- 66 matters in 2010
- 78 matters in 2012
- 84 matters in 2014
- 150 matters in 2016

SAN FERNANDO CRIMINAL ASSIZES

4.4 There are currently three Criminal Assizes operating in San Fernando.

Table 3

Number of matters being called in the San Fernando Assizes for the period of January to March 2016

TIME PERIOD	NO. OF MATTERS IN THE CRIMINAL ASSIZES, SAN FERNANDO			AVERAGE NO. OF MATTERS
	1 st Assize	2 nd Assize	3 rd Assize	
January 2016	88	83	70	80
February 2016	55	80	55	63
March 2016	53	91	78	74

4.5 Based on the figures above, prosecutors assigned to those courts would have had to deal with an average of 72 matters per month in 2016.

TOBAGO ASSIZES

4.6 There is one criminal court operating in Tobago and one prosecutor may be assigned to this court.

Table 4

Number of matters being called on the Trial List and the Cause List in the Tobago Criminal Assizes for the months of January to March, 2016

TIME PERIOD	NO. OF MATTERS IN THE CRIMINAL ASSIZES, TOBAGO
January 2016	37
February 2016	46
March 2016	49

Findings

4.7 The Committee noted that there appears to be a consistent increase in the number of matters before four (4) of the six Criminal Assizes operating in Port of Spain during the first quarter of the years 2010 to 2016. The statistical data was confined to the first quarter of each year and as a consequence, the Committee found it difficult to identify or confirm the rate at which the case load on the criminal assizes was increasing.

SYSTEMIC REASONS FOR THE BACKLOG

Human Resources challenges and related matters

4.8 The Committee was informed of existing challenges in the recruitment and retention of legal staff at the Office of the DPP. According to information shared by the Director of Public Prosecutions, the remuneration packages for State Attorneys was unattractive. The offer of more attractive remuneration packages within and outside of the public service has led to a perennial outflow of staff from the Office of the DPP. The glaring disparity between pay packages has been cited as the main reason for the hemorrhaging of legal professionals from the Office of the DPP.

4.9 It was also noted that a number of lawyers left for the Magistracy and senior legal posts at other Ministries where the compensation package was superior to that offered to prosecutors. The Committee was told that fourteen attorneys had resigned from the Office of the DPP, over the last three years, to join the Legal Aid and Advisory Authority or to work at the private Bar. This has led to growing discontent and low morale among attorneys at the DPP's office. Consequentially, the remaining staff shoulder an additional burden of carrying cases hitherto assigned to others who had left.

4.10 Concerns for their personal safety and that of their families have also contributed to making employment at the Office of the DPP, less attractive.

4.11 The Chief Personnel Officer informed the Committee that terms and conditions are currently being determined for the contract position of Legal Counsel in the Office of the DPP and legal positions in the LAAA for the periods 2012 to 2014 and 2015 to 2016 (the request for revised remuneration packages was received by the CPO on June 29, 2015). Consequently, there appears to be a disparity in the remuneration packages applicable to comparable positions in the Office of the DPP and the LAAA.

4.12 Bearing in mind, that the complement of staff for the department over the past few years, ranges from 30 to 50 prosecutors, the following statistics serve to further demonstrate the depletion of staff:

- During the period 2000 and 2003, there were eight resignations from the department, six of those concerned persons who had between four to seven years' service;
- During the period 2004 to 2006, there were 10 resignations from the department, seven of those concerned persons who had four to 10 years' service;
- During the period 2007 and 2010, there were 22 resignations from the office, eight of those concerned persons who had seven to 20 years' service;
- During the period 2011 to 2012, there were five resignations;

- During the period 2013 to 2014, there were 13 resignations, and this involved four persons who had between five to 13 years' service and six of whom would have had approximately three years' service; and
- During the period 2015 and 2016, there have been five resignations, two of those persons were persons who had over eight years' service and two of whom had about three years' service.

4.13 The approved complement of legal staff (prosecutors) is 130. The number of positions that are filled is 49. The number of vacancies at the Office of the DPP was reported to be 99.

4.14 Recruitment efforts have been stymied due to lack of budget/ resources for basic essentials.

Working relationship between the Office of the DPP and the Permanent Secretary of the Ministry of the Attorney General and Legal Affairs

4.15 The Office of the DPP is not financially autonomous but rather is treated as a department under the administrative jurisdiction of the Ministry of the Attorney General and Legal Affairs (MoAGLA). The existing relationship between the DPP's office and the MoAGLA requires the DPP to approach the Ministry for approval in relation to hiring of staff, and the acquisition of plant and equipment, to support its operations. An example of this dependency was illustrated by the fact that the DPP had to consult the MoAGLA to:

- i. Provide a risk allowance for his staff;
- ii. Recruit additional Legal Officers/Legal Counsel;
- iii. Acquire additional accommodation in Port of Spain, San Fernando and Tobago.

4.16 The Ministry advised the Committee that the Cabinet and the Budget Division are responsible for giving the Office of the DPP its own budget. The Ministry also indicated that it has engaged a contractor to treat with issues related to equipment for all departments of the Ministry including the Office of the DPP.

Risks associated with being a State Prosecutor

4.17 Given the nature of criminal matters, prosecutors are often the objects of disaffection, vilification and threats from accused persons, their families and supporters in and out of court. In some cases attorneys have required escorts to and from court under armed police guard. The exposure to risk includes distant travel across the country and late working hours. Family members have not been exempted from these risks and as such, prosecutors have had to invest significant sums of money into security measures. While a risk allowance was recommended as an incentive to legal staff, the Committee was informed that in response to a request for the provision of this additional allowance, the Salaries Review Commission (SRC) held the view that security arrangements were not a part of the terms and conditions of employment of office holders and as such, the matter should be dealt with administratively.

Ratio of Attorneys to criminal matters

4.18 The relatively high ratio of attorneys to criminal matters in the Assizes was seen as a major contributor to the slow rate at which matters are processed. Discernibly, an insufficient number of criminal attorneys practicing in the Assizes impact upon the expeditious disposition of cases. The LAAA shared the results of a survey which they had recently conducted on the number of Attorneys admitted to practice before our local law courts in Trinidad and Tobago. Those results show that approximately 170 Attorneys-at-Law are registered on its High Court Criminal Panel of which 67 are registered to do Appeals and 100 Attorneys-at-Law are registered to do Magisterial Civil Matters and Magisterial Criminal Matters. The Authority employs 26 in-house Attorneys-at-Law (Legal Officers), 19 of whom do a combination of High Court Criminal matters and Magisterial Civil and Criminal matters.

4.19 The DPP provided data on the various Assizes courts which illustrated the point that there are simply not enough prosecutors in the Assizes. Those assigned there have conduct of many more than the 20 to 25 matters which the DPP recommended as the optimum. The MoAGLA has advertised the available contract posts for Legal Officers, particularly Legal Counsel. The Office of the DPP is currently physically able to accommodate only about 15 more persons in the positions of State Counsel I.

4.20 The Committee observed that a significant part of the delay in the criminal justice system occurs when the accused person is committed to stand trial at the Assizes and awaits a date of hearing in the Assizes. This process may take between three (3) to five (5) years.

4.21 There is currently no system in place or requirement for the Clerk of the Peace at the Magisterial Districts to notify the DPP of the numbers of persons committed to stand trial, on a monthly basis. As such the Office of the DPP is only aware of a committal when the records are sent to his office from the respective Magistrates' Courts.

4.22 Generally speaking, these matters are dealt with in the order in which they arrive at the Office of the DPP.

4.23 At the office, the docket is sent to a junior attorney who prepares a Summary of Facts and a Draft Indictment based on the evidence and law applicable to the case. When this is done, the docket moves up to mid-level Counsel who will review the file, make any changes to the Draft Indictment if required. If additional work is required the file is returned to the original attorney on the line. If everything is in order the file moves to the Director who peruses the file, may have queries to be addressed or amendments to be made. If everything is in order the Indictment is prepared.

4.24 After preparation, it is signed by the Director and together with the original copy of the depositions is filed at the Registries of the respective High Courts.

Findings and Recommendations

4.25 Given the significant role of the DPP in the processing of criminal cases before courts, the human resource capacity of the Office of the DPP must be expeditiously and regularly reviewed to ensure that the office has adequate staff both in terms of quality and quantity. It is evident that the high attrition rate among legal professionals has been detrimental to the institutional memory of the department and the rate of disposition of cases. The information received from the DPP suggested that this ratio is higher than regional counterparts such as Grenada and Jamaica.

- A. As such, the Committee recommends that the Ministry of the Attorney General and Legal Affairs immediately collaborate with the Director of Personnel Administration and the Chief Personnel Office to rectify the gross human resource deficits at the Office of the DPP.**
- B. With regard to the safety of State Prosecutors, the Committee holds the view that, once an appropriate security risk assessment is conducted and it is determined that a Prosecutor may have a high level of security risk, the necessary security arrangements should be facilitated by the State.**
- C. In furtherance of this view, the Committee recommends the following in order to ensure the safety of prosecutors:**
 - **When security measures are determined to be necessary, the State should provide or make arrangements for the protection of prosecutors and their families;**
 - **Prosecutors and their families should be given information, training and advice concerning personal safety;**
 - **The provision of transport to and from court to ensure not only the safety of prosecutors but their timely attendance at court; and**
 - **Steps should be taken where practicable to protect personal information concerning prosecutors and their families.**
- D. In seeking to address this backlog and considering the current shortage of attorneys practicing at the Criminal Bar, the MoAGLA should also undertake recruitment drives that reasonably outsource attorneys from other jurisdictions and consider the engagement of retired attorneys in service to Trinidad and Tobago.**

4.26 The Committee considered a recommendation from Mr. Sinanan that proposed the creation of a Lay Magistrate System to assist with dealing with minor offences. This is not likely to be effective in our jurisdiction. Indeed, lay magistrates require legally trained clerks who advise them on points of law. It appears that expending funds in order to train members of the public how to operate as judicial officers will be costly. The hiring of legal assistants would be an additional cost.

Delays as a result of Legal Practices and Procedure

Indictment and committal of cases

4.27 According to the DPP, on average, the process from the charge to indictment takes at least eight years. After being charged with an indictable offence, there is a preliminary inquiry, the outcome of which will then be a committal to the High Court. The notes are then prepared and sent to the DPP who then considers whether to indict. Then the indictment is prepared and filed in the High Court, and at that time the accused must await the commencement of his trial. The accused person is then served with the Indictment and his matter is placed on a Cause List. In matters where the accused is legally aided, multiple changes in legal representation, for varying reasons, tend to delay the process.

4.28 Furthermore, the LAAA indicated that there is a significant delay by the DPP's office to assign State Counsel to prosecute certain indictable matters. The LAAA added that when matters are proceeding via paper committal, the State takes an inordinate length of time to provide disclosure and file witness statements. The Authority contended that sometimes more than two years would elapse before these documents are provided to the accused/defence counsel.

4.29 In addition, the LAAA does not receive required magisterial approval for legal aid for an accused in a timely manner which results in delays in the assignment of Legal Aid attorneys. Also, accused persons sometimes do not apply for legal aid in a timely manner. This too slows down the process.

The Jury System

4.30 The DPP stated that there have been discussions to discontinue the jury system as there is a view held by some that the jury system is largely responsible for the delays. He contended that he does not share this perspective and in his opinion the justice system must have a certain level of connection between the "man in the street" and the dispensing of justice. The Director of the LAAA also agreed that the jury system should remain.

Interface between the Prison System and the Courts

4.31 The Commissioner of Prisons assisted the enquiry by the preparation of a written submission. This disclosed that delays occur within the prison system itself. For example, when inmates are sentenced by the Court to a term of imprisonment, the Prison officials are not advised as to whether the inmate may have other court matters. As such, it often happens that Bench Warrants are issued for the non-attendance of inmates who are incarcerated. Proper communication with the court's administration should be a mandate to ensure that this does not occur since it amounts to a waste of resources.

4.32 The Inspector of Prisons stated that a pilot project for videoconferencing had been implemented by the Chief Magistrate but he could not speak to the success of the pilot project. The Commissioner of Prisons submitted that the construction of a Video Conferencing Court is in progress.

Judicial Officers

4.33 The LAAA suggested that matters are frequently adjourned unnecessarily by the Courts. Courts are often too lenient when the parties are not ready/willing to proceed without good reason. In some cases attorneys may have too many matters on their schedule and request adjournments as a result of this. The problem may be ameliorated by the introduction of the Criminal Procedure Rules 2016.

4.34 The issue of overloading private practitioners by the LAAA was considered since this would have the same deleterious impact on the movement of cases at the Assizes as happens with prosecutors.

The role of Police Officers

4.35 The Committee heard from Mr. Sinanan that police officers needed to be more proactive and efficient in fulfilling their obligations in matters before the court. He recommended that police officers should be liaising with prosecutors to determine what is needed and when it can be supplied to the prosecutor. For instance, there is often a time lapse between the citation of witnesses and the actual date when the case is called for hearing. Police complainants should provide up-to-date status reports on witnesses and any other relevant matter to prosecutors. In practice however, prosecutors are provided with these updates only after the accused is arraigned and the jury empanelled. At this point, information is supplied that a witness is dead, out of the country, ill or otherwise unavailable.

4.36 Since a matter at the Assizes may change hands from prosecutor to prosecutor and court to court it is suggested that these updates should be made in writing so they may be placed on the file and the prosecutor would not be taken by surprise when the matter comes to trial.

4.37 The Committee was informed that Police Officers also cause delay by the number of redundant charges that are laid with respect to the same offence. This is wrong in law. It is also noted that there are matters laid indictably which may be taken summarily but the prosecution does not recommend summary trial. This means that a matter which may be disposed of by a Magistrate now becomes the subject of committal proceedings and joins the long line of matters to be tried in the Assizes.

The choice of lawyers

4.38 The LAAA advised the Committee that accused persons, when possible, are given the option to select an attorney of their choice. However, he cautioned that this was not to be interpreted as a right of the client. Persons remanded for particular types of crimes would desire the best attorneys to handle their case. The Chairman of the LAAA submitted that accused persons usually select representation from a small pool of experienced lawyers. The snowball effect of this being that these attorneys are overburdened with work. In cases where these attorneys are involved in matters currently before the court, they have to complete these cases before another can be addressed. This causes a delay in the time cases can be heard when the same lawyers have a number of cases in queue. As such, recognition of the delaying impact which overloaded attorneys have on the criminal justice system, it may be that this practice ought to stop.

Timely access to an Attorney-at-Law

4.39 The Inspector of Prisons indicated that access to legal aid was also contributing to the backlog of cases. He further stated that access to an Attorney was a constitutional right and suggested that a person should be allowed a telephone call, under supervision, to communicate with an Attorney. Persons on remand may have issues with accessing legal aid because the LAAA is understaffed and even if the person has an Attorney, communicating with him may be difficult. Taking instructions from a client is an integral part of preparation for trial. As such every effort should be made to ensure stymied communication between attorney and client does not contribute to the delays in the court system.

Findings and Recommendations

- A. Through training, Police officers should be enlightened about the importance of their role in providing updates on witnesses and evidence as well as the laying of appropriate charges. These officers should be compelled to attend court to provide tracing and disclosure in a timely manner. Much of the information required for court is computerized so there is little excuse for failing to provide a court with information required. Strict rules should be applied to Police Officers to provide information within timelines that should be developed by the Judiciary in collaboration with the Commissioner of Police.**
- B. To improve the system of information sharing between the Prison System and the Courts, the Committee recommends that information and communication technology be used to enhance communication between both entities. We recommend a similar system of enhanced information sharing be developed to facilitate better communication between the Office of the DPP and the Police Service.**

- C. The conduct of complainants, police witnesses responsible for obtaining expert reports and Property Keepers, in relation to court proceedings should be reflected on their performance appraisal report.**
- D. It is recommended that each prison facility/detention centre should have video conferencing facilities.**
- E. In terms of providing remand inmates more reliable access to legal representation, the Committee endorses the provision of additional telecommunication facilities in the country’s prisons/jails. Naturally, the Commissioner of Prisons must put the necessary systems and procedures in place to safeguard against abuse.**
- F. The introduction of a ticketing system for certain summary offences may permit Magistrates to deal with committal proceedings more expeditiously and thus push the Indictment process.**
- G. Given the DPP’s power to discontinue cases on appropriate grounds, the Committee recommends that a review of all cases awaiting trial be conducted in order to identify those cases that cannot be sustained and that the Director should consider entering a *nolle prosequi*² in those cases. This review should be done periodically.**
- H. The Committee recommends that mediation procedures apply not only to offences involving minors but also certain matters in the Magistrates Courts involving adults**

4.43 Recommendations put forward by witnesses that the Committee endorses include:

- **The implementation of timelines for analysis of exhibits and the collection of reports by police officers.**
- **Legal Aid applications must be processed in a timely manner based on some strict guidelines.**

Witness management

4.44 An inadequate incentive regime for witnesses has been cited as another factor impacting criminal case flow. The DPP suggested that the stipend paid to witnesses to attend court or to assist them to access court is abysmally low and outdated. The Committee learned that in most instances witnesses often supplement the stipend from their own income and in other cases are provided with financial assistances by prosecutors. In the latter case, prosecutors run the risk of being perceived to bribe witnesses. Fortunately, witnesses have been forthright about the low compensation with respect to their travel requirements. There are instances when some go into hiding to avoid being served with a summons so as not to have to expend money to attend court. This was particularly true of witnesses from rural communities.

² The dismissal or termination of legal proceedings

Recommendation

The Committee is of the view that stipends paid to witnesses should be adequate to enable them to participate in the legal process and in the case of victims of crime, to see that justice is done. Therefore the stipends currently paid to witnesses must be reviewed and adjusted in order to adequately compensate witnesses. Payment by a prosecutor or a police officer to a witness in a case, for whatever the reason should be stopped.

EFFORTS BEING MADE TO ALLEVIATE BACKLOG

Revision of the Organisational Structure of the Office of the DPP

4.45 A revised organizational structure for the Office of the DPP was approved by Cabinet in 2013. Under this revised structure the number of the legal positions was increased from 100 to 137 and 100 non-legal positions were created to support the operations of the office. According to the DPP, a decision was made to undertake recruitment on a phased basis given the limited accommodation at the DPP'S Office. The Committee was also informed that Cabinet approved a staff complement of 46 attorneys for the post of State Counsel II, 10 of which are currently occupied (deficit of 36). Approval was also granted for a staff complement of 25 State Counsel III positions, 14 of which are currently occupied (deficit of 11); and a staff complement of 33 attorneys for the position of State Counsel I, of which no positions are filled.

4.46 By correspondence dated April 11, 2016, the Director of Personnel Administration informed the Committee that the Judicial and Legal Service Commission is in the process of appointing a sub-committee to interview applicants for the position of State Counsel I. A total of 138 eligible applicants were expected to be interviewed and it was anticipated that the selection process would be finalized by June 30, 2016. With respect to the positions of State Counsel II and III, the DPP recommended the filling of 25 positions of State Counsel II and 12 positions of State Counsel III as a result of limited accommodation.

4.47 Following interviews on January 27, 2015 and February 24, 2015, the Service Commissions Department promoted 12 attorneys to the position of State Counsel III and 12 to the position of State Counsel II.

4.48 Subsequent to the public hearing, the Committee sought an update from the Director of Personnel Administration on the selection of applicants for the position of State Counsel I and the retention of State Counsel II and State Counsel III at the Office of the Director of Prosecutions. By letter dated September 27 2016, the DPA advised the Committee that an Interview Panel consisting of retired members of the Judicial and Legal Service Commission, Judges and Permanent Secretaries/heads of Departments will be convened by October 21, 2016 to conduct interviews for the position of State Counsel I. The Director of Personnel Administration also indicated that there are currently 11 State Counsel II and 10 State Counsel III assigned to the Office of the Director of Public Prosecutions.

Acquiring additional accommodation for the DDP

4.49 It was specifically recommended that accommodation in Port of Spain and San Fernando be increased and that an office be set up in Tobago. With respect to the “South Office”, a location in Gulf City Mall has been selected after several site visits. Based on reports from the Facilities Management Department, the Property and Real Estate Services Division is yet to organize a valuation so that negotiation may commence with regard to the rental price. It should be noted that PRES D stated that it was not in a position to proceed with negotiations as reports from the Commissioner of Valuations, Chief Inspector, the Occupation, Safety and Health Administration (OSHA), the Town and Country Planning Divisions and the Chief Designs Engineer are outstanding.

4.50 With respect to the Port of Spain Office, space at the Corner of Park and Henry Streets is being considered. A final decision on the suitability of that building should be forthcoming. In the interim, MoAGLA awaits responses from the Property and Real Estate Agency on the valuation of some of the other accommodation sites that have been identified. In this regard, a request for non-objection to the rental of a facility was submitted to the Ministry which is engaging the attention of the DPP. Funds for the project will only be required once the lease is secured and the plant is in a state of readiness.

4.51 Subsequent to the public hearing with officials of the MoAGLA, the Committee sought to determine the status of the acquisition of office accommodation for the Office of the Director of Public Prosecutions. By correspondence dated September 16, 2016, the Ministry confirmed that the acquisition of office accommodation for the North, South and Tobago Offices of the Director of Public Prosecutions is ongoing and at various stages. The Ministry reported that a contract for the execution of work on the Tobago Office is expected to be awarded in October, 2016; a location at Gordon Street, San Fernando is being considered for the South Office and discussions are ongoing between the PRES D, the Ministry and the landlord regarding the outfitting of facilities at the location proposed for the North Office.

4.52 In relation to the Tobago Office, a rented facility in Lowlands Mall has been secured and approved by Cabinet. Plans have been approved by the DPP for outfitting of the office space. Negotiations have commenced with NIPDEC to implement the project. It was reported that NIPDEC was in the process of developing the RFP for tendering. It is anticipated that this project would be completed by the end of the fiscal year.

4.53 It is quite clear to this Committee that the process for the physical expansion of the Office of the DPP is moving far too slowly. No reasons were advanced to the Committee for example, for the delay in the receipt of the necessary approvals. Having sent in these requests, has the Ministry had responses? Does the Ministry do follow-ups on a weekly basis or is it that a sit and wait approach is being taken to a matter as important as this. There is no use in hiring personnel who cannot be properly housed.

Utilizing ICT in the management of case records at the DPP’s office

4.54 The DPP recruited *Digital Business Limited* to create a case management system suited to its peculiar needs. This system would facilitate the eventual move to a paperless system. The system was designed to accommodate the setting up of specialized units within the office including a Homicide Unit, a Financial Crimes Unit and a Narcotics Unit. The case management system was also designed to house case files and relevant documents. The system also provides reminders regarding legal requirements, timelines and outstanding tasks. As such, it is expected that the system will impact the efficiency of the office.

CHALLENGES CREATED AS A RESULT OF THE BACKLOG

Increased prison population

4.55 One of the most direct impacts of the backlog in the criminal courts has been the increasing number of persons held on remand. In cases where bail is not granted or is not permitted based on statute, persons awaiting trial must be held until such time that their cases are called before the court. The systemic reasons for the backlog highlighted above place a lag on the criminal justice system and as such, lengthen the period of time in which un-convicted persons remain on remand.

Table 5: Number of persons on remand in Trinidad and Tobago Courts

No.	Question	Response
1	No. of persons on remand who are awaiting trial for non-bailable offences	642
2	No. of persons on remand who are eligible for bail but are unable to secure same	651
3	The total number of persons detained in prisons throughout Trinidad and Tobago (convicted and remanded)	3631
4	The total number of remanded persons in prisons throughout Trinidad and Tobago	2210

4.56 From the table above, it becomes clear that the majority of persons who are incarcerated are persons on remand who account for 2210 or 61% of the 3631 persons in prison.

Impact of the backlog on the capacity of remand prisons to accommodate inmates

4.57 The Commissioner of Prisons submitted that the backlog of cases challenge the prison system as follows:

- a. difficulty in allocating and separating classes of prisoners;

- b. Managing and separating gang members;
- c. Managing and effectively controlling inmates in terms of the ratio of staff to inmates;
- d. Health services under stress to manage the needs of inmates as numbers keep increasing. The Prison Service is supported by only 2 psychologists and 1 psychiatrist;
- e. Challenges in finding space to conduct rehabilitative programmes within the prison;
- f. Overcrowded prisons have the propensity for conflict;
- g. Conflicts between Prison Officers and inmates or between inmates themselves;
- h. Threats to the lives of Prison Officers which directly affect their ability to perform duties in a professional manner.
- i. The large number of high risks prisoners in the system especially those on capital charges in the system for over 10 years. These are frustrated individuals and this sets the stage for the prison to erupt in violence at any given time;
- j. A large number of frustrated inmates can lead to the danger of escapes or attempted escapes;
- k. Increase in numbers directly affects the increase in demands for staff, goods, services and physical space.³

Increased prison violence

4.58 The Commissioner of Prisons, in his written submissions to the Committee, pointed out that it was in fact prisoners held on remand who presented the most challenges. He sought to differentiate between those prisoners at the level of the Magistracy whose case management was not severely impacted given the average rate of turnover (period spent at the prison before attending court) is 28 days. The prisoners therefore impacted by the backlog are those whose matters must be tried in the High Court and as such, comprises those who are involved in a preliminary inquiry and those who are waiting for their case to be called in the Assizes.

4.59 The Commissioner's report highlighted comparative data on prison violence for the period January 2015 to February 2016. During this period there were one thousand four hundred and twenty-four (1,424) infractions against Prison Discipline by inmates- both convicted and unconvicted. Of this number, 60% of the breaches were committed by remanded persons. Also, the most violent confrontations involved those who were remanded. In cases where unauthorized, prohibited and illegal items are found in the prison, during searches and other operations, the culprit is more likely to be a remanded inmate. Finally, based on investigations and partnerships with external agencies, it has been unearthed that some offences against Prison Officers outside of the prison walls-even the murder of Prison Officers- have been linked to remanded inmates.

³ Letter from Commissioner of Prisons dated February 03, 2016

4.60 In the case of these remanded prisoners awaiting trial in the High Court, the Commissioner of Prisons provided reasons to account for the higher level of disobedience and violence among remand prisoners. Some of the reasons submitted include:

- i. Persons on remand do not leave the prison for extended periods given that they are awaiting their court dates and for matters to commence (in some cases persons have been waiting for as long as ten years);
- ii. Although persons on remand have a *prima facie* case to be answered, the presumption of innocence holds and remanded persons are often confident that they will not be convicted by the court;
- iii. Inmates are confident that fear and intimidation will ensure that no action is taken by Prison Officers to deter them from such acts;
- iv. In the case of Capital offences and in instances where the Bail Act prohibits, there is no prospect of bail;
- v. The Remand facility is overcrowded given that this group comprises its largest clients. This affects the ability of prison personnel to properly classify and separate inmates which leads to misbehaviour and gang recruiting;
- vi. No incentive is provided to remanded prisoners parallel to the “good conduct” and “industry” incentives provided to convicted prisoners;
- vii. Correctional Educational Programmes are voluntary and as such provide limited incentive to remanded offenders;
- viii. There is a proliferation of gang influence within the prison system.

4.61 It was noted that there is “one-third discount of sentence” for good behaviour and this may be a reason why convicts are less prone to violent acts compared to persons on remand.

Findings and Recommendations

4.62 More consideration must be given to strategies which do not necessarily involve long periods of pre-trial incarceration. Although this may not directly address the disposal of cases before the courts, it may assist with reducing the significant burden that is currently being placed on the prison system. The Committee is aware that electronic monitoring is not a new proposal but recommends that it should be urgently pursued as an alternative to custody, particularly in relation to low-risk remand inmates or inmates on remand who qualify for bail or are unable to satisfy the monetary conditions to secure bail.

To this end, the Committee recommends that in his Ministerial Response to this Report, the Attorney General should update the Parliament on the steps taken to implement the systems required for the *Administration of Justice (Electronic Monitoring) Act 2011*.

OTHER RELATED RECOMMENDATIONS

Reform of Preliminary Inquiry Procedures

- A. It is recommended that the Attorney General in his response to this report provide the Parliament with the Government’s proposal for the abolition of preliminary enquiries and for the provision of what may be necessary to ensure that this does not become another clog on an overloaded system in the High Court.**

Scheduling of capital and non-capital cases in the High Court

- B. Given the limited number of courtrooms and the present challenges in expanding these facilities due to financial constraints, the Judiciary must find innovative ways to effectively maximize the use of court facilities. As such, we recommend that consideration be given to hearing cases involving capital offences between the hours of 9 a.m. to 1 p.m. and non-capital matters between 1 p.m. and 4 p.m.**

Full disclosure and Plea bargaining

- C. The Committee recommends that full disclosure should be mandatory to complement plea bargaining proceedings. The Committee anticipates that an expansion in this approach will result with less matters going to the trial stage.**

Forensics database

- D. From the extensive discussions held with stakeholders, the Committee gleaned that another significant source of the delay in the proceedings of criminal cases was the failure of Police Officers to follow-up on the processing of exhibits sent to the Forensic Sciences Centre for analysis. As such, the Committee recommends the cataloguing of forensic exhibits and that this catalogue be made available to the court.**

Special Recommendation

Interaction between the Judiciary and Parliamentary Oversight Committees

4.63 As was noted earlier in the report, the absence of the input of the senior administrative officials of the Judiciary in this important inquiry adversely affected the Committee’s ability to acquire a more holistic perspective of the matter under consideration. The Committee was mindful that the Criminal Justice System concerned a number of stakeholders including the Ministry of the Attorney General and Legal Affairs, the DPP and senior administrative officials of the Judiciary. As such, the Committee felt it important to engage key stakeholders in order to formulate the most suitable recommendations for addressing the issue under consideration. It was for this reason that the input of senior administrative officials of the Judiciary was sought. At no time was the Committee engaged in an inquiry into the operations of the Judiciary.

4.64 In her correspondence to the Committee dated February 18th 2016, the Court Executive Administrator indicated that her office was open to working with Parliament to determine a suitable protocol or “modalities” for guiding the interaction between both institutions as it concerns the work of oversight committees.

4.65 In recent times there have been a number of appearances by Judicial Officers before Select Committees in the UK. The United Kingdom Parliament and the Judiciary have agreed to a set of internal guidelines when Judicial Officers appear before a Select Committee. Thus, in accordance with these guidelines, there is to be no comment whatsoever on:

- a formal institutional response but have not yet done so.⁴ the merits of individual cases, whether or not the case is pending, ongoing or has concluded;
- the personalities or merits of serving judges, politicians or other public figures;
- the merits, meaning or likely effect of provisions in any Bill or other prospective legislation and the merits of government policy; and
- issues which are subject to government consultation on which the Judiciary intends to make

4.66 It must be expressly noted that in Trinidad and Tobago our practice is limited to senior administrative officials. There is no practice or intention of inviting Judicial Officers to appear before committees in our case. However, the Committee believes that the procedures and protocols that have been developed in the United Kingdom to build trust and mutual respect between these two arms of State can be of immense benefit to us in treating with administrative officers of the Judiciary.

4.67 The Committee is of the view that Oversight Committees can play an integral role in recommending improvements to the Criminal Justice System and as a corollary, highlight the challenges as well as the successes of the Judiciary. The ultimate goal is a higher level of transparency and accountability on the part of all branches of government and a more informed and sensitized public.

⁴ Guidance to Judges on Appearances before Select Committees – page 2

https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/select_committee_guidance.pdf

The Committee respectfully submits the foregoing for the consideration of the Parliament.

Ms. Sophia Chote, SC
Chairman

Mr. W. Michael Coppin
Vice-Chairman

Mr. Clarence Rambharat
Member

Mr. Wayne Sturge
Member

Dr. Lovell Francis, MP
Member

Ms. Marlene Mc Donald, MP
Member

Mr. Randall Mitchell, MP
Member

Mr. Prakash Ramadhar, MP
Member

October 21, 2016

APPENDIX I

MINUTES OF PROCEEDINGS

MINUTES OF THE THIRD MEETING OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS, HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, AND IN THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD PORT OF SPAIN ON FEBRUARY 19, 2016

PRESENT

Ms. Sophia Chote, SC	Chairman
Mr. W. Michael Coppin	Vice-Chairman
Mr. Clarence Rambharat	Member
Mr. Wayne Sturge	Member
Mr. Randall Mitchell, MP	Member
Ms. Marlene Mc Donald, MP	Member
Mr. Prakash Ramadhar, MP	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Mr. Indar Sieunarine	Assistant Secretary
Ms. Cindy James	Research Assistant

ABSENT

Dr. Lovell Francis, MP	Member (Excused)
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REPRESENTATIVE OF THE OFFICE OF THE INSPECTOR OF PRISONS

Mr. Daniel Khan	Inspector of Prisons
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COMMENCEMENT

1.1 The Chairman called the meeting to order at 9:19 a.m.

ANNOUNCEMENTS

2.1 The Chairman indicated that Dr. Francis had requested to be excused.

CONFIRMATION OF MINUTES OF THE SECOND MEETING HELD ON JANUARY 15, 2016

3.1 The Chairman invited Members to consider the Minutes of the 2nd Meeting held on January 15, 2016 and inquired whether there were any amendments.

3.2 There being no amendments, a motion for the confirmation of the Minutes was moved by Mr. Rambharat and seconded by Mr. Coppin.

MATTERS ARISING FROM THE MINUTES OF THE SECOND MEETING

4.1 As per Item 5.5, a Member inquired whether the Committee had determined the genesis of the backlog of cases in the courts.

4.2 In response, the Chairman suggested that to determine the genesis of the backlog was the purpose of the inquiry. She also informed Members that they can access the record of Committee's incoming and outgoing correspondence by liaising with the Secretary.

4.3 As per Item 5.6, the Chairman informed that correspondence was sent to certain stakeholders who may be able to provide valuable information to the Committee with regards to its inquiry.

PRE-HEARING DISCUSSIONS

5.1 The Chairman informed Members that correspondence was sent to the *Registrar & Marshal* and the *Court Executive Administrator* of the Supreme Court requesting their attendance at a public hearing and pre-hearing submissions. She indicated that their initial response was a request for an extension of time to provide the information.

5.2 The Chairman informed Members that she met with the Honourable Chief Justice on February 17th to clarify what were the concerns of the Judiciary in terms of participating in the inquiry.

5.3 The Chairman stated that the functions of the *Registrar & Marshal* and the *Court Executive Administrator* of the Supreme Court (Re Criminal Justice System) falls within the ambit of the Ministry of the Attorney General and Legal Affairs based on the responsibilities assigned to the Ministry.

5.4 She informed that further correspondence, accompanied by a *Legal Opinion* prepared by a Senior Counsel, was received and the correspondence suggested that the two officials of the Judiciary will not be present at the public hearing.

5.5 Discussions ensued whether the *Legal Opinion* should be read into the record during the public hearing.

5.6 After deliberating, the Committee decided that the details of the correspondence received from the Judiciary will not be read into the record. Instead, the Chairman, at the beginning of the public hearing, would note the receipt of correspondence which explains the absence of officials from the Judiciary.

5.7 A Member suggested that the Committee needs to ascertain its powers and limits in relation to scrutinising the Judiciary in order to avoid it from experiencing further frustration in the execution of its mandate.

5.8 The Chairman endorsed the Member's suggestion and added that this could be done as a joint exercise with the Public Accounts Committee.

5.9 A Member inquired whether any representatives from the Ministry of the Attorney General and Legal Affairs would be present at this or any other public hearing.

5.10 The Chairman advised that the Committee wrote to the Permanent Secretary (Ag) of the Ministry requesting certain information in writing and that an extension of time to provide this information was requested.

OTHER BUSINESS

Next Meeting of the Committee

6.1 The Committee agreed that the next meeting will be held on March 18, 2016.

Draft Inquiry Proposal

6.2 The Secretary informed that a draft proposal for an inquiry into anti-competitive practices was prepared and will be circulated subsequently.

Suspension

6.3 The meeting was suspended at 10:15 a.m.

[Members proceeded to the J. Hamilton Maurice Room on the Mezzanine Floor]

PUBLIC HEARING WITH THE INSPECTOR OF PRISONS

- 7.1 The meeting resumed (*in public*) at 10:30 a.m. in the J. Hamilton Maurice Room.
- 7.2 The Chairman welcomed those present as well as the viewing public.
- 7.3 Introductions were exchanged.
- 7.4 The Inspector of Prisons indicated that he was accompanied by his legal advisor, Ms. Rea Mankee-Sookram.
- 7.5 The Chairman stated that correspondence was sent to the *Registrar & Marshal* and the *Court Executive Administrator* of the Supreme Court and that these two officials will not be present and have provided the Committee with some legal documents for its consideration.
- 7.6 The Inspector of Prisons made opening remarks.
- 7.7 Detailed hereunder are the issues/concerns/queries raised by Members of the Committee and the responses proffered by the Inspector of Prisons (IOP):

(i) The number of persons on remand awaiting trial for non-bailable offences compared to those eligible for but unable to secure bail

- a. The IOP stated tentatively that the inmate population consists of approximately sixty (60) percent persons on remand and 40 (forty) percent convicts. He informed that these statistics were collated two years prior and before the introduction of stricter bail legislation, so the statistics provided are subject to correction.
- b. The IOP further stated that in terms of figures, the inmate population is approximately four thousand (4, 000) of which an estimated two thousand (2, 000) are on remand. He advised that the Warrant Section of the Prison Service would be best positioned to confirm these figures and assured the information will be provided in writing.

(ii) Would assisting persons on remand who are eligible for but cannot secure bail reduce the inmate population?

- a. The IOP replied in the affirmative. He stated that legislation often restricts bail and there is an assumption that restricting bail would solve the issue of crime. However, restricting bail infringes on a person's presumption of innocence.

- b. The IOP submitted that he believed that trust should be placed in judicial officers to exercise their discretion in a judicious manner. Removing their discretion to grant bail causes further problems.
 - c. Persons accused of violent crimes are often of the lower socio-economic level of society and do not have freehold land to access bail. The local system differs from the system in other jurisdictions, such as the United States of America, where someone can stand the bail of an accused person by undertaking to be responsible for the accused and ensuring they appear before the court or suffer financial loss if the conditions are not adhered to.
- (iii) How often is the IOP required to prepare the “Inspector of Prisons Report”?**
- The IOP stated the report is required to be prepared annually and the 2016 report is being drafted.
- (iv) Suggestions to assist persons on remand who are eligible for but cannot access bail**
- a. The IOP stated there should be a cash alternative for bail.
 - b. He also referred to the Administration of Justice (Electronic Monitoring) Act, 2012 (Act No. 11 of 2012) which contains provisions to allow a person to satisfy their bail conditions without being financially affected.
 - c. The IOP also suggested that provisions contained in bail legislation related to minor offences should be repealed. He stated that in these instances the risk to society is less than the risk of placing the accused in the prison system. He described the possession of marijuana as a minor offence and gave an example of how existing bail legislation is too strict by re-counting an incident where a socially displaced person was remanded in the prison system for more than nine (9) months for stealing coconuts.
 - d. A Member stated advanced work was done previously on the cash deposit system, the electronic monitoring system and bail bond houses.
- (v) Does the Prison Service maintain a record of the amount of time taken by the Courts to deal with the cases of persons on remand?**
- a. Yes. The information is in the possession of the Warrant Section of the Prison Service. Judicial Officers return inmates’ files with an endorsement following their appearance in court.

- b. The example given prior concerning the socially displaced person is an extreme instance where someone does not have the benefit of having a legal advisor and consequently the case file goes back and forth.
- c. The Prison Service is in the process of digitising its records.

(vi) Issues created by the backlog of cases in the Courts

- a. A Member surmised the following:
 - the backlog of cases creates a problem in the prison system;
 - the Prison Service may not be playing a sufficient role in prisoner rehabilitation; and
 - the conditions of the prison system may be contributing to the issue of crime and repeat offenders.
- b. The Member further stated that in the past numerous reports have been prepared regarding the prison system with all proffering recommendations however, action is now required.

(vii) Alternative strategies which may be employed to reduce the backlog of cases

- a. The IOP indicated that the best solution for dealing with the indictable offences backlog is plea bargaining.
- b. A Member stated that to his knowledge there is no legislative provision which mandates the use of freehold property as the sole surety for bail and suggested a person should have a right to provide his own surety for bail if the offence was minor. He also suggested that decriminalising certain offences such as using obscene language, resisting arrest and failure to pay maintenance would assist in reducing the congestion in the prison system.
- c. The IOP stated that he agreed with the Member's suggestion. It is a greater burden on the prison system to deny him bail than to allow him bail. He submitted that relatively few persons charged with minor offences would abscond and that the procedures to bring those who absconds before the court is less tedious than imprisonment.
- d. The IOP stated that freehold land is not required as a surety by law but guidance should be given to Judicial Officers on the granting of bail.

- e. A Member suggested that a warning system be introduced for persons committing minor offences whereby they are not required to go before the court unless they have received three (3) or four (4) warnings.
- f. The IOP stated he agreed with the Member's suggestion and in the United Kingdom there is a warning system in place for lesser offences.
- g. The Chairman mentioned there was a Maximum Sentence Indications (MSI) procedure introduced by the Chief Justice, by a Practice Direction, which some judges are using. On this matter, the IOP stated that this procedure does not "force the hand" of the Director of Public Prosecutions to accept reduced offences e.g. Manslaughter as opposed to Murder.
- h. The IOP stated deterrents do not work as the detections rates are low, retribution by law does not work because the action is taken years later and rehabilitation does not work because the prison conditions are poor.
- i. The IOP stated that a pilot project for videoconferencing was implemented by the Chief Magistrate. He said he could not speak to the success of the pilot project but agreed that videoconferencing was a useful way to assist the prison system and the Judiciary.
- j. He further stated that the systems, solutions and policies exist that can solve some of the issues in the prison system but investment was needed.

(viii) Issues with persons on remand accessing legal aid

- a. A Member inquired whether access to legal aid, particularly in rural areas, was contributing to the backlog of cases.
- b. The IOP replied in the affirmative.
- c. The IOP indicated that the channel by which the information is communicated to the Legal Aid and Advisory Authority is an issue. However, several Legal Aid Officers visit prisons, including Tobago's, on a weekly basis and take requests for legal aid appointments.
- d. The IOP stated that access to an Attorney was a constitutional right and suggested that a person should be allowed a telephone call, under supervision, to communicate with an Attorney. Persons on remand may have issues with accessing legal aid because the Legal Aid and Advisory Authority is understaffed and even if the person has an Attorney, communicating with him may be difficult.

- e. A Member suggested the use of telephones within the prison system for inmates to communicate with Attorneys and their family. The IOP informed that an Invitation to Tender was issued for the installation of a telephone in the hallway of all sections which will be supervised by a Prison Officer. There is a system in place to “jam” all illegitimate phone calls.
- f. When queried on whether the Prison Welfare Branch can assist with communication between inmates and their Attorneys, the IOP replied that this currently takes place but there is a human resource issue in the prison system.
- g. The IOP referred to the submission made by the Legal Aid and Advisory Authority (dated February 12th 2016) and reiterated that the number of Attorneys at the Legal Aid and Advisory Authority should be increased along with the fees paid to external Attorneys.
- h. A Member suggested that a limited right of audience be granted to law school students to represent criminal defendants under the supervision of an experienced Attorney. The Chairman stated there may be ethical considerations regarding implementation of such an arrangement and suggested that the Law Association can give its views on the suggestion.

(ix) Implementation of recommendations made in the Inspector of Prisons Report 2012

- a. The IOP replied that he is unaware if these recommendations were implemented as he is not involved in the implementation process.
- b. He further stated that his 2012 report focused on the issues of prison conditions and the legislative framework. Issues of bail and delays arose approximately two (2) to three (3) years ago and will be dealt with in the 2016 report as well as the topic of decriminalising certain offences.

(x) Recommendations to the existing framework governing the prison system

- a. The IOP stated that the Prison Rules, 1943 provides for rehabilitation, however its focus is on convicts. He stated that in South Africa a distinction is made between jail and prison and each is financed separately.
- b. The IOP suggested that persons in remand should be housed separately from convicts.

- c. The IOP emphasized that there is a difference between prison and jail as the former is for convicts and the latter is for persons on remand. He contended that there are no jails in Trinidad and Tobago. He suggested that the Judiciary is responsible for the care of persons on remand and has asked the Prison Service to take custody of these persons.
- d. The IOP also indicated that the Commissioner of Prisons is working assiduously to separate inmates because there is an influx of high profile accused. However, the task is difficult as he is unaware of inmates' affiliations when they enter the system. The Eastern Correction facility is being used to house persons accused of violent crime. However, persons accused of minor offences are still being commingled with persons accused of violent crimes which is against the Prison Rules.
- e. He also suggested a parole board can be established which can reward convicts an earlier release for good behavior.

(xi) Scientific studies on the psychology and behavior of persons on remand and convicts

- a. The IOP stated that he is unaware of any local studies conducted on the behavior patterns of persons on remand and convicted inmates, but mentioned that persons with extensive experience such as the Commissioner of Prisons can make evidence-based observations. He further elaborated that in prisons where there are persons on remand there is a lot of shouting compared to the Maximum Security Prison where convicts are calm and participate in sporting activities.
- b. When asked about whether persons on remand were responsible for the majority of incidents of prison violence, the IOP stated that the Commissioner of Prisons would be better positioned to answer the question but in his view this was the case.
- c. In terms of convicted inmates, there is a “third discount of your sentence” programme whereby convicts have their sentence of imprisonment reduced for good behavior. The discount is automatically given and will be withdrawn if the convict behaves unfittingly.

(xii) Responsibility of the Youth Training Centre

- a. The IOP stated he is Chairman of the board of management of the Youth Training Centre (YTC) and his role is to make recommendations to the Commissioner of Prisons who will then make recommendations to the line Minister.
- b. He stated that there are generally ninety-five (95) to one hundred and ten (110) “lads” in custody at the Centre.

(xiii) The time period between an accused being charged to indictment

- a. The IOP outlined that when a person is charged with an indictable offence an Attorney from the Office of the Director of Public Prosecutions is assigned to the case. A preliminary enquiry will be held and the outcome will be a committal to the High Court. Notes are prepared and sent to the Director of Public Prosecution who then considers what should be indicted. The indictment is prepared and filed in the High Court and then the accused has to wait to be tried in the High Court. By his estimation the process takes a minimum of eight (8) years.
- b. The IOP referred to Section 34 of the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011) and stated discretionary bail should be granted in all matters that are not tried within ten (10) years. He also referred to a recommendation by the Director/Chairman of the Legal Aid and Advisory Authority that the offence of Murder should be categorised.
- c. The IOP stated that the remand period has been increased from ten (10) to twenty eight (28) days consequently decreasing the number of hearings per year from fifty (50) to twelve (12) and resulting in more delays. The increase in the remand period was intended to allow the Court sufficient time to prepare to hear cases and to avoid the unnecessary transportation of prisoners to and from court. He state that the 28 days is a maximum and not the mandatory adjournment period.
- d. Trials are also lengthier because criminal law principles have been expanded. There are more applications, there is protracted cross-examination being allowed, there are unnecessary adjournments to prepare written submissions, trial judges prepare written ruling while an oral ruling could have been given and there is no case management.
- e. When asked if the prison system can contribute to accelerate the case flow process in anyway, the IOP replied in the negative.

- f. A Member submitted that the prison system has a role to play in the issue of criminal case flow management. It was also expressed that access to justice within the prison system was an important part of the case flow management process.

(xiv) Improvements in the prison system over the past five (5) years

- a. The IOP indicated that he was first appointed in December 2010 and since then was re-appointed on three (3) occasions. His current term of office ends in June 2016.
- b. Over the past five years there has been infrastructural improvements but nothing has been done to alleviate the delays.
- c. A Member expressed the view that infrastructure plays an important role but the issues involved are more systemic than infrastructural.

(xv) Responsibility for persons in the detention centre

- a. The IOP stated that persons in the detention centre that have matters before the courts fall within the purview of the Commissioner of Prisons. A liberal interpretation of his powers may imply that the detention centre also falls under the remit of the Inspector of Prisons.
- b. He stated that the centre is used to acclimatise inmates who have six (6) months left on their term of imprisonment. He admitted that he was not certain if this was still the case.
- c. The IOP assured that information will be provided in writing regarding the population of the detention centre and the number of persons on remand housed there.

(xvi) Procedures in place to assess prisoners with mental health issues with a view to prioritising their matters

- a. The IOP stated that the Prison Service is supported by two (2) psychologists and one (1) psychiatrist who serve the inmate population and Prison Officers. However, while persons with mental illness are identified treating with them is an issue.

- b. He further elaborated that his 2012 report contained an opinion by Dr. Ghany that mental illness within the prison system is substantially higher than the general population, while mental health issues in the wider population is generally higher when compared to other jurisdictions.

7.8 The Chairman thanked the Inspector of Prisons for his attendance.

ADJOURNMENT

8.1 The meeting was adjourned at 11: 48 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

March 04, 2016

MINUTES OF THE FOURTH MEETING OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS, HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, AND IN THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR,

OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD PORT OF SPAIN ON MARCH 18, 2016

PRESENT

Ms. Sophia Chote, SC	Chairman
Mr. W. Michael Coppin	Vice-Chairman
Mr. Clarence Rambharat	Member
Mr. Wayne Sturge	Member
Mr. Randall Mitchell, MP	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Mr. Indar Sieunarine	Assistant Secretary
Ms. Cindy James	Research Assistant

ABSENT

Dr. Lovell Francis, MP	Member (Excused)
Mr. Prakash Ramadhar, MP	Member (Excused)
Ms. Marlene Mc Donald, MP	Member

REPRESENTATIVES OF THE MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

Ms. Ingrid Seerattan	Permanent Secretary
Ms. Lydia Jacobs	Permanent Secretary
Mr. Nicholas Suban	Senior Project Manager

REPRESENTATIVE OF THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Mr. Roger Gaspard, SC	Director of Public Prosecutions
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REPRESENTATIVES OF THE LEGAL AID AND ADVISORY AUTHORITY

Mr. Israel Khan, SC	Director/Chairman
Ms. Nancy Arneaud	Secretary
Mr. Richard Ragoobarsingh	Assistant Secretary
Ms. Joan Eversley-Gill	Head Legal

STAKEHOLDER

Mr. Travers Sinanan	Barrister and Attorney-at-Law
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COMMENCEMENT

1.1 The Chairman called the meeting to order at 9:50 a.m.

ANNOUNCEMENTS

2.1 The Chairman indicated that Dr. Francis and Mr. Ramadhar had requested to be excused.

CONFIRMATION OF MINUTES OF THE THIRD MEETING HELD ON FEBRUARY 19, 2016

3.1 The Chairman invited Members to consider the Minutes of the 3rd Meeting held on February 19, 2016 and inquired whether there were any amendments.

3.2 There being no amendments, a motion for the confirmation of the Minutes was moved by Mr. Mitchell and seconded by Mr. Coppin.

MATTERS ARISING FROM THE MINUTES OF THE THIRD MEETING

4.1 As per Item 5.10, the Chairman indicated that the Ministry of the Attorney General and Legal Affairs provided a response which was circulated to Members by email on March 15, 2016.

CONSIDERATION OF DRAFT INQUIRY PROPOSAL

5.1 The Chairman referred Members to the draft proposal for an inquiry into the effectiveness of systems and policies intended to alleviate anti-competitive practices among firms in Trinidad and Tobago.

5.2 The Chairman sought the views of Members on the areas of focus for this inquiry.

5.3 There was agreement that this inquiry should include an examination of food fraud, product labelling, product origin, tariffs and inspection.

5.4 Members recommended that the Committee should seek to engage the following entities/stakeholders during the course of the inquiry:

- the Fair Trading Commission;
- the Trinidad and Tobago Bureau of Standards;
- the Supermarket Association of Trinidad and Tobago;
- the Consumer Affairs Division;
- the Ministry of Trade and Industry;
- the Poultry Farmers Association; and
- relevant agricultural groups.

PRE-HEARING DISCUSSIONS

6.1 The Committee decided that it will invite comments from the Law Association of Trinidad and Tobago, the Criminal Bar Association of Trinidad and Tobago and Prof. Selwyn Ryan regarding the inquiry into criminal case flow management in the Judicial System.

6.2 The Committee also agreed that the hearing in question would be the final hearing in respect of its inquiry into criminal case flow management in the Judicial System.

OTHER BUSINESS

Next Meeting of the Committee

7.1 The Committee agreed that the next meeting will be held on April 15, 2016.

Suspension

7.2 The meeting was suspended at 10:13 a.m.

[Members proceeded to the J. Hamilton Maurice Room on the Mezzanine Floor]

7.3 The meeting resumed (*in public*) at 10:20 a.m. in the J. Hamilton Maurice Room.

PUBLIC HEARING

- 8.1 The Chairman welcomed officials of the Ministry of the Attorney General and Legal Affairs, the Director of Public Prosecutions (DPP), officials of the Legal Aid and Advisory Authority (LAAA), Mr. Travers Sinanan and the viewing public.
- 8.2 Introductions were exchanged.
- 8.3 Detailed hereunder are the issues/concerns/queries raised and the responses proffered:

(i) Measures being taken to build the capacity of the Office of the DPP

Staffing

- a. The DPP stated that a steering committee, chaired by the Deputy Director of Public Prosecutions, was established to assess the needs of the Office of the DPP and report on the sufficiency of resources.
- b. A request was made to the then Attorney General in 2013 for an increase in staff of approximately 100 – 137 legal positions and 100 supporting positions. The new organisational structure was approved by Cabinet in 2013 to include 35 State Counsel I, 46 State Counsel II and 25 State Counsel III. However, as a result of limited accommodation, it was decided that recruitment will be done on a phased basis.
- c. None of the State Counsel I positions at the DPP's office are filled, whereas 10 of the State Counsel II positions and 14 State Counsel III positions have been filled.
- d. Following consultations with the Director of Personnel Administration in 2014, it was agreed that after the positions of State Counsel I, II and III were filled, a request will be made to fill senior positions. However, upon the completion of interviews for the positions of State Counsels II and III in 2014, no further interviews were conducted. The Office of the DPP is awaiting the Judicial and Legal Service Commission to conduct interviews for the positions of State Counsel I as it has a number of contracted workers who can fill these vacancies.
- e. The Committee was informed that the Ministry of the Attorney General and Legal Affairs is presently advertising positions for Legal Officers and Legal Counsels on contract.

- f. The Ministry held discussions with the Judicial and Legal Service Commission regarding the filling of positions in the Office of the DPP. The Ministry was advised that interviews would be held in March, 2016 for the position of State Counsel I. However, due to the absence of a Member of the Commission, the process was delayed and the interviewing process will commence in the near future.
- g. The Ministry expects 15 vacancies in the position of State Counsel I will be filled subsequent to the interview process.

Case Management System

- h. The Office of the DPP, after several meetings with the Information technology and Facilities Management Department of the Office of the Attorney General, decided to recruit a software company, Digital Business Limited, to create a case management system suited to its needs.
- i. The case management system was designed to accommodate the establishment of specialised homicide, financial crimes and narcotics units within the Office of the DPP. It is expected that after the intake of files into the system, the files will be allocated to the head of each unit and thereafter assigned and tracked through every stage until completion. This system will allow for communication between the various heads of the units and Attorneys-at-Law assigned to the cases.
- j. The system was also designed to house cases of precedent and documents related to each file. The system provides reminders regarding the legal requirements, timelines and outstanding tasks related to individual files. The system is a work in progress as several trials have taken place and flaws are being addressed. The system is expected to be fully operational by the end of the year.

Accommodation

- k. With its recommended increase in human resources, the steering committee also recommended additional accommodation for the DDP's offices in Port of Spain and San Fernando and the establishment of an office in Tobago. The DPP agreed to have the office in Tobago housed in Gulf City, Lowlands and the National Insurance Property Development Company Limited (NIPDEC) is in the tender phase of selecting a suitable contractor to outfit this office in Tobago.

- l. Officials of the Ministry of the Attorney General and Legal Affairs stated that project regarding the DPP's office in Tobago is estimated to be completed by August, 2016.
- m. The San Fernando office will be housed in Gulf City, La Romaine as it is difficult to obtain office space within close proximity of the Supreme Court in San Fernando. The Facilities Management Department of the Property and Real Estate Services Division (PRESD) is yet to arrange a valuation of the propose location, which is necessary for negotiations to begin for rental of the office space.
- n. The Office of the DPP is also considering relocating its Port of Spain office to the corner of Park and Henry Streets. A final decision on whether this building is suited to the DPP's needs was expected to be made within a week.
- o. The Committee was informed that it was difficult to provide a timeframe for the completion of the projects for the Port of Spain and San Fernando offices as the projects are in the building acquisition stage.

(ii) Process for obtaining and outfitting offices

- a. The DPP made a formal request for a facility indicating the building of his choice. Subsequently, the Ministry of the Attorney General and Legal Affairs wrote to PRESD on behalf of the DPP indicating the DPP's building of choice.
- b. The PRESD would then consult various authorities such as the Town and Country Planning Division, the Regional Corporation, OSHA, the Ministry of Works and Transport Structural Department and the Fire Service to ensure the building meets coded standards.
- c. If the approvals are in place, the PRESD will liaise with the Valuation Division of the Ministry of Finance. Based on the valuation report received from the Valuation Division, the PRESD will take a Note to Cabinet requesting that the building be approved for rental.
- d. When approval has been obtained for the rental of the building, there is a process of designing the facility to suit the needs of the Office of the DPP. The Ministry if responsible for outfitting the building and would liaise with the DPP to get his requirements. The actual project of outfitting would be outsourced to NIPDEC or the Urban Development Corporation of Trinidad and Tobago (UDeCOTT).

(iii) Challenges faced by the Office of the DPP

- a. The Office of the DPP is fettered by the persistent loss of staff, particularly experienced staff, to other Ministries, the LAAA and the courts. The DPP submitted that the catalyst for this was a disparity in compensation between the Office of the DPP and other entities.
- b. Currently 4 of the 6 positions, inclusive of the Assistant Directors of Public Prosecution are vacant as well as 14 positions of Senior State Counsel. The Office of the DPP has been unable to attract experienced staff at the senior level as remuneration packages are not attractive to persons with over 5 years of experience.
- c. Prosecutors face risks in the conduct of their duties as they are subjected to threatening text messages and calls, missiles being thrown at them and on at least 2 occasions have been involved in incidents involving firearms in close proximity of court compounds. The risk is also extended to the families of prosecutors and in order to protect themselves and their families, prosecutors have had to expend significant financial resources. Their exposure to risk includes travelling to numerous locations in the country as well as late hours of work.
- d. The potential risks associated with the position of state prosecutor is one of the reasons competent persons are reluctant to be employed in this position. The assassination of Ms. Dana Seetahal, SC also contributed to persons being unwilling to be in the employ of the Office of the DPP. There is currently 99 vacant positions for prosecutors in the Office of the DPP.
- e. The DPP had discussions with at least 1 Attorney General seeking a risk allowance for his staff. This matter was also raised with the Salaries Review Commission. However, the 98th Report of the Commission stated time and security arrangements were not considered a term and condition of employment of office holders. The SRC recommended that the matter be dealt with administratively. The Commission also stated in its Report that the payment of all extra allowances will be considered in an upcoming evaluation exercise and compensation survey. However, the exercise and survey have not been completed to date.
- f. The DPP has also submitted several measures to the Commissioner of Police related to the safety of Legal Officers. Legislation was introduced in 2010 to protect the interest of witnesses who feared exposure to risks to themselves and their family. However, the concerns of the staff of the Office of the DPP regarding risks seems to be unacknowledged.

- g. The DPP stated that the Office of the DPP does not have its own budget and currently it is experiencing difficulties acquiring photocopiers, paper and ink.
- h. The Ministry of the Attorney General and Legal Affairs stated that the Cabinet and the Budget Division are responsible for giving the Office of the DPP its own budget. The Ministry has engaged a contractor to treat with issues related to equipment for all departments of the Ministry including the Office of the DPP.

(iv) The ratio of Attorneys-at-Law in the Office of the DPP to criminal cases

- a. The prosecutors assigned to the Port of Spain office serve in courts located north of Couva and prosecutors assigned to the San Fernando office serve in courts located south of Couva. All Attorneys-at-Law in the north and south offices of the DPP serve in Tobago.
- b. There are 14 prosecutors from the Port of Spain office assigned to the 27 Magistrates' Courts located north of Couva and there are 11 prosecutors from the San Fernando office assigned to serve the 15 Magistrates' Courts located south of Couva.
- c. The ratio of prosecutor to cases in the Magistrates' Court is 1:38 in the Port of Spain office and the San Fernando office has a similar approximate ratio.
- d. During the period 2010 to 2016 the ratio of prosecutor to High Court cases in Port of Spain has been increased from 1:66 in 2010, 1:78 in 2012 and 1:84 in 2014, the ratio has increased to 1:150 in 2016. The ratio in the San Fernando office is 1:72, while in Tobago the ratio is 1:44.
- e. The DPP compared T&T's situation with that of Jamaica. He explained that in Jamaica, the criminal justice system has Clerks of Courts. These Clerks serves all the resident Magistrates' Court and are not members of staff of the Office of the DPP in Jamaica. The Attorneys-at-Law attached to the Office of the DPP in Jamaica usually operate in the Court of Appeal, the Jamaican Gun Courts and the Rural Circuit Courts. Statistics obtained from Jamaica indicate that on average a prosecutor assigned to the Office of the DPP is usually assigned 26 cases per court term (19 in the Rural Circuits Courts and 7 in the Gun Courts).
- f. The DPP also stated that in Grenada during the period 2009 to 2013, the ratio of State Attorneys to cases was 1:39. He suggested that the ideal ratio for Trinidad and Tobago should be a maximum of 1:25.

(v) The lag time between committal at the Magistrates' Court and indictment by the DPP

- a. All indictable matters usually go through a preliminary hearing before reaching the High Court. After the preliminary hearing is completed, the evidence garnered together with some of the exhibits are forwarded to the Office of the DPP by the respective Clerk of the respective Magistrates' Court.
- b. When these documents arrive at the DPP's office, it is perused by a minimum of 2 persons before it is reviewed by the DPP or Deputy DPP for the preparation of an indictment. If the indictment is preferred and executed, it is filed into the High Court criminal registry and from there the matter goes into a Case List at the High Court.
- c. All Attorneys at the Office of the DPP are required to prepare draft summaries and draft indictments for the vetting of senior persons. The distribution of files is overseen by persons (senior officers) responsible for distributing files.
- d. There have been a number of instances that after the preliminary hearing, the documents would take more than 5 years to arrive in the Office of the DPP. These type of delays originate mainly from courts located in Tobago, Arima and at a point in time, Tunapuna. In these instances, the DPP would write the Ombudsman, the Attorney-at-Law representing the accused and the family of the accused indicating that his office has not received the documents and therefore cannot prepare an indictment without the evidence.
- e. The DPP replied in the affirmative when asked whether legislation establishing a timeline for the transmission of documents from the Magistrates' Court to his office would be of assistance.
- f. The DPP also agreed to the suggestion of creating an administrative link with the Magistracy whereby he will be informed of files being transmitted to his office. He also stated that requests are also made to the Chief Magistrate (sometimes informally) and the Chief Justice.
- g. It was also noted that representations are also made in writing by members of the public. The Office of the DPP gives priority to these matters if possible.

(vi) Standards used by the Office of the DPP in determining indictment

- a. The DPP stated that during the period 2011- 2012, he implemented a code for prosecutors. One of the reasons for implementing the code was to ensure that prosecutors were clear about what was required before a particular matter can be advanced in the system.

- b. The code is patterned on the English full-code test and has a two-stage test. The first test is the sufficiency of evidence and the second test is the consideration of the public interest factor. The DPP does not proceed based on *prima facie* evidence but looks at the likelihood of conviction. Magistrates however, are required by law to perform the *prima facie* test.
- c. There have been instances where the DPP would have received evidence which would lead him to believe there is a strong case for indictment. However, during cross-examination in the Magistrates' Court, the evidence sometimes becomes diluted and unreliable. In such instances, although the Magistrate would have ordered a committal as there was *prima facie* evidence, the DPP would discontinue the matter. One of the factors the DPP considers in dealing with these matters is whether or not the accused is able to get bail.

(vii) Difference in time period from a charge being laid to the commencement of the trial in Jamaica and Trinidad and Tobago

- a. A Member referred to the variation in the length of time required for a murder case in Jamaica to be brought to trial (within 2 years) compared to Trinidad and Tobago where it usually takes between 8 to 10 years to commence.
- b. In response, the DPP stated that there are certain challenges faced by respective stakeholders in the criminal justice system. He stated that there are matters that have been filed since 2008 that have not been heard in the High Court. One contributor to this delay is the reliance of defendants on a limited pool of Attorneys who may be juggling multiple cases.
- c. The DPP further stated he is unaware of the ratio of High Court matters to prosecutor in Jamaica. However, he submitted that the establishment of specialised courts such as a Gun Court and Sexual Offences Court may assist in reducing the burden on the High Court.

(viii) Specialisation and training at the Office of the DPP

- a. The DPP stated that Attorneys-at-Law within his office is assessed by the quality of their work and the matters in which they demonstrate the greatest prowess. Currently there is no specialisation and the Office of the DPP can only place Attorneys in specialised units when it is provided with sufficient staff.
- b. Training in new areas is conducted by experienced persons who are invited by the Office of the DPP. The staff of the Office of the DPP receive training internally as well as from foreign partners from the United States of America and Canadian Governments.

- c. If there are training sessions scheduled for an entire day, correspondence will be sent to the Chief Magistrate and the Chief Justice asking that Attorneys assigned to these courts be excused. The Office of the DPP attempts to conduct its training sessions during the periods of vacation.

(ix) The possibility of facilitating outreach and scholarship programmes

- a. The Office of the DPP has to prioritise its resources and therefore having outreach programmes at present is beyond its resource capacity.
- b. The DPP stated that entry into the Office of the DPP is available via the positions of Legal Counsel and State Counsel. The Legal Counsel position is a contractual position and the agreement is made between the applicant and the Permanent Secretary of the Ministry of the Attorney General and Legal Affairs and the Chief Personnel Officer. Entry as a State Counsel is determined by the Chief Justice and the Judicial and Legal Service Commission.

(x) Discontinuing the jury system

The DPP stated that there has been discussions about discontinuing the jury system and that some people are of the view that the jury system is largely responsible for delays. He contended that he does not share that perspective and in his opinion the justice system must have a certain level of connection between the “man in the street” and the dispensing of justice. While complex matters may require special jurors, for the average matter there is no need to do away with the jury system as this may cultivate the wrong perception of the justice system.

(xi) Suggestions for dealing with the backlog of cases

- a. The following suggestions were put forward by officials of the LAAA to treat with the backlog of cases:
 - the establishment of a Public Defender’s Department, separate from the LAAA, which can take care of civil briefs and give advice;
 - the categorization of the offence of murder into first, second and third degree with second and third degree being ‘bailable’;
 - the establishment, by legislation, of a simple plea bargaining process;
 - the rehabilitation of prisons;

- allowing prisoners the right to vote thereby encouraging the Government to increase funding for the prison system;
 - abolish preliminary inquiries; and
 - hiring more judges.
- b. The Chairman indicated there is a system similar to plea bargaining called Maximum Sentence Indicator whereby the parties agree on a set of facts and a joint document is prepared and placed before the judge who will then give an indication of the range of sentencing based on these facts.
- c. The DPP stated that a significant amount of time is spent transporting remand prisoners to and from courts and this could be dealt with by implementing video conferencing.
- d. He suggested that a Remand Court can be established in close proximity of the prison. This would be cost effective and would act as a safety measure for prosecutors as they do not have to travel long distances to attend court.

(xii) Mechanisms to monitor the legal aid service provided

- a. The LAAA stated that when an Attorney is appointed to a matter he has full responsibility for the conduct of the trial and would only interact with the LAAA to indicate the outcome of the matter.
- b. The LAAA occasionally requests status reports from Attorneys providing legal aid. The requests for these reports are sometimes generated from the complaints of persons being represented by the Attorney or from a judge or Magistrate as sometimes correspondence is sent by a judge regarding the conduct of an Attorney.
- c. There are instances where Attorneys who are assigned to provide legal aid have returned briefs in favour of private clients. When a brief is returned, the LAAA attempts to include the accused person and judicial officers in the reassignment of the brief.

(xiii) Assigning persons receiving subsidized education from the State to the LAAA or Office of the DPP

The LAAA agreed with the suggestion that persons pursuing legal education that received scholarships or subsidized education from the State should be obligated to work for 2 years at the LAAA or the Office of the DPP.

(xiv) Full disclosure in order to implement the plea bargaining system

The LAAA stated that under common law there is full disclosure in Trinidad and Tobago.

(xv) System for discounted sentence

The LAAA stated that there is a system in place for discounted sentences but they do not encourage individuals to confess to the Police Service. In response, the Chairman suggested that the process for confessing may be safer when systems are in place for audio and video recordings of confessions.

(xvi) Filtering of requests for legal aid for civil matters

All requests for legal aid are screened by a Legal Officer. There are some instances where cases may be approved for legal aid and subsequently be deemed as frivolous. These instances are allowable bearing in mind that the LAAA provides legal aid when there is an arguable and not necessarily winnable case.

(xvii) Process for obtaining legal aid for criminal matters

- a. There is a Duty Counsel System whereby a Duty Counsel Attorney is assigned to cases involving minors and persons charged with capital offences.
- b. When a minor is detained, the Police Service is mandated to call the Duty Counsel call centre and request a Legal Officer to provide advice to the minor.
- c. The Duty Counsel Attorney is solely responsible for attending the first hearing of the trial. If the person is charged and the matter is ongoing, they can apply for legal aid when they are before a Magistrate or if they are in custody a legal officer will visit and receive the application. The application will go to the respective court and it is the Magistrate's responsibility to determine whether legal aid would be granted. The LAAA can only appoint an Attorney to the accused subject to the Magistrate's approval.
- d. In Assizes Court, it is the responsibility of the presiding judge to give a certificate authorizing legal aid for the accused and it is only then the LAAA can appoint an Attorney to provide legal aid for the person.

(xviii) The ratio of Legal Aid Attorneys to cases

- a. The LAAA was unable to provide the current ratio and indicated that the information would be provided to the Committee in writing.
- b. The LAAA stated cases requiring legal aid are assigned to both Legal Officers of the LAAA and to private Attorneys who requested to be on the panel. The LAAA has 25 Legal Officers and the discretion for the assignment of an Attorney for High Court matters rests solely with the Director/Chairman.
- c. The LAAA indicated that the competence of an Attorney providing legal aid for a murder accused is assessed. Certain Attorneys are assigned to matters in the Court of Appeal because they are superior in these matters. The LAAA does not allow an Attorney with less than 3 years of experience to treat with an assize matter. Attorneys defending an accused in a matter being prosecuted by a prosecutor from the Office of the DPP are required to have a minimum of 7 years of experience.

(xix) Mediation for minor criminal matters

The DPP stated that mediation is available but is an informal arrangements. The Office of the DPP views mediation as a difficult and grey area as the Office attempts to avoid the perception of settling matters. However, consideration is given to public interest factors and there have been instances where the DPP has sought to have interventions that do not include a court of law.

(xx) Increasing the minimum age for criminal responsibility

The DPP recommended that the minimum age for criminal responsibility should be raised to between 10 to 12 years.

(xxi) The status of Judicial Court Centres

The project was initially under the then Ministry of Justice. Prior to the dissolution of the Ministry of Justice, the project was placed on hold by NIPDEC because of a lack of funding. The Ministry of the Attorney General and Legal Affairs was unaware of the status of the project as it is not included in any of the Ministry's accounts or development programmes.

(xxii) Whether the MoAGL is involved in determining Remuneration for State Counsels

- a. Remuneration packages are solely the purview of the Chief Personnel Officer (CPO). When a person is hired on a contractual basis, that person presents a proposal setting out the extent of his/her work experience which is forwarded to the CPO. The CPO would then determine the person's terms and conditions based on his/her proposal.
- b. A number of positions, such as Legal Officer, have been standardized by the CPO and therefore would have consistent terms and conditions across Ministries.
- c. The LAAA stated that its Legal Officers do not have better terms and conditions compared those at the Office of the DPP. There has not been an improvement in terms and conditions since 2012. The terms and conditions of the LAAA is before the CPO. It was further stated that Legal officers of the LAAA have additional duties as they provide advice as well as legal representation.
- d. The DPP stated that Legal Officers of the Office of the DPP, apart from providing legal representation, conducts training sessions for the Police Service, Customs and Excise Division, Commissioner of State Lands, Town and Country Planning Division, Forestry Division. The Office of the DPP also provides legal advice to citizens.
- e. The Chairman stated that the Committee will seek the assistance of the CPO to clarify the rationale for the different terms and conditions for Legal Officers across Ministries.

(xxiii) The prolonging of trials as a result of multiple applications

- a. Mr. Sinanan stated that when trials are prolonged as a result of the unavailability of witnesses, prosecutors are usually blamed and not Police Officers.
- b. Mr. Sinanan indicated it is vital that judges dispense a robust approach to these matters as it ensures a quick, fair and cost effective trial. However, it is often the case that prosecutors state that they have not received papers when they are before the court. He recommended that the Police Service should be liaising in advance with prosecutors to determine what is needed and when it can be supplied to the prosecutor.
- c. Mr. Sinanan recommended that judges should be granted the power to summon Police Officers before the court.

(xxiv) Legal arguments during a trial

- a. A Member indicated that objections in trials used to be succinct however, currently there are multiple legal arguments being raised during a trial with the judge giving multiple rulings in writing. A Member inquired if this occurs in the United Kingdom.
- b. Mr. Sinanan replied in the negative. He stated that in the United Kingdom there is a plea and case management hearing. The plea and management hearing acts as a filter to narrow the issues, simplify what has to be done and it is cost-effective. It is highly unlikely that new issues will be raised during a trial as the Attorney raising the issue will be queried as to why it wasn't raised at the plea and management hearing.
- c. When pleas are made, it is expected that the defense having been served disclosure is prepared to go to trial.
- d. Mr. Sinanan indicated that the 750 additional cases resulting from the London Riots in addition to the existing 200 cases per month posed no problem for the criminal justice system in the United Kingdom as matters are dealt with in a focused manner.
- e. Mr. Sinanan stated that Trinidad and Tobago could achieve the same efficiency as the criminal justice system in the United Kingdom once the resources are provided.

(xxv) Additional disadvantages for accused persons living in rural areas

- a. The DPP stated there was no difficulty in assigning prosecutors to deal with accused persons in rural areas. However, accused persons living in rural areas may have some issues accessing the courts given the distance they may have to travel as well as the traffic situation.
- b. He further submitted that the stipend given to witnesses may be inadequate as sometimes it is not enough to cover the witness' transportation costs. There are instances where a witness attending court will have to forgo job opportunities and as a result of the low stipend they may be unwilling to attend as it is not prudent. He suggested that the value of the stipend be reviewed.
- c. The DPP suggested that the criminal justice system as it relates to accused persons and witnesses needs to be examined.

- d. The LAAA submitted that accused persons from rural areas are at a disadvantage in accessing legal aid from experienced and competent Attorneys as these legal practitioners are reluctant to go to rural areas. A number of Attorneys refuse to go to district courts as they are of the view that they are not being properly compensated. However, these Attorneys are still retained on the LAAA's panel.

(xxvi) The potential impact of decriminalization of marijuana on the Criminal Justice System

- a. The DPP stated that the decriminalization of marijuana can assist with clearing the case backlog. He indicated that a number of persons who used marijuana are not felons but have a drug addiction problem. As such, he indicated that a Drug Treatment Court is capable of dealing with these matters.
- b. A ticketing system can be introduced but a public sensitization programme must be implemented as persons may confuse decriminalization with legalization.
- c. Mr. Sinanan stated that in the United Kingdom, the use of marijuana was downgraded from a grade B to grade C offence. However, the downgrade resulted in an increase in its usage and it had to be upgraded.
- d. He indicated that issues such as quantity, usage and circumstances must be taken into consideration. Warnings can be issued if the person admits to having it in his possession and it is a small amount.

8.4 The Chairman thanked the witnesses for their attendance and indicated that they may submit further information to the Secretary.

Requested information

9.1 The Committee requested that the relevant witness provide the following information in writing:

- i. the number of courts that try indictable matters in Jamaica; and
- ii. the average number of criminal matters/cases assigned to private Attorneys and Attorneys employed directly by the LAAA.

ADJOURNMENT

10.1 The meeting was adjourned at 12: 39 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

April 12, 2016

APPENDIX II

NOTES OF EVIDENCE

**UNREVISED VERBATIM NOTES EXTRACT OF THE THIRD MEETING
OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL
AFFAIRS, HELD IN THE J. HAMILTON MAURICE ROOM (MEZZANINE
FLOOR), TOWER D, INTERNATIONAL WATERFRONT CENTRE, #1A
WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, FEBRUARY 19, 2016
AT 10.30 A.M.**

PRESENT

Ms Sophia Chote SC	Chairman
Mr. Michael Coppin	Member
Mr. Clarence Rambharat	Member
Miss Marlene Mc Donald	Member
Mr. Randall Mitchell	Member
Mr. Wayne Sturge	Member
Mr. Prakash Ramadhar	Member
Mr. Julien Ogilvie	Secretary
Mr. Indar Sieunarine	Assistant Secretary
Ms. Cindy James	Research Assistant

ABSENT

Dr. Lovell Francis	Member [<i>Excused</i>]
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OFFICIAL OF THE OFFICE OF THE INSPECTOR OF PRISONS

Mr. Daniel Khan	Inspector of Prisons
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Madam Chairman: Good morning, ladies and gentlemen, the Joint Select Committee on Finance and Legal Affairs is now reconvening in public and we are being broadcast live on the Parliament channel. So, I would also like to welcome the viewers who are looking at their television sets and following this programme. This is the first public hearing of this Committee, and I think this is the first public hearing for this Eleventh Parliament of the Republic of Trinidad and Tobago.

My name is Sophia Chote, I am a Member of the Senate; I am an Independent Senator, and because of that fact I happen to chair this particular Committee. This is one of those committees which is required to be chaired by an Independent Senator. To my left and right are parliamentarians who will, in a moment, introduce themselves to you, but I ought to introduce you to the Clerk to this Committee, Mr. Julien Ogilvie, who sits to my left, and there is another gentleman who normally sits to his left, Mr. Sieunarine, who is a member of the Secretariat, which is on this Committee. So I will ask members of this Committee, please, and I will begin with Miss Mc Donald, to introduce themselves to you.

[Introduction by Members of the Committee]

Madam Chairman: Now, we have two persons sitting before us today, one is the Inspector of Prisons, Mr. Daniel Khan. Mr. Khan, would you introduce yourself and the lady sitting next to you?

Mr. Khan: I am Daniel Khan, Inspector of Prisons, and to my right is Ms. Rea Mankee-Sookram, Attorney-at-Law, my legal adviser.

Madam Chairman: Yes. I would also like to welcome those members sitting in the public gallery who I understand are students of the Hugh Wooding Law School; is that so Mr. Khan?

Mr. Khan: Yes, Madam Chair. The Committee was kind enough to allow students

of the Law School, and partly the criminal and legal aid, to attend, and I am grateful.

Madam Chairman: Yes. Well, thank you students for attending and showing an interest in parliamentary procedure. Is there anyone here from the Legal Aid and Advisory Authority?

Ms. Arneaud: Yes, Chair.

Madam Chairman: Oh, Ms. Arneaud, of course. I am sorry, I missed you. Do you want to come and sit on the table next to Mr. Khan?

Ms. Arneaud: Chair, I also have with me Joan Eversley-Gill, who is our Head Legal at the Authority, and Ms. Hazel Castro, Legal Officer.

Madam Chairman: Of course, I am sure there are enough seats there.

Ms. Arneaud: I am guided.

Madam Chairman: Now, you probably want to know why I have asked you ladies to come and sit at this table, and it is because the Legal Aid and Advisory Authority is one of the stakeholders in the enquiry in which we are about to embark. So, while the Authority is here only to observe today, that is unless they say otherwise, we would like members of the viewing public to understand that the Legal Aid and Advisory Authority is represented. They answered our call for assistance, and they are here to observe and will probably be making a presentation on another occasion.

Now, I would like us, before we begin, to remind ourselves of the objectives of this enquiry. The Constitution permits, section 66 of the Constitution, in particular, permits parliamentary committees to conduct enquiries into a fairly wide range of matters, but our enquiry, or this enquiry, upon which we have embarked, is fairly a specific one. We have highlighted four things that we would be looking at; one, we want to gain an appreciation of the number of outstanding matters, both indictable and non-indictable, before the criminal courts. We want to understand the the systemic reasons for the backlog of cases in the criminal courts. We want to

understand the efforts being made, and the challenges that exist in alleviating the backlog, and perhaps in our report at the end of the day to make recommendations for the improvement of the system of criminal justice.

Now, I ought to make it clear that we wrote to various persons seeking to obtain information. For example, we wrote to the Commissioner of Prisons—is any representative, apart from the Inspector, from the prison service is here?

Mr. Khan: Madam Chair, I do not believe so, but if the Committee could take note, there are two members for the responsibility for transporting prisoners, who I understand also made written representations, present.

Madam Chairman: Yes. They are from Amalgamated Security Services Limited.

Mr. Khan: Yes, and they are within the audience.

Madam Chairman: Good, thank you. We had also written to the Registrar and Marshal of the Supreme Court, and the Court Executive Administrator of the Supreme Court. Now, these officers are not here and they have provided us with some legal materials for our consideration, and we will address that on another occasion, but we want to move forward with the enquiry, not waste the day. So, we are very grateful to Mr. Khan for his attendance and for placing himself in the hot seat, as it were. Now, is there anybody who would like to start off with questions for Mr. Khan? I take it we all have copies of the written material sent?

Mr. Khan: Madam Chair, if I may, I know I am allowed to make an opening statement and I am wondering if I could probably get the ball rolling in regard to that, and perhaps inveigle some questions after.

Madam Chairman: Sure. I just thought that because you had sent us something in writing that you would have preferred for us to look at that, but of course, go right ahead.

Mr. Khan: Yes. Madam Chair, in Committee, if I may, delays are endemic in our

criminal justice system and generally, currently, the Judiciary is being held accountable for these delays. Public confidence is low, the justice system is very, very backlogged, and often, while I have been Inspector of Prisons for about five years, there are often well-articulated policies seeking to alleviate the backlog and address the problems. There are always many, many recommendations of specialized courts, more judges, more judicial facilities, but the tenacity and the collaboration effort to have the committees—not referring to this Committee of course—to investigate into the criminal justice flow system is often more excitable to have the committees and make reports rather than to implement them. The drive to have the committees does not extend as far to the implementation of the recommendations, and we have, and I speak as a criminal defence attorney, slowly and surely seen the criminal justice system almost grind to a halt with our current sitting Chief Justice, referring to that in his opening speech in 2013.

The effect on prison is that remand prisoners have a different psychology, a different view than inmates, convicted inmates. Convicted inmates have an idea of how long they would be there; remand inmates, when they go to court they have a hope that their matter will start, and a hope that they will be successful or acquitted, and that is when they are transported there. When they are transported back they are transported in despair, and it is the alternating feelings of hope and despair that causes them to be aggravated and depressed, which is a very light term, to put it within prison, the remanded prisoners are more aggressive, more feisty than convicted inmates who are settled there and have access to facilities. And as set out in the letter, under the hand of the Commissioner, it does highlight the practical difficulties, but there is a psychology and mental effect that remand prisoners are suffering, and this is a direct effect of the delay within the justice system. That is my opening statement to understand the heat in the prison.

Madam Chairman: Thank you, Inspector. Mr. Sturge, do you have—

Mr. Sturge: Yes. Madam Chair. Mr. Khan, you are both Inspector of Prisons and a practicing attorney, is that right?

Mr. Khan: Yes, member.

Mr. Sturge: Now, with respect to the remanded prisoners, you can classify remanded prisoners as those who are awaiting trial and cannot access bail because of the law, murder for instance, and the various bail amendments, and the others would be those who are on bail but cannot access bail; can you give us an idea in terms of the ratio between the two?

Mr. Khan: In terms of the ratio between different types of remandees, it would be difficult. If the Committee, in terms of inmate population, it is perhaps—and I am subject to correction—about 60 per cent remandees as opposed to 40 per cent convicted, and that is figures that I had two years ago before the more strict bail laws, but I would be subject to correction, and I would make written clarification of that, if allowed.

Mr. Sturge: Now, I am interested, quite apart from those who cannot access bail, particularly for murder, there are those who are on bail but cannot access bail; you would agree, if measures are put in place, we can reduce, somewhat, the prison population if we assist those persons who are on bail but cannot access bail?

Mr. Khan: Yes. And if I could answer that question in that the Government or legislation is often put to restrict bail, and I always understand that is the idea that it would solve crime. It often and it does infringe your presumption of innocence, and it is a balancing exercise. I am also of the opinion that you ought to put some faith into the judicial officers and believe that they will exercise their discretion in a judicial way. Taking away their discretion to grant bail, absolute, causes problems, further from the idea that there is no bail for murder and there is increasingly many

murder accused. On the other issue of when you are entitled to bail but cannot access it, it really comes to the point where most of those charged with violent criminal offences are often of lower socio-economic means, and they cannot access— they do not have freehold land to access bail, unlike in the United States and other jurisdictions where someone would stand your bail, and I refer to, they would undertake the responsibility of you, bring you to court and financially suffer if they do not. We do not have that system so you have increasingly, inmates accused defendants that are allowed bail but cannot access it, which I hope addresses your question.

Mr. Sturge: Yes, there was—

Madam Chairman: Mr. Sturge, could I just interject and ask a question? Mr. Khan, you said you had prepared a report and you were relying on statistics from two years ago, how often are you required to prepare an Inspector of Prisons report?

Mr. Khan: That would be yearly, please, Madam Chair. I am currently drafting this year's report, which I would have liked to put before the Committee but proper procedure is to submit it to my line Minister first.

Madam Chairman: Yes, indeed. And that would contain all the current statistics?

Mr. Khan: Yes, please. Madam Chair, I was focusing on similar ideas currently. You often have the focus of prison to change from prison conditions then to another issue, and currently the issue is delays, which my report would assist on that issue.

Madam Chairman: Thank you. Yes, Mr. Sturge.

Mr. Sturge: Mr. Khan, you just raised an issue with respect to prisoners who are on bail but cannot access it being in the lowest socio-economic bracket. Do you have any suggestions as to how we deal with such prisoners?—since you raised the issue of they not being seised and possessed of an estate in fee simple or freehold land, owners of land.

Mr. Khan: Well, the first thing is to allow bail where you have a cash alternative, or there is the Electronic Monitoring Bill—I am not sure where that has reached—that would allow to satisfy your bail conditions that could allow that without you being financially set back, or you simply pull back the bail conditions. You pull back the bail laws.

Mr. Sturge: Meaning what?

Mr. Khan: You revoke some of them.

Mr. Sturge: Which ones?

Mr. Khan: The ones for the most minor offences. The ones where the risk of the offender, being the larger society, is less than the risk of him being within the prison system. You are putting more and more people in a volatile situation. You are exposing those who are charged with less serious offences, such as possession of marijuana. There was one inmate highlighted that stole some coconuts and he was a socially displaced person, what we would call a vagrant, and there was no one to take his bail and he was there for upwards of nine months, and he really just, as countrymen do, helped himself to some coconuts, and that really is farcical and shows how strict laws can lead to abuse.

Madam Chairman: Well, could I just ask, he had been in custody for that period of time, what was happening with his case? Do you know? Or does the prison have a record of the speed at which prisoner's matters are dealt with?

Mr. Khan: Madam Chair, they do. That information would be before the warrant section, which comes back with an endorsement from the judicial officer saying, "Remanded in custody"; perhaps a note saying, "File not ready". On that specific example, while extreme, is someone in the county courts that may not have the benefit of legal advisers, and it goes back and forth, but the statistics can help, but it is all the same solution to the same problem.

Madam Chairman: Mr. Ramadhar.

Mr. Ramadhar: Thank you very much, Chair. I am very interested, and actually I want to congratulate your expression in relation to bail. I will tell you now that work had been far advanced in relation to the cash deposit system and I find it troubling that it has not yet been instituted when I demitted office, equally in relation to the electronic monitoring. Equipment had already been procured and you were to have instituted that in the month of September, we are now in February. I am hearing that there is no step to take that far. In relation to bail bond houses, we had also done a tremendous amount of work to the point of actually bringing it into reality. So now we are in the presence of Ministers and this is a very important Committee, so I think it would be important for us now having heard, and your opening statement was very, very important to me when you said that this is a Committee and the implementation of solutions is something that we have faltered on, I want to assure you, knowing the members in Government and the Opposition, and indeed the Chairman, we do not intend to let this be a paper Committee, but that the recommendations are followed through and action taken to fix these things. So having now highlighted those issues, which I tell you, I am surprised that they have not moved forward, and the Minister is present in chair, this is a matter that we need to pursue, because, I would tell you, it was on the point of being delivered that would dramatically improve your circumstances in the prisons.

Madam Chairman: Certainly. Mr. Rambharat, I believe you had a question.

Mr. Rambharat: Just to follow what Mr. Ramadhar has said, and just to put things in focus, Mr. Khan, this Committee is examining criminal case flow management in the judicial system, and my assessment is that the backlog in the flow of the cases in the system creates a problem in the prison; that is the first thing. Secondly, my assessment is that the prison may not be playing the role it should be playing in

rehabilitation for a number of reasons; a complete role it should be playing. And third, my assessment would be that the prison conditions may be contributed to the wider issue of crime and, in particular, repeat offenders. And that is the context I feel we want to talk to you today.

Now I know, because in my life as a columnist I wrote on crime and prisons, in particular, between 1945 and 1980 there were seven reports on prison, and those seven reports contained about 1,000 recommendations. There were three recent reports, which together contained about 100 recommendations, 2002 Taskforce Report, which was 440 pages; your 2012 report, as Inspector of Prisons, 500 pages; and your report in 2012 was the first report by an Inspector of Prisons in 30 years, and in 2012, Selwyn Ryan's report, the report of his committee, 434 pages that contained 15 specific recommendations for prison. So that the context is that this is a long-studied issue. Prison conditions, it is a contributing factor to the crime in the society because every report has identified. There are recommendations that have been made over and over, and over, and I agree with you. Professor Ryan's report was titled, "No Time to Quit", and our report should be in the context of, it is time to act. Thank you.

Mr. Sturge: Mr. Khan, I would actually like to ask some questions of you. From my understanding there is nothing in law which requires freehold property for bail. So in light of the fact you have made mention of persons not having freehold property because they are at the lower end of the socio-economic scale, quite apart from us waiting on the electronic monitoring, and so on, do you believe that there should be a right to own bail for the most minor of summary matters? Or, alternatively, do you believe that decriminalizing certain offences would relax, or ease up, so to speak, the congestion in the prisons?—and without being controversial, I would not want to say, possession of marijuana right away, but you

agree there are persons—we both attended there with Professor Deosaran some time ago, there were about two cells with what we can loosely call “mad men”. So they are there for certain minor offences mainly, but they should not be in prison, that is not the best place for them, you agree that there were persons, over the course of the last few years, who died in prison, and when we found out why they were there it was failure to pay maintenance, and so on, and just this week a prisoner, Wayne Clement, who was remanded sometime for fraud also died. Now, in the context of jail being for the most violent offenders, do you agree, or which do you think would be much more workable in terms of relaxing, or reducing the congestion? Is it that we do away with many of the summary offences, like obscene language, resisting arrest, and so on?—the more popular ones that come up every Monday morning in court and flood the courts. Or, should there be some other alternative outside of the electronic monitoring, which we seem to be waiting on for a while?

Mr. Khan: Member, I agree with most of what you said, probably not of how you put it—

Mr. Sturge: Okay, I am a bit direct.

Mr. Khan:—the “mad men”, being someone suffering from mental health issues, we would not want to refer to them as that. The lesser serious offences, I generally am someone that does not believe in absolutes or mandatory provisions, which do not show the faith in Judiciary. So it is unlikely that someone charged with an obscene language, or the minor offences will abscond, and it is more a burden on the system to deny him bail than allow him bail and he absconds. If one would say 10 out of, or five out of 100 people charged with minor offences absconded, and the procedures to get them before the court is less onerous in keeping them in prison.

11.00 a.m.

Mr. Khan: Your two suggestions, the freehold issue—yes, by law you do not need it, and what I think ought to be done is the Judiciary gives guidance to judicial officers on how to grant bail. So the discretion is there, but you have some guidance. The Judiciary has, to much praise, given guidance on sentencing, which has gone a long way to have a lack of discretion. You have some guidance and also other things, so guiding the judicial officers on bail would assist. I am not sure if I have answered your question though, member.

Mr. Sturge: Yes you have, but what I want to know is, do you agree that some of—you must agree that on Monday mornings in particular you would see so many persons coming before the courts for simple possession of marijuana, and they may be repeat offenders because they are habitual users. On Monday mornings the courts are filled with persons coming before the courts with obscene language, and once you use obscene language it is resisting arrest, obstruction and everything else on the statute books. Do you not agree that perhaps we can get some system where these persons do not need to appear before a court, perhaps a caution at the police station, written cautions or warnings, and if you rack up three or four, only then you come before the court? Would you not agree that these are better options as opposed to the existing predicament with accessing bail?

Mr. Khan: To your leading question I would answer yes. It is in the United Kingdom where you can give warnings for lesser offences, and I would take your word for it that that happens on a Monday morning. I have not attended the Magistrates' Court for about two years.

Madam Chairman: Mr. Sturge, Mr. Rambharat has a question.

Mr. Sturge: I am sorry.

Mr. Rambharat: Mr. Khan, going back to your report from 2012 and the work you have done since then. What are your views on the impact? I have a feeling, based

on my interaction with constituents of Mayaro, some of whom are under your care, that meaningful access to justice in the form of legal aid presents a problem, particularly in rural communities, and a contributory factor to the backlog in the criminal justice system is access to legal aid, or access on a timely basis, access on a consistent basis. So I would like to hear your views based on your report, whether this issue of access to legal aid is a contributory factor in the backlog.

Mr. Khan: Yes, member and Madam Chair, I will answer that question not really so much as the Inspector of Prisons, but more so as a member of the legal aid panel, forgive me for saying the son of the D/C and familiar with the Legal Aid difficulties. Legal Aid did submit a submission, February 12, 2016, which did acknowledge the concern of the member, in that, there are several what I call “rural courts” and they are not as staffed as the main courts, and it does present difficulties. I would have to agree—

Mr. Rambharat: I want you to answer as Inspector of Prisons. In other words, within the prison system is there an issue of access to legal aid? In other words, for the prisoners and the persons on Remand Yard, is access to legal aid contributing to their ability to put forward their cases in the court? Is it contributing to a backlog?

Mr. Khan: Yes. The difficulty is with the median to get the information to legal aid, if it were—and I am subject to correction—that there is an attorney based or there is an open communication: this person has come from this, this is the charge, that they wish legal aid, and in a timely manner—I am not saying it is not made timely—to communicate on a point for those rural areas. I am subject to correction whether there is someone, and I use the word loosely, “staffed” from Legal Aid, although I am aware that several Legal Aid officers will attend prison, perhaps once a week to take requests for legal aid appointments.

Madam Chairman: Is this done for the prison in Tobago as well?

Mr. Khan: I understand yes.

Miss Mc Donald: Madam Chair, question through you to Mr. Khan. My colleague, Mr. Rambharat, made reference to Mayaro, but it is not only Mayaro. I want to tell you about the constituency I am from, Port of Spain South and surrounding environs. There are many horror stories I would have heard with respect to persons attempting to access legal aid.

For my own personal edification this morning, what is the problem or what do you see as those obstacles in legal aid which would prevent access by those persons at Remand Yard who would like to access your services? What are the problems? I would like to leave here this morning with a sense of satisfaction, that I understand your problems, because when I understand your problem, I will take it to the relevant Minister. As you said before, or I think MP Prakash Ramadhar said, this Committee is a Committee of implementation. So I would like to hear from you, give me a sense of comfort this morning.

Mr. Khan: In regard to the prison and access to the constitutional right to an attorney, what ought to take place—and I understand it was to be put in place—is that you are allowed to make a telephone call to communicate with your attorney, probably under supervision, and where you could check the number is what you are saying it is. Member, if I could answer twofold. You have an attorney but to communicate with him may be difficult, because of the lack of staffing and visits, an attorney would spend an entire day to see a prisoner. Often a popular attorney may have many clients, to sacrifice one day to see a Legal Aid attorney—no disrespect to Legal Aid and their funds—is very onerous financially on you. So to allow a telephone call to communicate, one, with your attorney, yes, and I could say the Legal Aid also is understaffed. There are so many applicants for attorneys that in-house—which was the recommendation in the Director’s February 12 of this

year's letter, is to have more in-house attorneys, and perhaps raise the fees for the outhouse attorneys—if I could use that phrase.

Madam Chairman: Mr. Khan, is there any branch of the prison that perhaps could assist with this communication? Can the Prison Welfare Branch, for example, facilitate prisoners in custody to communicate with their attorneys?

Mr. Khan: Yes, and it does happen where a welfare officer will call an attorney and communicate the concern of the inmate. However, the staffing or the under-resourcing, if you have 1,200 inmates wishing to reach 1,200 attorneys or 300 attorneys, it is a staffing issue. Madam Chair, if I could say, the systems are there, the systems exist, the solutions exist, and the policies exist. How to solve the problem is simply—and forgive me for saying “we”—are we going to invest in what we think would solve at least some of the problems? That is the only thing in question.

Madam Chairman: Which brings me to the next question, that is to say, in your report I am sure that you made certain recommendations in 2012. Can you tell us whether any of those recommendations have been implemented?

Mr. Khan: Madam Chair, I would not be able to answer that question, because I am not really part of the implementation part. If I could say, the 2012 report really dealt with matters of prison conditions, legislative framework. It did not touch the bail and it did not touch delays, which have developed in the last two or three years to be the current focus on the prison system. But I do hope that my 2016 report will touch some of that, and if I may be able to say, as Mr. Sturge said, to decriminalize certain offences, which the learned Chief Justice did say in his opening address in 2013, to ease up bail conditions, to have more noncustodial options, and probably it is to put some pressure on the Director of Public Prosecutions to start accepting some of these lesser offences pleas or requests.

Madam Chairman, may I continue?

Madam Chairman: Certainly.

Mr. Khan: The Chief Justice did say, well look, we cannot try all these matters; we cannot. The last time I saw Ms. Seetahal, we attended a plea bargaining session, and it was the best solution to the indictable offences backlog. It simply cannot have—and my mother would say, “What we just need is some elbow grease”. Everybody just get down and we do the work, we take the pleas, prison prepares the reports, Legal Aid appoints the people, the DPP prepares the files, the Judiciary sentences, and that would address at least the indictable offences backlog. Those to me are the solutions that I would include in the 2016 report.

Madam Chairman: I believe there is in a place now the MSI procedure which was introduced, I think, by a practice direction, by the honourable Chief Justice. I understand that some judges are making use of it.

Mr. Khan: Yes, but it still does not force the hand of the DPP to accept some of these lesser offences: murder to manslaughter, a development away from murder. Mr. Ramadhar is smiling, but he once made an application for bail in a murder case eight years ago. I recall that, and I thought it was quite interesting. I am not saying that is the solution, but you have to give something. You cannot have it all. The Judiciary cannot hold on to this idea that “We are the guardian of justice; we are the saviour of the nation”.

We are not doing—and forgive me for saying “we” all the time—what we ought to do. We are so delayed that what we are asked to do we cannot even do, so we have to pull back a bit and say, “Well, look, we are not here to solve crime. We are not the saviour of the nation.” We have our principles of sentencing, which member Mr. Rambharat did say is rehabilitation, and we are not achieving it. Deterrent simply does not work because detection rates are so low. Retributive or

revenge does not work, because you are taking the revenge 10 years later. Rehabilitative does not work because the prison conditions are poor, and if I may say with regard to delays, member Sturge had said jail. There is a difference between jail and prison. Prison is for convicted people, and prison is well suited for convicted people. The convicted people are doing well. Jail is for remand people. We in the prison system are asked to take care of remandees and we do not have a jail. The responsibility of remandees are the Judiciary, and they have asked us, the prison, to keep these inmates till their cases start and we are suffering the problems of delays. Yes, you could blame the Judiciary and yes, when inmates come up—Madam Chair, forgive me if I am speaking too long. If I may continue?

Madam Chairman: Sure.

Mr. Khan: While prisoners may be loaded up in court and shout and all that for five minutes, and you appease them and you mamaguy them, they still go back to prison and prison where they live is where we work, and they are hostile. They are hopeful for their cases to start, and the remandees are not philosophically our problem; they are not our responsibility. It is the Judiciary's responsibility.

Madam Chairman: We have a question from my Vice Chair.

Mr. Coppin: Good morning, Mr. Khan. You began your presentation basically by speaking about the psychological differences between prisoners and those on remand, and as you just continued it a while ago. The Commissioner of Prisons, he also submitted some comments on the situation, and he identified also those awaiting trial as being the most troublesome or the biggest problem for the prison system. So there seem to be a universal consensus as to the problems created by persons on Remand Yard. One of the reasons he believed for this problem was the inadequacies of the existing regulatory framework, the 1950 revised Ordinance, Ch. 11.

What recommendations, if any, would you make? Because he says it is veritably silent on the treatment of remanded inmates. What type of recommendations would you make with regard to the amendment of this regulatory framework?

Mr. Khan: The 1943 rules are advanced thinking in rehabilitation, but as you correctly said, Vice Chair, its focus was on inmates. In South Africa there is a specific separation between jail under the head of a completely different, if I can call it “supervisor”, than from prison. They are financed differently. I do not believe they were at one point under different Ministries. There was a 2005 South African paper to recommend the separation and then a 2012 or 2013 paper to highlight how the separation has occurred.

So I hope that answers your questions. You have to philosophically separate the remandees and how we treat them. Former Chief Justice Sharma in 2003 talked about the cruel and unusual punishment to those who are presumed innocent, separate and apart from those who are convicted.

Mr. Coppin: Following on that, has any scientific study been conducted? You said earlier that you found them to be more depressed and more aggressive. Is there any concrete statistic maybe in your annual reports which you could point to, which could perhaps commence the philosophical understanding of the differences between these individuals?

Mr. Khan: None that I know of, but I am sure with the World Wide Web it could be sourced.

Mr. Coppin: As it relates to Trinidad?

Mr. Khan: No, none that I came across. But often when people like the Commissioner or those within the system who have about 30 years, day in and day out experience, you talk about evidence-based observations. Although one cannot

do the survey in terms of what the psychological deficiency you are suffering from, it simply goes: you go to this prison that has a remand and you see a lot of people shouting. You go to MSP, you see some people playing football and everybody is cool, and they are convicted. But I agree that they ought to have some firm written confirmation of this.

Madam Chairman: Could I just ask you: Do your responsibilities include YTC?

Mr. Khan: No, I sit on the board of management of YTC and I report to the Commissioner who has control of YTC, but no I am not in charge of YTC. I sit as the Chairman of the board of management and we make recommendations to the Commissioner, who would then make recommendations to the line Minister.

Madam Chairman: Could you just give us some statistics? I know earlier you said about 60 per cent of the persons in our prisons are persons on remand. Could you tell us what figure that 60 per cent would be?

Mr. Khan: In terms of lads, Madam Chair, in terms of YTC?

Madam Chairman: No in terms of adults in prisons, on remand.

Mr. Sturge: Remand population.

Mr. Khan: The 60 per cent, I did not include YTC. I always separate that. In my opinion, last time, there are generally between 95 and 110 lads, as we refer to them from the English system, within YTC. Obviously that has changed because of the Children Act, but they generally do not cross 150.

Madam Chairman: What about adults? How many adults are there on remand?

Mr. Khan: The inmate population overall tends to be around 4,000, up or down a bit. Madam Chair, if I defer that question, because I do not want to misinterpret or misinform, but more than half tend to be remandees, which is 2,000, please.

Madam Chairman: About 2,000 persons on remand.

Mr. Sturge: On average, 2,000?

Mr. Khan: I would say so, yes, but that would be best within the knowledge of the warrant section.

Mr. Sturge: Mr. Khan, if I may. Following on the question asked by the Vice-Chairman, would you agree that the majority of the prison violence, or the violence in the system, comes from the remand section of the prison.

Mr. Khan: I think that question is best suited for the Commissioner, not that I do not want to answer. But I would say generally, yes, and it turns back to what Vice-Chair said. It is a psychological difference and it is increasingly difficult where there is more so an issue of separation of the inmates.

Mr. Sturge: Because these persons are not proven guilty and presumed innocent, I want to ask several questions on this issue, with respect to murder in particular. Can you tell us, on average, what is the waiting time between charged and committal, between committal and indictment, when you actually get a date to go to court, and between receiving your indictment and first appearing in court, and the final resolution of your matter in the High Court? That is the first thing, if you can tell us.

From my own understanding, correct me if I am wrong, do you not agree that the longest waiting period from first charge to completion would be the time between committal for trial and indictment, that period where the DPP must file an indictment after committal?

Mr. Khan: I would not agree to your last part. If I could answer generally, between charge and filing of indictment, which is your first appearance in High Court—and if I could clarify the terms. You are charged with an indictable offence, there has to be a DPP attorney appointed. You then have your preliminary enquiry. The outcome of the preliminary enquiry will then be a committal to High Court. The notes are then prepared and sent to the DPP who then considers what to indict. Then

the indictment is prepared and filed in High Court, and at that time you are brought to High Court and stand in line and wait your trial.

My experience from my matters, it tends to be at least eight years between charge and indictment. It is difficult to say how long you would take for your trial to start. As controversial as it sounds, one of the themes of my report was section 35, in that, look, if you have not had your case started in 10 years—

Mr. Sturge: Section 34.

Mr. Khan: I have renumbered it. I have added a number.

In section 34 we are not dismissing your matter, if you have not had your matter, if you have not gotten—I have been the Inspector of Prisons for five years, having been appointed in December 2010, and—forgive me, member—if you have not gotten your house in order in 10 years, perhaps you should consider bail. That is not dismissing your matter.

Mr. Sturge: Bail for murder?

Mr. Khan: A discretionary bail in all matters, which would include murder in certain circumstances. The learned D/C of Legal Aid suggests a categorization of murder. I did speak to a judge from a different jurisdiction that says, even indictable offences, all matters, if you do not have your house in order in six months, you are given bail.

In terms of the breakdown, your preliminary enquiry might last two or three years. In then Chief Justice Mc Nichols days it was—Chief Magistrate, I apologize, the chief justice of the Magistrates' Court, [*Laughter*] it was about six to eight months.

Mr. Sturge: Now it is two to three years.

Mr. Khan: Forgive me, Madam Chair, if I have gone beyond my remit. That is because they have changed the remand period from 10 to 28 days, so now you have

12 hearings in one year, as opposed to about 50 hearings. The paper committal procedure has caused more delay than speeding it up.

Mr. Sturge: Agreed.

Mr. Khan: Then you have another three years.

Madam Chairman: Mr. Khan, I just want to stick a pin, as one of my friends keep saying, and ask you this: as Inspector of Prisons is there anything within the prison system which can be changed and have the result of accelerating the process of criminal cases?

Mr. Khan: No.

Madam Chairman: So there is absolutely nothing the prison can do to accelerate the process?

Mr. Khan: Nothing that I have thought of for the last five years.

Miss Mc Donald: Through you, Madam Chair, to Mr. Khan. Mr. Khan, how long have you been Inspector of Prisons?

Mr. Khan: Forgive me, I was appointed in December 2010. I have since been reappointed three times. My current tenure is to end in June of this year.

Miss Mc Donald: Mr. Khan, over the last five years, have you seen any changes in the prison system? Are you aware of any reduction, let us say, in the Remand Yard, how the system was dealt with over the last five years, to reduce the backlog of cases? You are the Inspector of Prisons for five years, tell us what transpired over the five years and how—because we are hearing a lot this morning. We are hearing all the ills this morning, but you have been there for the past five years. What is your input, because you would have seen the system at work? What has happened over the last five years? Has there been any improvement?

Mr. Khan: No, no; we have degraded further and further. When prison hits rock bottom, we start digging to get much lower and it becomes a bottomless pit. The

prison population is a subset of the larger society. Forgive me for saying the larger society seems to be also digging a pit, and the dregs of the pit are being thrown in our pit, and our pit just keeps—

Madam Chairman: I am sorry, I am losing you, Mr. Khan. Perhaps you are speaking too softly or maybe you have other things on your mind. I see both Mr. Rambharat and Mr. Ramadhar have questions.

Mr. Ramadhar: Thank you very much. I find it a bit troubling, Mr. Khan, to suggest that there has been no improvement. You might very well be aware of the infrastructural work that has been engaged for some time now, and I thought today you might have been able to assist this Committee and the nation widely as to improvements on the conditions at Remand Yard and, equally, and I speak now as a former Minister of Justice for a short period of time, of course, in relation to the opening up of the Maximum Security to take away a lot of the pressures of the Remand Yard. Also for the institution, I do not know how far it has gone, for the building of a 1,500 bed institution for pre-detention—well, pre-prison, if you may want to call it that. Are you in any position to help us? To suggest that nothing has happened in the last five years, really is not an accurate statement.

Efforts had been made, whether they had borne fruit at this point in time—and I refer to my earlier statement in relation to some of the legislative changes, and I congratulate you on your efforts too in the contributions to the new prison rules. If you could help us with those, so that we have a clearer picture of the tremendous amount of effort that has been put. Whether it has borne fruit up to this time is another issue, but that the efforts have been made and work I am sure would be in process. Could you help us with that?

Miss Mc Donald: Madam Chair, before Mr. Khan answers. My colleague, MP Ramadhar, I get a feeling as if you want to put words in the mouth of Mr. Khan. Let

me finish. I see Mr. Khan as a very credible person and very competent person and I am sure—Mr. Khan has been there for five years. He has been renewed three times over the last five years by the previous Government and, certainly, I think that he is quite—I listened to him; a very articulate young man. He seems to know exactly what he is talking about. So why do you want to put words? He is speaking the truth. I want to jump to his—

Madam Chairman: Could we just have some order, please. I think it was a straightforward question. Mr. Khan, if you could answer it succinctly.

Mr. Khan: Yes. Contextually I was not saying that nothing has been done. In response to Miss Mc Donald's question, I interpreted the question as, has anything been done to alleviate delay? I hope that in context of what she was saying, I was saying no. In terms of development of the infrastructure, yes, the last administration within the last five years, which is documented by the Commissioner's letter of February 19, about the infrastructure investment, the eastern correctional facility, the investment into the Maximum Security Prison infrastructure allowing for more cells to be used, within that. I did not mean to say nothing has been done. I was referring to nothing has been done or can be done on the prison side to alleviate delays.

11.30 a.m.

Madam Chairman: Yes. Mr. Khan, could you just help me with this? There would be persons in the detention centre who would have matters before the courts. Are you responsible for those persons or which group or authority or body is responsible?

Mr. Khan: That does fall under the Commissioner of Prisons, and a liberal interpretation of my powers would fall under my remit as well. I understand, and if I can expand, that facility is being used to acclimatize inmates when they have six months to run out. That is my understanding at this point. I am not sure whether

that has been changed.

Madam Chairman: That is your understanding based on—?

Mr. Khan: Based on communication with the Commissioner. There have been some shifts in the last year about separation.

Madam Chairman: I see. So you can provide us with information in writing, let us say, perhaps with respect to the population of the detention centre and how many persons are on remand there?

Mr. Khan: Yes. I can and I will.

Madam Chairman: And we will appreciate that. Before, Mr. Ramadhar continues, I believe Mr. Rambharat had a question that he wished to ask.

Mr. Rambharat: Mr. Khan, I have a combination of questions and comments and I make four points now. The first is that I appreciate you drawing the distinction between prison and Remand Yard. I, of course, a full-blooded solicitor, my knowledge of criminal law is purely academic, so I appreciated that difference. I think it is one of the things that I will take with me through this discussion because you drew a very important distinction and you drew an important point. You made an important point on the role of the Judiciary in relation to Remand Yard.

Now, I disagree with you based on my previous question on legal aid and prison. I disagree with you on—I believe, that the prison has a role on this issue of the criminal case flow management. We have to be very careful that this examination is not on prison and prison conditions. This is an examination of criminal case flow management. And I stick to my view that the prison plays an important relationship between the prisoner, the people on Remand Yard, the court, the access to justice and the relationship between those persons and the Judiciary. And based on my previous question I formed the view before that access to justice within the prison is an important part of the case flow management process.

The third point I will make, in deference to my friend Mr. Ramadhar, I do not believe that infrastructure plays an important role in the question before us and the issues are more systemic than infrastructure. And I compare it to saying that the construction of hospitals will not improve health care. The construction of hospitals demonstrates a problem with health care; a systemic issue with health care, and I use the same reference to the prison.

But I will close on this point. And it is really for the benefit of the law students who are here, the law school students. The issue of legal aid has been a vexing one for a long time. Every report from legal aid would have said, you know, we have much less, fewer attorneys than we need. Legal aid was not attractive for attorneys in private practice. But I wondered whether you think—and this is a combination of your experience at the law school and your combination of your experience as criminal attorney and Inspector of Prisons—whether it was time for the Law Association to examine granting a limited right of audience for students at the law school, perhaps in their second year, to represent criminal defendants under the supervision of a more experienced attorney, in particular in rural courts?

Now, I know the law allows people to be represented by a friend, but I thought that maybe it is a way in which we can supplement what is available through legal aid. I know the law school has its own legal aid and maybe we should try to carve out a role for these students because we recognize that in our system law students go through five years of training to get a full right of audience and in other jurisdictions that happens after two years, in some cases three years. And in the law schools now we have a student body that includes some far more experienced people than we would have had when I was in law school decades ago. So I just want you to consider that, and I am just sticking to that point of access to justice and the relationship between that and criminal case flow management.

Madam Chairman: Yes. I know that we are all looking at the clock, but there are just a few things that I was hoping we could round off with. And Mr. Rambharat's suggestion sounds interesting, but I would imagine there are serious ethical considerations which would flow from the implementation of that kind of programme, and if the Law Association is asked to make a contribution perhaps they can express their view on that.

In terms of identifying persons who may be moved out of the remand section of the prison and have their matters dealt with more expeditiously, let us say in terms of identifying a group. Is there any process by which, let us say, persons who have mental health issues and who are on remand, can they be identified by the prison authorities and managed, in a sense, to ensure that they are evaluated so that their psychiatric reports are brought before the courts? The court know that you are dealing with a mentally ill person and thereby the courts might give priority to such cases. Is there any possibility that something like that can occur?

Mr. Khan: Madam Chair, yes. They do. They can and they do identify those with mental health issues. As a matter of resources there are, I believe, two psychologists and one psychiatrist that service the prison which would include 4,000 inmates and the prison officers as well that do have mental health issues at times. I do not mean to be—that—in that environment.

Madam Chairman: Yes.

Mr. Khan: To carry out evaluations may be difficult because also the forensic psychologists and psychiatrists in Trinidad are limited.

In my first prison report there was an opinion of Dr. Ghany that said the mental illness within the prison is substantially higher than out in the wider population. And he did say the wider population in Trinidad generally does have a higher percentage than other jurisdictions. But we can and we do identify those; to treat them would

be another issue.

Madam Chairman: I see.

Mr. Sturge: Madam Chair, through you.

Madam Chairman: Yes.

Mr. Sturge: Mr. Khan, can you—you are a practising attorney. It is obvious that the delays have gotten much worse than it was 10, 15 years ago. Now, you know that there are only six courtrooms in the Port of Spain Assizes and four in San Fernando. So that there are—and only one matter can be heard in one court at a time. Do you agree that trials take much longer from start to finish when the accused is actually arraigned up to the time of the verdict? Do you agree that trials take much longer now than they did years ago? And if you do agree, can you give us some indication as to why?

Mr. Khan: Yes. To have a trial going on for two years is unacceptable.

Mr. Sturge: That is not the question, but—

Mr. Khan: Trials take longer because criminal principles have expanded to perhaps, 10 legal issues that arise in a trial to about 30 issues. There are more applications in court for legal issues. There are cross examiners, defence counsel, that are not reined in by the judge, engaged in protracted cross-examination; there are unnecessary adjournments to prepare written submissions; there is a decision by trial judges to prepare written judgments or rulings when they ought to exercise their discretion and give an oral ruling. There is not case management or in the civil jurisdiction where you front load the matter. Meaning all the work you do is before the matter starts; you agree to what witnesses; you do not have to cross-examine every witness. Those are my suggestions.

Madam Chairman: Yes. My Vice-Chair has a quick question before we round up.

Mr. Coppin: Returning to the question of the conditions—of the mental conditions

of the remanded inmates. There is a view that some sort of parallel incentive for good conduct for them is something that would perhaps help with the despair that they face because currently there is no such incentive for those persons who behave well to be taken into account perhaps when they are actually sentenced. Is this something that you agree with and are there any other suggestions along those lines?

Mr. Khan: Yes. In terms of convicted inmates, there is currently what is called a third discount of your sentence. It is for good behaviour, to encourage good behaviour. Because of accounting proceedings or management, you are often given that discount as of right, and it is withdrawn from you when you behave badly, as opposed to you having an incentive not to behave badly as opposed to that incentive to behave well. And there is or ought to be put in place a parole board, an encouraging reward to prisoners for their good behaviour, holding out the reward of an earlier release.

Madam Chairman: Yes. But if—Mr. Ramadhar.

Mr. Ramadhar: Thank you very much. Now could you very briefly tell us, in terms of the improvement of communication for the use of telephones, legitimate use of telephones under controlled circumstances by inmates to family, friends and even lawyers?

Two, what is the status of the videoconferencing infrastructural development for which, of course, will unburden the courts to actually deal with cases. And then you said something most troubling—the expansion of the remand period from 10 to 28 days was intended to prevent the unnecessary transport of prisoners to and from when their cases could not go forward. I am hearing now that is used as a mandatory period as distinct from a maximum period when cases could be adjourned for anytime within a 28-day period.

Mr. Khan: Yes. With regard to the first, there were tenders to install telephones

within every hallway, within every section of the prison which is manned by one prison officer and therefore, to facilitate that. There was, under the previous Minister of Justice when there was a Ministry of Justice, a system to jam all the illegitimate phone calls and therefore, siphon it only to legitimate phone calls.

In response to your 28 days, it was passed, but with the idea that at the beginning of the case nothing would start so you would take the 28 days longer to alleviate the transport. However, when a matter started it ought to go from day-to-day which the Chief Justice—the Magistrates’ Court ought to do. They used to force your hand—that is Mc Nichols—to force your hand to go on the matter from day to day to day to day, but it is being used 28 days, 28 days, 28 days and that is causing delay. The 10 days—it was to alleviate the concern and it is not being exercised in that manner. It is causing delays.

Madam Chairman: We have a question from Mr. Mitchell.

Mr. Ramadhar: Your conferencing facilities.

Mr. Khan: Oh. I apologize. The videoconferencing was set up in a pilot project. I know it was run—the current Chief Magistrate, I believe, I am subject to correction, had a pilot run and those kinds of things about implementation. I cannot say at what stage that is and whether the pilot project was successful. But that is a very important and useful way to assist the prison system and the Judiciary.

Madam Chairman: Sure. Mr. Mitchell.

Mr. Mitchell: Yeah. Notwithstanding the infrastructural improvements, the planned infrastructural improvements, can you give us an indication as to what improvements to the system of managing the consequences of delays in terms of the violence, the gang problems, that sort of thing?

Mr. Khan: The present Commissioner is doing everything he can with the issue of separation and segregation. Because you have an influx of higher profile accused

and—that are there for longer periods. And it is extremely difficult, one, when they come into prison to ascertain their loyalty to what other inmates. I am saying that loosely and I hope the Committee understands. To separate them, not to put them in the same cell and it is becoming increasingly difficult.

What I was trying to say about digging the hole is that as the society as a large gets more violent, you are taking the worst violent, the most violent people and putting them in the prison and prison is getting more hostile, more heated and the segregation is an issue, but there are many, many efforts. As Madam Chair alluded to, the eastern correction facility is being used to put some here, MSP here, just to move them around, but it is difficult to know what an accused person's affiliation is. And you have accused persons or defendants charged with minor matters that are being commingled with those charged with more serious offences which is against the prison rules because that would increase their exposure to criminality. I hope that addresses your concern.

Mr. Mitchell: One other question. Is there an information-based management system at the prison or is it just done by paper records?

Mr. Khan: I believe it is being digitized. The warrant section is a large body of statistics that could, I believe, inform this Committee as best to the figures. When you come in you have your—what offence you are charged with, what area, your remand. You would have your date of committal or your date of entry into, your date of indictment, and it does go along to help the statistics. But no matter what the statistics show, it is that the delays are unacceptable.

Madam Chairman: Okay. I believe that these are the questions which the Committee has for you, Mr. Khan. Thank you very much for attending. Thanks to the legal aid officials who are here and we are hoping that we would be able to ask you some questions on the next occasion which is due to be March 18, if that is

convenient to you? If it is not convenient, then perhaps we can schedule another session, but please feel free to communicate with Mr. Ogilvie to let him know what best suits you. So, Mr. Khan, thank you. You have been very helpful.

Mr. Khan: Much obliged.

Madam Chairman: And the meeting is now adjourned.

11.48 a.m.: *Meeting adjourned.*

UNREVISED VERBATIM NOTES EXTRACT OF THE FOURTH MEETING OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS, IN THE ARNOLD THOMASOS ROOM (EAST), SIXTH FLOOR AND THE J. HAMILTON MAURICE ROOM (MEZZANINE FLOOR), TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, MARCH 18, 2016 AT 9.50 A.M.

PRESENT

Ms Sophia Chote SC	Chairman
Mr. Michael Coppin	Member
Mr. Clarence Rambharat	Member
Mr. Randall Mitchell	Member
Mr. Wayne Sturge	Member
Mr. Julien Ogilvie	Secretary
Mr. Indar Sieunarine	Assistant Secretary
Ms. Cindy James	Research Assistant

ABSENT

Miss Marlene Mc Donald	Member
Dr. Lovell Francis	Member [<i>Excused</i>]
Mr. Prakash Ramadhar	Member [<i>Excused</i>]

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

Ms. Ingrid Seerattan	Permanent Secretary
Ms. Lydia Jacobs	Permanent Secretary
Mr. Nicholas Suban	Senior Project Manager

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Mr. Roger Gaspard SC	Director of Public Prosecutions
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LEGAL AID AND ADVISORY AUTHORITY

Mr. Israel B. Khan SC	Director/Chairman
Ms. Nancy A. Arneaud	Secretary
Mr. Richard Ragoobarsingh	Assistant Secretary
Ms. Joan Eversley-Gill	Head Legal

STAKEHOLDER

Mr. Travers Sinanan	Barrister and Attorney-at-Law
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Madam Chairman: Good morning all. I want to welcome you to the second public hearing of the Joint Select Committee on Finance and Legal Affairs. I also would like to welcome those viewing on the Parliament Channel, listening on the Parliament radio, or looking at the Parliament's YouTube channel. I would like those of us not actually in the room to recognize that you all can send comments to us via email at parl101@ttparliament.org, or you can go to our Facebook page where you can tweet us a comment at [ttparliament](https://www.facebook.com/ttparliament). I also want to welcome officials of the Ministry of the Attorney General and Legal Affairs; the DPP; the Director of Legal Aid; Mr. Travers Sinanan; and other officials from legal aid and other bodies.

For the purposes of the viewing audience, I am going to introduce myself and ask other persons at this table to introduce themselves before we proceed. My name is Sofia Chote and I am the Chairperson of the Committee which is holding this enquiry. I am a Member of the Senate of the Parliament of Trinidad and Tobago.

[Members of the Committee introduce themselves]

Madam Chairman: Now, Mr. Coppin is my Vice-Chairman, so, in effect if I am not here he is the Chairman, so he is not entirely incorrect.

Before we begin, I want to reread the enquiry objectives, because I want that there should be no mistake or misconception about the ambit of what we are considering. We have four objectives:

1. To gain an appreciation of the number of outstanding matters, indictable and non-indictable, before the criminal courts.
2. To understand the systemic reasons for the backlog of cases in the criminal courts.
3. To understand the efforts being made and the challenges that exist in alleviating the backlog.
4. To make recommendations for the improvement of the system of criminal justice both in the short-term and long-term.

Now, how I propose to go through this morning session is to have opening statements from those persons who are here and then perhaps we can have questions from members of the Committee. But, what perhaps would make this whole process a little easier to follow, is if we all introduce ourselves. So, I am going to ask members at the table of contributors, if we may start from this end, perhaps with Mr. Sinanan.

[Officials introduce themselves]

10.25 a.m.

Madam Chairman: This Committee is pleased to welcome a star-studded bench for this morning session. I know that there are law students and officials sitting at the back, so we welcome you and we look forward to your continued interest in this Committee's work.

Mr. Gaspard, I was wondering whether I can invite you to start off with your comments.

Mr. Gaspard SC: Madam Chairperson, before I embark on any comments in relation to this morning's exercise, might I hasten to apologize for the late submission of my responses in relation to the questions that would have been forwarded to me via the Permanent Secretary on behalf of this body.

I am merely enquiring now whether or not members of the Committee are in receipt of any documents or responses from the DPP's office.

Madam Chairman: No. We have not received those submissions, Mr. Gaspard SC.

Mr. Gaspard SC: I see.

Madam Chairman: Can you assist as to when they were sent?

Mr. Gaspard SC: It would have been sent sometime yesterday afternoon.

Madam Chairman: I see. Okay. Well, perhaps because of the time of the afternoon that it may have been sent, it has not yet reached us, but perhaps I can make an enquiry to see if we can have copies brought. Would you want to highlight some of the issues you had dealt with in that document?

Mr. Gaspard SC: Yes. Well first of all, Madam Chairperson, I did receive a copy of the Committee's list of questions which we would have attracted the responses that I would have submitted only yesterday. And if I might direct the Committee to three questions in particular which appeared to pertain specifically to the Office of the Director of Public Prosecutions. The letter in question is dated January 27, 2016 and the three questions are, first of all, what measures are being taken to build the capacity of the Office of the Director of Public Prosecutions and to ensure that it is sufficiently resourced? That was the first question that I thought directly attracted a response.

The second one was, what is the ratio of attorneys to criminal cases in the Office of the Director of Public Prosecutions by area or region? What is the international average and how does it compare to Caribbean countries? And the third question, is there sufficient number of attorneys practising criminal law in Trinidad and Tobago to ensure meaningful access to justice? I think that would attract the attention of, not only persons in the DPP's office, but perhaps legal aid and the entire criminal justice system.

In relation to the first question, what measures are being taken to build capacity of the Office of the Director of Public Prosecutions and to ensure that it is sufficiently resourced? Since January 12, 2012, I had established a steering committee which is chaired by the Deputy Director of Public Prosecutions, Joan Honore-Paul. And the remit of that committee was to assess the needs of the office and to report to me on the capacity on sufficiency of resources at the department.

The charge of that committee involved an assessment of our staffing needs, case management needs and our needs as far as they pertain to accommodation. In respect of staffing, representation had been made or has been made to the Attorney General's Office and to the Attorney General to expand our staff complement to about 100 to 137 legal posts on the establishment and 100 non-legal or support posts. By Cabinet Minute No. 1450 of May 23, 2013, and approved on May 29, 2013, the new organizational structure as proposed was approved by the Cabinet. Having regard to our limited accommodation and with a view to absorbing contract staff first, the department advised that we would recruit on a phased basis. Obviously we did not want to seek to recruit persons without having the capacity to house them and at the time and at present we do not have the capacity to absorb the full complement of staff, hence the reason why we suggested that we recruit on a phased basis.

We therefore advised the Human Resource Department on a number of persons, falling short of the full complement, would be required to fill the posts of State Counsels, I, II and III. A number of persons filling the posts of State Counsels II and III were therefore appointed, thus allowing mid-level contract staff to be taken on onto the establishment. It is to be noted, Madam Chairperson, that Cabinet approved a staff complement of 46 attorneys for the post of State Counsel II, 10 of which are currently occupied. Approval was also granted for a staff complement of 25 State Counsel III positions, 14 of which are currently occupied. We continue to await the interviews for the positions of State Counsel I since we have a number of persons who are working on contract for three years who can fill these posts if selected by the Judicial and Legal Service Commission.

Cabinet has also approved a staff complement of 33 attorneys for the position of State Counsel I, currently none of these positions are filled. It was agreed in a meeting with the Director of Personnel Administration since July 7, 2014 that after the positions of State Counsels I, II and III were filled a request would be made for senior posts to be filled. However, upon completion of the interviews in 2014 for the posts of State Counsels II and III, our enquiries have revealed that no further interviews have been held.

In the case of case management, after several meetings with the IT and Facilities Management department of the Attorney General's office, it was decided that we would seek to have recruited a software company, namely, Digital Business limited to create a case management system suited to our peculiar needs. The case management system was to facilitate the eventual move to a paperless system which is the ideal. The system was designed to accommodate the setting up of units in the Director of Public Prosecutions—specialized unit I should say. And these units include a homicide unit, a financial crimes unit and a narcotics unit. It is envisaged

that after the intake of files into the system the files would be allocated to each unit head and thereafter assigned and tracked through every stage to completion, thus, allowing communication between unit heads and the assigned attorneys.

The case management system is also designed to house authority's cases and documents relating to each file. The system also provides reminders regarding legal requirements, timelines and outstanding task leads as they relate to each file. The system is therefore expected to create an improvement in our level of efficiency. Suffice it to say, that the system has had a number of trial runs and there are certain kinks that are currently being worked out.

With respect to accommodation, the steering committee, on the understanding that an increase in staff would require a concomitant increase in accommodation, recommended that our spatial requirements in Port of Spain and San Fernando be increased. It has also recommended that an office be set up in Tobago since, and the unsatisfactory conditions existing in the San Fernando office has also fuelled a burning need for better accommodation. These recommendations would have been advanced and championed with the Attorney General for the better part of the last, perhaps two years. After viewing a large—several locations I agreed to an office location in Gulf City, Tobago after being invited to view same by the then Attorney General. Currently, NIPDEC is in the tender phase of the project in order to acquire a suitable contractor to outfit the Tobago office in accordance with the approved designs.

Further, we have selected a Gulf City location for the San Fernando office since it had proven particularly problematic to get an office within close proximity of the court which would meet our needs. At the instance of the then Attorney General I viewed office space at the Gulf City location and I made a recommendation in favour of that space. We have been advised by the Facilities Management

department that the Property and Real Estate Services Division is yet to organize a valuation so that negotiation may begin with regard to the rental price. We are considering a location also at the Corner of Park and Henry Streets, Port of Spain. It is expected that we will make a final decision as to whether or not—or whether and to what extent, I should say, that building will be suited to our needs by the end of next week. That is the building that currently houses the RBC Bank.

There were some additional concerns as well. The DPP's office has been faced with a perennial problem of chronic haemorrhaging of experienced staff and, I dare say, inexperienced staff from the department. Other Ministries which offer more attractive remuneration packages have been the beneficiaries of these departures. The main reason for exiting the department has been the glaring disparity between pay packages of those Ministries and that of the Office of the DPP. This has also led to growing discontent among attorneys at the department. Junior staff have left for Legal Aid and Advisory Authority and the Ministry of Justice while staff with five years' experience and more have left for the Magistracy and senior legal posts at other Ministries.

Fourteen attorneys have effectively resigned over the last three years to join the Legal Aid and Advisory Authority or work privately for more attractive packages. Attorneys who have departed within the last five years have stated unambiguously that their remuneration while at the DPP's office was one of the principal reasons for their decision to leave. As a result of this haemorrhaging, several vacancies have arisen at senior levels within the department. Currently there are two vacant posts for Deputy Director of Public Prosecutions, four posts—and I should say that would be two out of three. Four posts out of the 6 posts which makes up the complement for Assistant Director of Public Prosecutions are currently vacant. And in respect of the posts of Senior State Counsel, 14 of those posts are

currently vacant. The department has also been unable to attract experienced staff at the more senior level on account of what, in my view, is an unattractive remuneration package for persons who can boast of over five years of experience.

Prosecutors, perhaps unlike any other officer in any other state department, face clear and present danger in the conduct of their duties. They are viewed as being, at least in part, responsible of a person brought before the courts and being sentenced to terms of imprisonment. They are objects of disaffection and there have been incidents in which prosecutors have been vilified and threatened by accused persons and their families and supporters in and out of court. Prosecutors have had to make reports to the police and to be escorted to and from court under armed police guard. The exposure to risk includes travelling all over the country and keeping late hours. The risk also extend to their children, spouses and other family members, and to protect them, prosecutors have had to expend large sums of money for security measures especially in light of the brazen acts of violence which are common place in our society.

One reason why competent persons shy away from prosecution is because of the exposure to these risks. Interestingly, and instructively job descriptions for all state counsels seem to contemplate and recognize this risk by including what is termed “safety precautions”, the words “safety precautions”, may be necessary. With the prevalent use of cellphones even by prisoners, prosecutors have been subjected to threatening text messages and calls from accused persons and their assigns during the day and night. Owing to the increase in the violent nature of prisoners, prosecutors have had the terrifying experience of having missiles thrown at them, as are magistrates, and on at least two occasions, prosecutors have also had to brave the exchange of bullets when accused persons saw it fit to carry out their intentions in very close proximity to court compounds.

It is a matter of public record that Ms. Dana Seetahal, SC, was violently assassinated while driving her vehicle in the vicinity of Woodbrook, Port of Spain. She was a prosecutor with an insurmountable wealth of experience and it was not uncommon for her to lend her services to the DPP's office. At the time of her death, Ms. Seetahal was heavily involved in a number of high profile matters which would have engaged the attention of the department and I dare say, this untimely demise would have also contributed to persons seemingly shying away from seeking to enter the DPP's office even on a contractual basis.

Because of these risks, I would have had discussions with at least one Attorney General with a view to exploring the prospect of a risk allowance being advanced for members of the DPP's office. I also canvassed this prospect before the Salaries Review Commission for their consideration. The Ninety-Eight Report of the Salaries Review Commission of the Republic of Trinidad and Tobago dated November, 2013 however, highlighted that they were unable to recommend the introduction of any new allowances at that time. The Commission further indicated in the said report that security arrangements were not considered to be a term and condition of employment of office holders and recommended that the matter be dealt with administratively, whatever that means.

In 2010, legislation was introduced to protect the interest of witnesses who are in fear of exposure to risk to their family and themselves. Provisions were made whereby the statement of a witness in fear can now be read to the court without having the witness himself present for the trial. Despite this, the concerns of the high exposure to risk of members of the DPP's department seem to go unacknowledged. The Salaries Review Commission highlighted in the said Ninety-Eight Report in 2013, that the payment of all extra allowances should have been considered in an upcoming job evaluation exercise and compensation survey. To

date, the said evaluation and compensation survey, I understand, is yet to be completed.

With respect to that issue I alluded to earlier, just by way of some amplification, the issue of the retention of experienced staff, the department as I intimated earlier continues to suffer from the hemorrhaging of State Counsel, most painfully those at middle to senior level. Bearing in mind, the average complement of staff for the department ranges from 30 to 50 prosecutors. The following statistic serve to further accentuate the hiring reality which confronts the department. Between 2000 and 2003, there were eight resignations from the department, six of those concerned persons who are between four to seven years' service. Between 2004 to 2006, there were 10 resignations from the department, seven of those concerned persons who had four to 10 years' service. Between 2007 and 2010, there were 22 resignations from the office, eight of those concerned persons who had seven to 20 years' service. Between 2011 to 2012, there were five resignations. Between 2013 to 2014, there were 13 resignations, and this involves four persons who had between five to 13 years' service and six of whom would have had about three years' service. Between 2015 and 2016, there have been five resignations, two of those persons were persons who had over eight years' service and two of whom had about three years' service.

If we look perhaps more microscopically at the staff complement at the DPP's office, the approved staff complement and approved as per Cabinet, as far as legal staff is concerned, concern a total number of prosecutors of 130. The positions currently filled, 49. The number of vacancies, 99. If we look at the prosecutors assigned to the Magistrates' Court from the south office and from the north office, the north office serve the courts, I should say, North of Couva and the south office serve courts South of Couva. Attorneys from both the north office and the south

office would also prosecute in Tobago.

There are 14 prosecutors currently assigned to the Magistrates' Court who operate out of the north office. The number of prosecutors in the Magistrates' Court—well first of all we should look at the number of Magistrates' Court in the north office. They amounted to 27 and 14 prosecutors basically operate in those courts. The number of Magistrates' Court in the south region amount to 15 and there are 11 prosecutors, state counsel, legal officers, attached to these courts.

If we look at the ratio in the Magistrates' Court, from the Port of Spain office, the ratio is one attorney to 38 matters. And from the south office the ratio is, approximately the same. At the Assizes in Port of Spain, there are currently six Assize courts. And I would have taken—looked at three-month periods in 2010, 2012, 2014, 2016, so as to establish a pattern and what it has revealed is that increasingly the ratio is progressing to the detriment of the public interest and is placing increasingly a huge strain on the office. Of the 66 matters in the High Court in Port of Spain in 2010, the ratio is one prosecutor to 66 matters. In 2012, one prosecutor to 78 matters. In 2014, one prosecutor to 84. In 2016, one prosecutor to 150 matters.

In San Fernando, the ratio is approximately one prosecutor to 72 matters. In Tobago, the ratio is one prosecutor to 44 matters. If we look at the situation as it obtains in Jamaica—first of all, the way the system, the criminal justice system is structured in Jamaica and the way the DPP's office in Jamaica serves or deals with the criminal justice system it is such that they have what is called a Clerk of Courts. The Clerks of Courts strictly speaking are not members of the DPP's office. So the State Counsels assigned to the DPP's office are not Clerks of the Courts and the Clerk of the Courts tends to serve all the resident Magistrates' Court.

The attorneys attached to the DPP's office usually operate out of the Court of Appeal and the specialized courts and Circuit Courts. Prosecutors from the DPP's office also offer service both to the Jamaican Gun Courts and to the Rural Circuit Courts. Electronically, we have been able to source certain figures coming out of Jamaica and it is interesting to note that on average one prosecutor from the DPP's office handles approximately 19 cases per court term, from 2014 to 2016 in the Rural Circuit Courts, at a ratio of one prosecutor to 19 matters.

In the Gun Court the average is one prosecutor to seven matters. On average it can be said that a prosecutor from the DPP's Office of Jamaica may handle approximately 26 cases per term. If we look at the situation in Grenada, during the four year period of 2009 to 2013 the DPP's office in Jamaica would have had a ratio of one state attorney to 39 matters.

Madam Chairman: Mr. Gaspard, just an enquiry at this stage. What would be your ideal ratio for us in Trinidad and Tobago? Well give me a range.

Mr. Gaspard SC: Are you speaking generally? Or is the question looking to target the Magistrates' Court or the High Court or generally?

Madam Chairman: Generally.

Mr. Gaspard SC: I do not think that a prosecutor ought to be asked to be placed in conduct on more than 20 to 25 matters.

Mr. Mitchell: Is there an International Best Practice?

Mr. Gaspard SC: If there is, I am not aware of it.

Madam Chairman: I know you are going through your presentation, but I also wanted to find out with respect to the implementation of the IT system for case management, how soon do you think that that will be on track and fully operational?

10.55 a.m.

Mr. Gaspard SC: Madam Chairperson, I had expected it to be on track already,

but owing to the kinks and to a certain degree of sluggishness, it is very difficult for me to say how soon it is expected to come on train.

Madam Chairman: Well, are we looking at six months, a year? Any idea?

Mr. Gaspard SC: I will expect it to be completed within this year.

Madam Chairman: All right. What I wanted to ask you as well, because I know that members of the public sometimes do not understand the process between committal at the Magistrates' Court and indictment by the director, can you tell us what is the current procedure for that process?

Mr. Gaspard SC: Well, first of all, because of the fact that we have preliminary enquiries, all indictable matters, before they reach the High Court, they usually go through the committal proceedings or a preliminary enquiry hearing. After that hearing is completed, the evidence garnered during the hearing, together with some of the exhibits, are forwarded to the DPP's office by the respective clerks of the respective Magistrates' Courts throughout Trinidad and Tobago.

When these documents come to the DPP's office, we have an internal vetting system where the documents are perused by at least two persons before they are perused usually by the DPP or the deputy DPP for the preparation of an indictment. When that indictment is perfected and executed, it is filed into the criminal High Court registry and from there the matters go on to a cause list at the High Court.

Madam Chairman: Is it that the litigators, your advocates who are going to deal with matters in courts, are these the same persons who are required to do the office work prior to the preparation of the indictment?

Mr. Gaspard SC: All attorneys in the DPP's office are required to prepare draft summaries and draft indictments for the vetting of senior persons in the DPP's office.

Madam Chairman: And currently, is there any method by which the time factor is evaluated? So let us say a state attorney gets a file and has to do a summary and

prepare draft indictment, is there anything within the administrative department which allows that department to say, well this file is too long on this attorney's desk?—for example.

Mr. Gaspard SC: Yes. What happens is that the distribution of files is reviewed by persons distributing files. In addition to which, from time to time there are special matters. Representations are made in writing. People come off the street sometimes to the DPP's office, and in those cases, what would happen is that we tend to give those matters priority if we can. Very often, what you find happening is that matters—and the public tends to be unaware of this. But very often, especially coming out of Tobago, Arima and at one point Tunapuna, even after the preliminary enquiries would have been completed, the documents would take more than five years to reach the DPP's office.

So, accused persons, aware that their matters—the preliminary enquiries have been completed—they harbour a reasonable expectation for an indictment before the High Court in short order. Very often you would write—I would write—to the Ombudsman, attorneys in private practice and even to the members of the families of accused persons, to indicate that these files are yet to come to the office, and without the evidence contained in the files, I cannot prepare an indictment.

Madam Chairman: Do you think that legislation setting out a timeline for the transmission of documents from the magistracy to the DPP's office would be of assistance?

Mr. Gaspard SC: It should be of assistance, but there is legislation, for instance, setting out that magisterial officers, as a matter of law, must provide reasons for appeals, and when I do appeals, most of them do not have reasons.

Madam Chairman: Yes. Is there any way, in the absence of legislation, that an administrative link could be forged from your office with the magistracy so that your

office is aware of files which are on their way to you?

Mr. Gaspard SC: Yes, I think that can be done. From time to time, what happens is that entreaties are made to the Chief Magistrate at the level of the head of the office, or the deputy DPP and sometimes also informally. These types of discussions are also had with the Chief Justice.

Madam Chairman: Yes, Mr. Gaspard, thank you for accepting these questions. I believe Mr. Sturge has a question.

Mr. Sturge: Mr. Gaspard, in light of the fact that it takes—and I am not casting blame your way, just yet—but the time between a charge being laid and a person coming to trial, finally, in Trinidad and Tobago, is around, on average, eight to 10 years. In Jamaica, as we have seen with Vybzs Kartel and the taxi-driver who was charged with the murder of former Minister Coudray's son—

Hon. Member: Daughter.

Mr. Sturge:—they were brought to trial within two years. Can you give any indication as to what is different in Jamaica that will enable such a society of comparable violence to deal in such a short space of time with murder trials, as opposed to our situation where we take eight to 10 years?

Mr. Gaspard SC: Yes, I can. One of the reasons why we might take eight to 10 years is because of the fact that Trinidad and Tobago faces—the respective stakeholders in the criminal justice system, I think they face certain challenges. For instance, in Trinidad and Tobago, say, unlike the system in St. Vincent, we have a situation where persons, if they wish and if they satisfy certain tests, they may seek the assistance of the Legal Aid Authority. In Trinidad and Tobago, there are matters for which indictments would have been filed since, say, 2008, 2009 and no trial would have been had in the High Court as yet. And the reason that I am hearing, and which would have advanced from time to time, is that accused persons seek

assistance and representation from a small pool of attorneys, and once these attorneys are caught up in certain trials, you find that those matters are almost continually adjourned.

I do not know that that obtains in Jamaica. I do not know that Jamaica has the same ratio—prosecutor to High Court matter. I do not know that they have the same ratio. I do not know exactly how effective it is for a lot of—the fact that there is some diversion in their system. When I say diversion, diversion away from the High Court into, say, a specialized court, like a gun court. If, for instance, Trinidad and Tobago were to have specialized courts, perhaps a gun court, a sexual offences court, maybe the burden would be much less on the High Court with respect to murders, et cetera. I do not know if we are comparing apples and oranges, except, of course, that in Jamaica, that is a particularly violent society and so is Trinidad.

Madam Chairman: And I think, Mr. Gaspard, you had taken us to some comparisons between our situation and the Jamaican situation which will, perhaps, lend towards an explanation for the apparent speed of those cases through their system. Does any other member have a question at this point?

Mr. Sturge: Yes, please. You would agree we have 10 courtrooms operating in Trinidad and Tobago—six in Port of Spain, four in San Fernando and sometimes one in Tobago, which would make it 11.

Mr. Gaspard SC: No, I would not agree with that. What I would agree with is that we have six in Port of Spain, usually three in San Fernando and one in Tobago.

Mr. Sturge: So 10, basically.

Mr. Gaspard SC: Yes.

Mr. Sturge: Can you tell us from your comparative study how many courts try indictable matters in Jamaica as compared to our 10 courts?

Mr. Gaspard SC: No, I cannot assist you with that now, but I can furnish you with

that information in writing at a later stage.

Madam Chairman: Mr. Gaspard, you raised one issue in your last answer about specialization. How is that done in your department? Because if it is your litigators are in court every day and they also have to do the administrative work for the preparation of indictments and so on, how are you able—or are you able at all—to ensure that there are attorneys developing a particular kind of specialization in any area of law? How is that managed?

Mr. Gaspard SC: Well, basically by the exercise of your discretion as to, from time to time your assessment of attorneys and the quality of the attorneys' work and sometimes the matters for which the attorneys would have demonstrated the greatest prowess.

The thing about it is, the question that you are posing, Madam Chairperson, is the question that would have caused us to propose a new staff structure, so that you would have increased staff, and then, and only then, can we afford ourselves the luxury and the comfort of placing attorneys in specialized units. As it is now, everybody has to do everything.

Madam Chairman: So how is training accomplished? Because the criminal law is something which has developed at a very fast rate, I would say, over the last 15 years or so.

Mr. Gaspard SC: Yes.

Madam Chairman: How is training managed? Because I would expect that that would have a direct impact on the speed and quality of litigation provided by your department.

Mr. Gaspard SC: Well, the thing about it is, some of the new areas, and the more challenging areas in criminal law, we would invite persons of experience into the office to do training; we would have received training from our foreign partners—

the United States Government, the Canadian Government—and we also train persons internally, relying on our internal resources.

What happens is that this training, we would not be able to—usually, if we have a whole day training, or more than one, what we do is we would write the Chief Magistrate, we would write the Chief Justice asking that attorneys attached to those courts on that day be excused. And more particularly, we tend to direct our training periods; we try to have them coincide with the vacation period at Easter or the August vacation or some time in December. We try to do that. Sometimes the international trainers, our foreign partners, are not able to help us because those periods do not mesh with their schedules.

Madam Chairman: I see. Okay. Do we have any other questions? Yes, Mr. Coppin?

Mr. Coppin: Good morning, Mr. Gaspard.

Mr. Gaspard SC: Good morning, Sir.

Mr. Coppin: As a civil attorney myself, I would have studied abroad and criminal law was actually one of my favourite topics. However, coming back to Trinidad and Tobago, there was never anyone from the DPP's office, or I did not know of any programmes or any outreach whereby persons like myself could have been engaged to, perhaps, come to the DPP's office. Is there any current programme, or strategy in relation to engaging academia, perhaps providing scholarships for persons who want to become, or may be potential prosecutors in the future, or any outreach programmes or any funding arrangements which the DPP's office advocates or currently has in place which would perhaps, not stem the acute shortage of senior prosecutors, but perhaps help with getting new prosecutors into the system?

Mr. Gaspard SC: Well, Mr. Vice Chairman, first of all, the entry into the DPP's office is via two streams: as legal counsel or as state counsel. With respect to the

latter, the gateway is manned by the Chief Justice and the Judicial and Legal Service Commission. With respect to the former, those positions are contractual positions between the applicants and the PS, the Ministry and the CPO.

The DPP's office does not have its own budgets. The DPP's office is having a problem acquiring photocopiers, paper, ink. In those circumstances, and having regard to the need to prioritize, while in an ideal world you might have outreach programmes and so on, at the moment that is just beyond our capacity.

Madam Chairman: Thank you. Mr. Gaspard, we now have hard copies of what you had sent before us, but I believe Mr. Mitchell has a question.

Mr. Mitchell: Just to follow up on that point. So you are saying that the Ministry of the Attorney General and Legal Affairs, they are responsible with respect to contract officers for the recruitment and selection, and with respect to state counsel on the establishment, the Judicial and Legal Service Commission is in charge?

Mr. Gaspard SC: Yes, Sir.

Mr. Mitchell: I had that same question. I mean, what is the recruitment and selection strategy? I guess it is better put to the Permanent Secretaries before us. Because I am aware that there has been an explosion of attorneys being called to the bar, so I am not sure why there should be a shortage, at least, you know, attorneys under five years call.

Madam Chairman: Mr. Gaspard, at the private bar it appears as though gender is an issue in terms of people who are willing to practise at the criminal bar. Is that an issue for the prosecutors?

Mr. Gaspard SC: Well, it is an issue but I do not think it is an issue in the same way that it is an issue, say, in the context in which you are speaking for members of the private bar. For instance, most of the prosecutors—the DPP's office, in my view, has a woeful shortage of male state attorneys—in my view. Most of the prosecutors

in the DPP's office are female, and not by a little way. So it might be an issue in the sense of balance, but it is not as though, say, females do not seem to have a place or command a place in the prosecutorial system in the DPP's office. There is a healthy lot of female practitioners in the DPP's office as state attorneys.

Madam Chairman: Thank you. Mr. Mitchell, I think, perhaps—I know that you have a question for the PS, but perhaps we could just reserve it until—

Mr. Mitchell: It was the same question.

Madam Chairman: Yes. All right. Mr. Gaspard, I want to make sure that we have time for the other persons who have come to provide us with information. I want to thank you very much for your input. You have given us extremely important feedback that I think we will be able to use in our report when we prepare it. If there is anything else that you wish to add, feel free to write to us, because this is going to be our last public sitting before we present our report. But we, of course, will be receiving other information.

Mr. Gaspard SC: Madam Chairperson, I would like to thank you for extending the invitation to me and my office, and I also want to extend an invitation to you and all the members of the Committee to write to me, perhaps through the PS, or however you choose to do it, and any other issue which you feel I may be able to assist you on, feel free to write to me at my office and I shall respond in writing.

Madam Chairman: Thank you very much. I am sorry, Mr. Mitchell has one more question.

Mr. Mitchell: And perhaps we can write this to you. I just wanted to know—because it is a hot topic—the effects on delay for trials by jury and these voir dices, trials within a trial, and what is the future for these criminal trials at the High Court, in your opinion?

Mr. Gaspard, SC: My opinion? With the greatest of respect, it might be me, but

your question is not clear to me exactly what you are asking me. Is it that you are asking me as to what is the way forward with respect to the jury system because of the delay? Is it that you are asking me?

Mr. Mitchell: Yes.

Mr. Gaspard SC: Well, there has been some discussion about the doing away with the jury system. I know that it is not a discussion that has been embarked upon by some members of the criminal bar with any degree of joy. So discussions are taking place. I think more discussion needs to take place. Some people are of the view that a large part of the delay is because we have jury systems. I am not of that view. I am of the view that in this system there must be a certain degree of nexus and connectivity between the man in the street and the dispensing of justice. I am of the view that a wholesale doing away of the jury system is tantamount to severing the umbilical between the man in the street and the dispensers of justice. I understand, and I would agree, that for complex fraud matters you might need a certain type of juror—special jurors—but I do not think that in the normal matter—the average matter, the usual matter—you need to do away with the jury system.

You also have to look at how that might be perceived. Many persons who go on to become judges may come from a particular background. They may come from a particular type of school, whether you call them prestige schools or otherwise, and there might be the perception on the ground that the dispensers of justice are “them” or “they” and the people on the ground are “we”. And that is not a perception that you might want to cultivate.

Madam Chairman: Thank you, Mr. Gaspard.

Mr. Sturge: Madam Chairman, I just have one last question.

Madam Chairman: Mr. Gaspard, we cannot seem to let you go.

Mr. Sturge: Well, I will first like to thank him for what he has just said about the

jury system. Mr. Gaspard, can you enlighten the public, since you are consulted most times when charges of murder are laid, is there a difference in the standard required when you assess evidence to give instructions to charge, and a difference in standard the magistrate uses to commit, which is prima facie, and a difference in standard when you come to prefer an indictment? Because what I am getting at, if the magistrate already commits on the basis of prime facie evidence and you prefer the charge in the first place on the basis of the standard you use, which would be similar to a prima facie case, can we not pass legislation to do away with the procedure whereby you review the committal bundle and not much changes at committal, and you can simply, on the basis of the magistrate committing, formally file an indictment as opposed to having that delay that may take some time before you prefer an indictment?

Mr. Gaspard SC: Sometime around 2011/2012, I would have launched a code for prosecutors. In the code for prosecutors—and one of the reasons for it was to move away from any arbitrary or capricious consideration of what was required before you went forward with a particular matter. There is a two-stage test and the code for prosecutors is patterned and based on the English full-code test. And like in England, there is a two-stage test. The sufficiency of evidence is the first test, the first limb of the test, or tier. And if there is sufficient evidence, then you go on to consider the public interest factor. Right? Now, with respect to the first limb, I do not proceed on the basis of prima facie evidence. I look at it in the context of a likelihood of conviction, not just prima facie. Now, the magistrates, they go with the prima facie test.

Mr. Sturge: Is that not law?

Mr. Gaspard, SC: Yes. But what I am saying is, at my stage, the charging stage, I do not go with whether it is prima facie.

Mr. Sturge: You go with a higher test?

Mr. Gaspard SC: Yes.

Mr. Sturge: They go with a lower test?

Mr. Gaspard, SC: Yes.

Mr. Sturge: And then you have to prefer an indictment.

If you take murders, in particular, since there is no bail, since you already formed a view, indicted on conviction, the magistrate would not commit formally. Then since you formed that opinion, is it really necessary to go through this period where you review the committal bundle all over to prefer an indictment, or can we simply not ease you up, so to speak, since you already arrived at that conclusion when you gave instructions to do away with the part so that you can formally file an indictment?

Mr. Gaspard SC: Well, what is happening is, sometimes it has been my experience that even though on paper, the papers are submitted to me, or the evidence, I am of the view that there is a strong case. As a result of cross-examination, in the Magistrates' Courts in preliminary enquiries, the evidence becomes sometimes diluted. The evidence sometimes becomes diluted, or it might be viewed as manifestly unreliable. There have been several cases in the past, for instance, where magistrates would have sent on a matter; in other words, would have ordered a committal and when it came to the DPP's office, even though one could argue that prima facie, you know, 51/49, you could go forward, I would have stopped those matters. And one of the factors I consider in dealing with those matters is whether or not the persons involved are able to get bail.

Mr. Sturge: Guided. Thank you.

Madam Chairman: Thank you, Mr. Gaspard.

I think I will now have to ask Mr. Khan, Director of Legal Aid, whether he

wishes to make a few opening comments.

Mr. Khan SC: Much obliged, Madam Chair, for indulging me in this opening comment. Some 40 years ago the Government of the day took a sagacious decision to establish the Legal Aid and Advisory Authority, and that was to assist impoverished people in getting legal advice and legal representation both in the criminal and civil courts.

Millions, or hundreds of millions of dollars have been spent—taxpayers’ money—during the 40 years, and I must say it was well spent. The Legal Aid and Advisory Authority is indispensable to the liberal democratic State of Trinidad and Tobago and the rule of law. In listening to Mr. Gaspard and the DPP’s problems, and having our own problems at Legal Aid, I suspect if nothing is done quickly, what will happen is that life will become short, nasty and brutish in this country. We are already there.

The criminal justice system is about to collapse. It is a scandalous state of affairs when you have several hundred indictments for murder and there is a presumption of innocence and you have to wait approximately 10 years to have a trial. It is a scandalous state of affairs, especially for Trinidad and Tobago, a country that is so rich in relation to the other Caribbean jurisdictions.

So the powers that may be must not treat the Director of Public Prosecutions department and the Legal Aid Authority as civil servants administering justice. They are special departments. Because in order for an accused person to get a fair trial and uphold the presumption of innocence, you must not only have a fair and impartial judge, you must have a competent and experienced prosecutor and a competent and experienced defence attorney to match the skills of that prosecutor and vice versa.

What has happened, the Legal Aid and Advisory Authority, in assigning attorneys, has outlived its usefulness. We cannot cope. So the Legal Aid and Advisory Authority came to the decision, which is supported by the Chief Justice and the present Attorney General, that a public defender's department must be established. We must establish a public defender's department, separate and apart from the Legal Aid and Advisory Authority who can take care of the civil briefs and give advice.

And I think we have a few suggestions for the backlog. The empirical evidence will suggest that the first thing you must do is categorize murder into first, second and third degree. That has been touted many years ago, before the Prescott Commission—first, second and third degree, and make itailable for second and third degree. And whether you retain the death penalty for first degree, that is not our concern.

11.25 a.m.

The second thing to do is immediately establish, by legislation, a plea bargaining process. Make it very simple, not cumbersome as it is. And most of all, in order to have the people who were serving their time and going back in again and again, is to pour money into rehabilitating the prisons.

I have a personal suggestion how that could happen, but I do not know if I can, as an experienced practitioner, give that suggestion because I am here representing the Legal Aid and Advisory Authority. If the prisoners are allowed the constitutional right to vote in a general election—the prison is located, embracing too marginal seats, you will see how the Government of the day and other Governments will pour money into the prison system because a lot of people are not concerned with what is happening in the prison until it comes home with a relative

or a friend, or something, but we have people going into the prison, coming out and going back into the prison, coming out and going back into the prison.

Now the Legal Aid Authority makes every attempt to give a person charged with a murder the lawyer of his choice. That is why they go to a small pool of lawyers because it is a life and death situation. We try very much so, but they do not have the constitutional right to have a lawyer of their choice. They must pay for a private attorney, but legal aid will make every attempt to see if we can do that.

We have sent in a written document as to what suggestion and what is happening with the backlog and so on. What has happened also is that we must instill into the young graduates, and even not so young, that Legal Aid is not there to assist them in making a living. What legal aid is there for is to assist impoverished people, and they owe a duty to the society because taxpayers paid them through law school, especially the local lawyers, to assist impoverished people.

Very often they find the fees are very unattractive so they would not take a legal aid matter. Many times some of the lawyers will look at the deposition, and if they believe they cannot win the case they will send back the brief; and many times the client themselves will change attorneys; and many times the courts are not ready to proceed with a matter.

Madam Chairman: Mr. Khan, perhaps I could ask you this? If it is you have information that an attorney, who is on your panel or on your legal aid roll, is treating legal aid matters with a less degree of attention than private matters, are steps taken by the board, let us say to tell that attorney thank you very much, but you will no longer be part of our pool?

Mr. Khan SC: No, Madam. We are grateful they are still on record.

Madam Chairman: Sorry?

Mr. Khan SC: We are usually grateful that the attorney is still on record because what will happen is that you cannot get a trial. You see, a trial at the Assizes, the criminal law is so cumbersome with the presumption of innocence, and the protection of the accused person, and the right to cross-examine, and good character, and dying declaration, *res gestae*. I could go on and on and on. It is very cumbersome. What must happen, they must simplify the law by rules and the trial judge must take things in his hand and expedite the trial. But if we have plea bargaining—a lot of people like in the United States will plead guilty if they know they are going to get a severe sentence if they contest a matter. We will not want to force people to plead guilty if they are innocent.

Madam Chairman: No, that is not quite what I am asking. What I am saying is if you have an attorney not doing his job by giving less attention to his legal aid cases, not providing the quality of representation that is required for his legal aid cases as he would had he been privately retained, does the authority then say, “You are not assisting us. You are part of the problem; we are taking you off the roll”. Attorneys have no right to be on the legal aid roll as I understand it.

Mr. Khan SC: They have a right to be on the legal aid roll by convention, but they do not have the right to be retained.

Madam Chairman: Right. So is it that the authority then can, I suppose, police the conduct of attorneys who treat legal aid matters with less interest in this way by removing them from the panel.

Mr. Khan SC: We would not know, Milady, until the matter commences. We would not know because the courts are bogged down. They go down there, a trial is in progress and the matter is adjourned. So we do not know if they have treated the

matter lightly until the matter really commences. Because what will happen, the blame ought to fall squarely on the trial judge, because once you are on record the trial judge must insist that you are not getting an adjournment if you need an adjournment, and we proceeding to trial.

Madam Chairman: Could I just ask this? Once an attorney is appointed by the authority, is it that unless something peculiar happens, the next interaction of the authority with the case would be when the attorney writes to say, “Person acquitted, person convicted”? Is it that it is left in the hands of the attorney post appointment?

Mr. Khan SC: Yes, Milady, he has full conduct of the trial.

Madam Chairman: Is there any way of monitoring the service that that attorney provides to the Legal Aid Authority? Is there any mechanism by which the authority can evaluate the service provided?

Mr. Khan SC: Well, his service is a criminal matter. I prepare the brief, I am ready to start, I am going to court and the matter is not commencing.

Mr. Mitchell: I think the question is whether there is a monitoring and evaluation unit as there is in other Ministries with this agency?

Mr. Khan SC: We cannot evaluate anything. They are lawyers who would say, I represent the accused and I am ready to proceed. We do not know what he is doing in his chambers; and what happens in his chambers within the client and himself are very confidential.

Madam Chairman: Well, could the Legal Aid Authority liaise, let us say, with the judges at the criminal courts?

Mr. Khan SC: Maybe Mr. Ragoobarsingh could assist in that regard, Milady.

Madam Chairman: Yes, certainly. Thank you. Mr. Ragoobarsingh.

Mr. Ragoobarsingh: Yes, Madam Chairman. We do have a process. The process will happen in several ways. One, we do request status reports from time to time

from criminal attorneys. You would get a monitoring that happens in a systematic way. Either one, for example—if I could simplify it—a client complaint. Especially if it is clients who are within the incarcerated system, they would complain to, well primarily me since I am the one that goes, so I will get the complaint that look, this attorney XYZ. Sometimes the complaint of the accused person misunderstands why an attorney may not have come at this point. But a complaint would generate there and that will generate from us a status report request to the respective attorney, and many times followed up by telephone conversations as to what is your interest in this case, are you continuing in this case, are you appearing in this matter.

So we do have a check and balance that takes place within our internal criminal registry with those attorneys. We cannot monitor 100 per cent because you are an attorney. We expect that you have a professional ethic at work in terms of dealing with a brief. But those complaints either generate one, from the client, the accused person; or it can sometimes generate from the judicial officer, meaning the judge or magistrate with regard to a particular matter. Judges may send correspondence via their respective JSOs as to the conduct of an attorney with a respective matter, can you clarify what is their position.

So you get alerts and red flags coming through the system that would monitor the approach of attorneys in dealing with it, but the backlog in itself contributes to an attorney being assigned a brief and then life goes on. They get their private briefs and after a while even though they may have had an interest at one point, at some point, because there is such a backlog, that interest wanes and briefs are returned. So it is a complex interconnection of systematic failures that buffer, and what the Legal Aid and Advisory Authority tries to do is have some synergistic involvement in how we deal with reassigning and trying to balance in tandem with the court, the judicial officers and with the attorneys that we speak to, and the accused having

some input.

Mr. Sturge: Madam Chairman, I have two questions for Mr. Khan. Mr. Khan, in light of the fact that there are two types of attorneys when they are qualified—there are those who spend their money to be educated and there are those who the State would educate through subsidization at Hugh Wooding and so on—do you believe in light of the large amount of attorneys coming out, which does not translate into criminal practitioners, would you support a system whereby persons who received subsidies, or subsidized education through Hugh Wooding and so on, that when they graduate they either give the State their first two years either at legal aid or the DPP, do you think that would assist?

Mr. Khan SC: Well I will support that. Just recently, I saw that somebody who was on a scholarship had to pay back some money, three-something, and if they are going to the Faculty of Law in Trinidad and the Hugh Wooding Law School and is heavily subsidized, I think that they should have some arrangement whereby they could. I will support that.

Mr. Sturge: And the second issue. You raised an issue with respect to plea bargaining, but plea bargaining usually takes place where there is full disclosure generally and there is not full disclosure in Trinidad and Tobago, so do you believe that we should have full disclosure; and do you believe well if we do, that will facilitate a more effective plea bargaining system?

Mr. Khan SC: I do not subscribe to your view there is no full disclosure.

Mr. Sturge: You do not?

Mr. Khan SC: No.

Mr. Sturge: So there is full disclosure in Trinidad and Tobago?

Mr. Khan SC: Of course, there is full disclosure. You are entitled to get only what will assist you in your defense.

Mr. Sturge: That is not full disclosure, Mr. Khan.

Mr. Khan SC: Well that is full disclosure in Trinidad and Tobago under common law.

Madam Chairman: Okay. Can we move on? Mr. Mitchell, you have a question?

Mr. Mitchell: Yes. I am aware of a system in the UK where discounts in the sentence, one-third, half, et cetera, where early guilty pleas are provided. Would that help? Do you think that would help?

Mr. Khan SC: We have that here too.

Mr. Mitchell: That is good year indication, but, for example, if you plead guilty and you confess at the police station, you would be given a certain amount of discount on your sentence.

Mr. Khan SC: We do not encourage that, to confess to the police. [*Laughter*]

Madam Chairman: Mr. Mitchell, I think when we get to the stage where confessions are recorded, we have video recordings as well as audio recordings that might be a safer process.

Mr. Sturge: Agreed.

Mr. Coppin: Question, through the Chair, to Mr. Ragoobarsingh. With relation to civil matters, I had the opportunity to work recently alongside some attorneys on a legal aid matter, a civil matter, and the matter, as I saw it really, had no chance really to succeed—a civil matter—so the question to you really is: from the perspective of legal aid is there a filter, first point of contact when a person comes to you saying, “I think I have a case. I would like legal aid to take it up”. So that if you are able to identify that this case perhaps has a very little or no prospect of success, that you say, Okay ma’am, I am sorry, or sir, I am sorry, I think you ought not to pursue this matter, and therefore, not—it does not come to an attorney-at-law and perhaps incur cost and then clog the system further. Is that something that you all have at the Legal

Aid?

Mr. Ragoobarsingh: Yes, certainly. The point on which a client walks into a legal aid office, their first interfacing in terms of advice would be one of our legal officers. That legal officer will filter and screen. Can some cases go through the system and be approved for aid that may be assessed at a later point as being maybe frivolous? Can that happen? Yes, it can, but any error I think that has to be made is made on the part, in favour of the client once we believe there is an arguable case. Not necessarily winnable, but that it is arguable in terms of a right. But I think the Secretary might be better able to answer to that, Ms. Arneaud, so if I could pass on that to her.

Ms. Arneaud: Okay. Just to add, there is a system in terms of civil matters coming before the authority. The authority decides on the merit and the eligibility of the clients as to whether aid will be granted, and there will always be matters, for example, where someone has to defend a matter in the civil High Court. We cannot just say that because they may not have a case they are not entitled to representation. And so, it is up to the report that comes before the authority, and once they are eligible, as to whether aid will be granted. So it is difficult to sit on the outside and sort of assume that because the person does not have a good case on the merits of the matter that aid should not be granted.

Madam Chairman: Ms. Arneaud, could you just make it clear for the purposes of our viewing audience and listening audience what is the position with respect to criminal matters? Is it not the case that an accused person has a right to having a legally appointed attorney once he is charged for a matter and he applies?

Ms. Arneaud: So, if I should go through the process for you, we even start from the moment of detention. We have a Duty Counsel System, whereby minors, once they are detained by the police, the police has a responsibility, a mandate, to call our

Duty Counsel call centre and request that this person be given a legal officer for advice. Then we go to that Duty Counsel attorney who is assigned to that, its minors—it operates with minors and persons charged with capital offences.

That Duty Counsel would go to the first hearing of the trial and then the responsibility ends there. If the person is charged and the matter is going on, they apply for legal aid under the normal legal aid system which is, when they get before the magistrates they indicate that they need legal aid, or if they are in custody a legal officer would visit and take an application. That application goes to the respective court before which the matter is being heard, and it is the magistrate's responsibility to say whether legal aid would be granted.

I think people get that blurred a little bit. So we can only appoint an attorney on the basis of the magistrate's authorization that aid should be granted, and it is on that basis that an attorney is appointed to that person.

Madam Chairman: I see.

Ms. Arneaud: Similarly, in the assizes matters, again, it is the responsibility of the presiding judge to give a certificate authorizing legal aid for that person and we can only, upon receipt of that certificate, appoint an attorney for the accused.

Madam Chairman: And what about ratios? Does the authority monitor, let us say, just as Mr. Gaspard was able to tell us the ratios of his prosecutors in relation to cases, does the Legal Aid and Advisory Authority have statistics like that.

Ms. Arneaud: Well just to clarify, in terms of appointing attorneys we do both in-house—we have a cadre of 25 legal officers in-house that we can assign matters to, as well as the panels of attorneys, persons who have asked to be included in our panels of attorneys doing specific matters. The discretion with respect to criminal matters, High Court matters, it solely rests upon the Director/Chairman as to the appointment of attorneys.

Madam Chairman: But that does not quite answer what I am asking. Do you have any information with respect—let us say, the panel of attorneys is housed at legal aid, what is the ratio among the number of cases they are doing and the number of attorneys?

Ms. Arneaud: So, for example, we have—it is a range. So, all legal officers would do a combination of matters. Some would practise only in the criminal assizes, some would do a combination of criminal assizes and Magistrates' Court, and some would do civil.

It is a little difficult to give ratios at this time. It is something that we can probably address, but what we would probably also want to share with you, via statistics—and just to indicate that we would have submitted some statistics to you today. These are recent statistics that we would have compiled—it is difficult to say a ratio as per what the DPP would have submitted, but it is something that we can submit at a later date to you.

Madam Chairman: Okay. Thank you.

Mr. Khan SC: If I may indicate, Madam Chairperson, when it is a murder trial we do not look at ratio. We look at the competence of the attorneys in that arena, and because of the backlog of the cases we know that we will not be humbugging the accused from getting a trial. And if it is in the Court of Appeal, we know certain lawyers who are better in the Court of Appeal; and we do not allow an attorney under three years to go in the assizes, and without seven years, to represent an accused person against the attorneys coming from Mr. Gaspard's office. Not looking at ratio so much, but the day will come where we will have to look at ratio. And if you will permit me just to endorse Mr. Gaspard's position in relation to trial by jury. I am of the view that nobody should tamper with the jury. Nobody! Trial by jury is necessary in a plural society. This society is too young and not mature enough to

handle a single judge trying this matter.

The first thing an accused person will want to know, or he will ask you, “What kind of judge we have”? And when he asks what kind of judge we have, he does not want to know whether he is a Presbyterian or a Hindu. He wants to know his racial origin. This is the empirical evidence because the people who are facing the criminal assizes, they still think in a primordial way. There is a case which is engaging our attention, 600 people have been called for selection on jury and something happened there. I better stop there. I think the public is listening.

Madam Chairman: Okay. Mr. Khan, just to wrap up with the Legal Aid and Advisory Authority, would you want to just make a few comments about some ways in which you think perhaps steps could be taken, whether by legislation or otherwise, to assist with relieving us from this burden of this backlog?

Mr. Khan SC: Well, it is already on the table to abolish preliminary inquiries; plea bargaining; having more judges. Everybody knows what we have to do. We just have to have the will to do it and the money to do it, because what do we put the resources in, in health, infrastructure, in education? Many people do not force the system to take care of the downtrodden who are in prison, and those are our clients. We all know what to do. It is just to do it, Ma’am. For time we have been saying that again, and again, and again, and again, and again, we just do not do it.

Mr. Sturge: Mr. Khan, would not the abolition of preliminary inquiries simply shift the bottleneck from the Magistrates’ Court to the High Court?

Mr. Khan SC: Well I have no doubt about that.

Mr. Sturge: So then how is that helping?

Mr. Khan SC: Well we have plea bargaining there.

Mr. Sturge: We already have plea bargaining.

Mr. Khan SC: Well, not quite, it is very cumbersome. And in order for plea

bargaining to really work, Mr. Gaspard was at a seminar chaired by Ms. Seetahal and he made a very important point that plea bargaining will only work when the accused knows that the evidence is cogent, compelling and convincing and he will be convicted.

Mr. Sturge: Which is full disclosure.

Mr. Khan SC: Full disclosure, for you to get off?

Madam Chairman: Well I do not know that many people are aware, but there is the system of the maximum sentence indicator—it is similar to plea bargaining—whereby the parties agree on a set of facts and a joint document is prepared, placed before the judge, and the judge gives an indication of the range of sentencing that an accused person may attract based on the facts before him or her, and from what I understand quite a few matters have been disposed of happily from all sides by the judges in the system. So I suppose once this becomes better known by practitioners this option will be used more often.

Thank you, Mr. Khan. Unless there is any other point that you or your team would like to make before the Committee—I am sorry, Mr. Coppin, my Vice-Chairman, has a question.

Mr. Coppin: Just out of curiosity, I notice the statistics with relation to the fees paid, and the Naipaul-Coolman case was responsible for a large bump in the total fees paid, could you tell me what was so special about this case that has resulted in such a large increase?

Mr. Khan SC: I prefer not to answer that because—I think it is not prudent to answer that now because the jury is still and that might affect their minds.

Madam Chairman: Thank you, Mr. Khan. Mr. Gaspard, I am wondering about mediation. Is mediation still available on the books for minor criminal matters?

Mr. Gaspard SC: Only in a very informal and ad hoc way, and the position of the

DPP's office is that that appears to be a somewhat nettlesome and gray area since we try to avoid the perception of settling matters. It has been my experience in the past that certain persons would advocate for the prosecution of certain matters, only for the prosecution of those matters to be used as leverage in some sort of bargaining compromising position.

Madam Chairman: I was thinking more in terms of situations where you have children in high school and so on charged with criminal offences, sometimes even against fellow students, do you think that there would be a role there for mediation or for some sort of informed mediation process?

Mr. Gaspard SC: Yes, I think that there would be a role or there will be role for that, but I understood your question as being whether or not, currently, mediation takes place in those matters. What is happening is that that type of consideration is subsumed usually under public interest factors. So there are certain matters where, instead of advising the police to charge, I would seek to have other interventions which do not engage the criminal justice system.

Madam Chairman: I see.

Mr. Sturge: Just one question, Mr. Gaspard. Are you in favour of the current age, minimum age, of criminal responsibility; or do you believe it should be raised?

Mr. Gaspard SC: I believe it should be raised.

Mr. Sturge: To what age?

Mr. Gaspard SC: Somewhere in the vicinity of 10 to 12 years.

Madam Chairman: Thank you, Mr. Gaspard. I am now going to invite Ms. Ingrid Seerattan. Ms. Seerattan would you be good enough to share a few opening comments with us, with respect to the role of the PS in the Ministry of the Attorney General and Legal Affairs, in terms of the administration of criminal justice?

Ms. Seerattan: Thank you, Madam Chair. At the Ministry of the Attorney General,

given that I assumed office only in September 2015, what has been our responsibility, one of the things that we have been doing, we have been looking at the systems that have been operating. Quite a number of systems and based on some of the questions that were asked in the listing that came to us to respond, we recognized that a number of systems were not in place to capture any kind of information. So what we have been doing in terms of trying to provide that information is to ensure that systems are in fact put in place.

Now to answer the question you have just asked in, what are we doing to help the system, is that presently, given that we deal with the contracts, we are presently advertising positions within the system for legal officers, legal counsels particularly, to enter into the system via the route of contracts.

11.55 a.m.

Given that we are waiting for the judicial and legal system to begin their process of interviewing for the positions, as Mr. Gaspard alluded to earlier—a number of vacant positions—that we can only be in discussions with the Judicial and Legal Service Commission, the secretariat, to determine what is happening there as to the filling of those positions.

We were initially told that interviews for those positions would have been held in March of this year for the process of recruiting persons into, at least, the level of State Counsel I, but given that there was an absence of a member of the commission which has only recently been appointed, I was told that that is supposed to happen soon that they would begin the recruiting—the interviewing process, rather, for those positions.

Madam Chairman: Could I just ask you to tell us how many positions then are likely to be filled post the interview process?

Ms. Seerattan: In the established positions or contract positions?

Madam Chairman: Yes, established.

Ms. Seerattan: Well, having had a discussion with Mr. Gaspard and given the constraints of space that we had, he had indicated to me that he can at least safely take about 15 State Counsel I to be comfortable given space constraints at this point in time. There would be a list that would be established, so given perchance that we do succeed in the accommodation issues that the office of the DPP would have and we are able to expand in terms of space, we would be able to bring on additional personnel. But at this point in time, given the space constraints, and on Mr. Gaspard's recommendation, we can safely take about 15 State Counsel I.

Madam Chairman: Okay. Well that leads me to the other issue which is to say, clearly plant and equipment need to be enhanced for the DDP's office. So how soon can the DPP expect that the resources of the Attorney General's Ministry will ensure that the DPP's office is properly housed and equipped?

Ms. Seerattan: As Mr. Gaspard has identified, we have identified locations. Some of it, we have to wait on responses from the Property and Real Estate Agency in terms of the valuation of some of these accommodation sites that have been identified, we have to wait on outside forces. So we have been working assiduously with these agencies in order to receive.

Madam Chairman: This particular agency, what was it?

Ms. Seerattan: Property and Real Estate.

Madam Chairman: That falls under which Ministry?

Ms. Seerattan: The Ministry of Public Administration.

Madam Chairman: I see. Okay.

Ms. Seerattan: So we are working assiduously with them to ensure that the matters that need to be dealt with on their part are handled in terms of the valuation. Those issues where it is being tendered out by those agencies, perhaps NIPDEC for the

outfitting, as has been done in the office in Tobago, we are waiting for those tenders to come in so that they may begin the tendering process for outfitting at least for Tobago.

For the south office, we are waiting for a valuation estimate from the Property and Real Estate Services Division to ensure that these things happen. We are also, for the Port of Spain division, where it is expected or it is hoped, if I may say so, that the DPP's office would be moved to a larger accommodation which is the Park Street venue; it has been identified. We are waiting on certain specific information, as Mr. Gaspard has alluded to, from him to tell us what are his requirements so that we can put it forward now and make a proper recommendation.

Madam Chairman: Well, what I would want to ask and what I think perhaps other members and members of the viewing and listening public would like to find out is, when? Do we have any sort of time frame for any of these plant and equipment improvements? Because your Ministry, Ma'am, holds the purse strings, so could you tell us when?

Ms. Seerattan: It is estimated that for the Tobago office, we have an estimate of August for completion of that project, the outfitting and hopefully the move for the DPP's office into Tobago. For the San Fernando office, we are waiting on Property and Real Estate to do that. We are assiduously liaising with them to ensure that we—to have an early resolution.

Madam Chairman: Could I ask how long it has been in their hands?

Ms. Seerattan: If I may pass to my Project Manager who is in, Mr. Suban.

Madam Chairman: Yes, please.

Mr. Suban: Well, generally, these buildings would be decided upon based on visits with the DPP's office which we have commenced since at least 2014, since the approval of Cabinet. The San Fernando would have been identified sometime in

2014 but would have been decided upon by the DPP, I think, 2015. So it would have been with the Property and Real Estate Services Division for at least a year. Port of Spain is about the same time frame, generally, about a year.

Madam Chairman: What will be the reason? I do not understand; perhaps, you knowing the system might be able to explain to us and to members of the public. Why would it take a year at the property division?

Mr. Suban: That is not a question that I am capable of answering. It is done by the external party. The Ministry has no authority to decide on rentals or valuations or safety.

Madam Chairman: Well, what is the process then that is carried out there?

Mr. Suban: The general process, as I understand it, the Ministry would make a request for a facility. In this case, we would go with the DPP. The DPP would submit in writing, I agreed to X building. Thereafter, the Property and Real Estate Services Division, once we write to them saying this is the building, they would investigate by making enquiries to the Town and Country Planning, Regional Corporation, OSHA, the Ministry of Works Structural Department, fire services to make sure the building is up to code. Once those approvals are in place—they would also liaise with the valuation division of the Ministry of Finance. Reports would be received from those divisions. Once they are received, the Property and Real Estate Services Division will take a Note to Cabinet advising or requesting that this building be approved for rental by the Ministry at a particular rate.

Madam Chairman: Well, if what has been described as the former Royal Bank building has been approved or accepted as a possible office space for the head office for the Office of Director of Public Prosecutions, is it then that the only thing left to have done is to have the Cabinet Note drawn up?

Mr. Suban: No. Once the building would have been valued and Cabinet would

have approved, there is still a process of getting the DPP's requirements for the facility design. So this would have been an empty building. If the DPP has to come in here, there would need to be a design for 10 attorneys, three secretaries, three clerks, whatever the case may be.

Madam Chairman: And whose responsibility is that?

Mr. Suban: That would be internal of the Ministry. So once the building is approved, the Ministry is in control of the outfitting of the DPP. So we would liaise with the DPP to get his stakeholder requirements and that would be outsourced. The actual project of outfitting would be outsourced to a special purpose enterprise like NIPDEC or UDeCOTT

Madam Chairman: Right. So what I want to know, you have told us or we have heard that the Tobago office is supposed to be ready to go by August or you are hoping that that is the case. What I want to know, what is the time frame for San Fernando and Port of Spain? What stage of the process are we at?

Mr. Suban: Right. We are still in the building acquisition stage which is external to the Ministry so I cannot give you an idea. We can give you an idea on Tobago because it is with NIPDEC. The facility is secured. The NIPDEC has given us a timeline of August anticipated. So because the facilities have not been acquired for San Fernando and Port of Spain, it is pretty much impossible for me or the Ministry to say what time frame we would be working with.

Madam Chairman: Thank you.

Mr. Sturge: I have a question, Madam Chairman, and directed to the Permanent Secretary of the AG's office. I do not know if I misunderstood Mr. Gaspard. But I know for a fact because I am a practitioner and then sometimes prosecutors have difficulties, in one instance, the photocopier or both photocopiers were not working and so on. How do we get around these sorts of administrative difficulties so that

the DPP himself can have access to funds to deal with these day-to-day issues so that we do not have to go through all the red tape before he can simply get funds to run his office?

Ms. Seerattan: Well, to answer that question of allocation of funds to the DPP so that he can have his own budget, that is a question for the Executive to determine and the budget division to determine that, in terms of the office of the DPP having their own funds.

But presently, what we have undertaken to do is that we have done an assessment of all the equipment in the department—DPP as well as all of our main offices. We have, presently, a contractor on board who is in the process of servicing, repairing. They have made an assessment of all that needs to be—maybe if we need new equipment, they have since done that to us. So we are presently in the process right now of handling that particular issue of the equipment for all of the departments, DPP included.

Madam Chairman: Mr. Mitchell.

Mr. Mitchell: To the Permanent Secretary, over the last few years, we have heard a lot about these judicial court centres to be built all over Trinidad and Tobago. Can you give us an update on what is going with those?

Ms. Seerattan: Well, yes, Sir. That project was initially under the then Ministry of Justice. Even before the dissolution of the Ministry of Justice, that project was put on hold and it was never taken up again since that process was put on hold. So, at this point in time, we are unable to indicate what has become of the project. Thus far, it is not on any of our books in terms of included in any of our development projects since it has been put on hold by NIPDEC due to lack of funding.

Madam Chairman: Ms. Seerattan, could I ask whether, as Permanent Secretary in the Ministry, you are able to have any input with respect to remuneration of State

Counsel with the DPA? I believe it would be the DPA that would be responsible for the packages?

Ms. Seerattan: CPO.

Madam Chairman: CPO?

Ms. Seerattan: Yes.

Madam Chairman: So is it that your advice is sought by the CPO when determining whether to recommend an increase, let us say?

Ms. Seerattan: No, that is totally out of our hands. Remuneration packages are solely the purview of the Chief Personnel Officer. What happens when an officer comes on board, contract officer, they come on board, what they do, they would present a proposal to us based on their years' experience and so, which we would then remit to the office of the CPO and based on that, their terms and conditions are determined based on their proposal. There are many of the offices that are already standardized that have been done by the CPO and that is across the board for some of the legal offices that exist in all, whether it is in the criminal, whether it is in the civil arena. There are standardized terms and conditions for some of the offices.

What is done is that when an officer takes up office and presents a proposal, it goes to the CPO and then the CPO may determine whether, based on that person's experience, whether they should be at the minimum or whether they should be elevated to a different level in terms of the salary range.

Madam Chairman: Sure. Well perhaps, I can ask Ms. Arneaud this question. How is it then that people are leaving the DPP's office and going to the Legal Aid and Advisory Authority and getting better pay? What is the process there?

Ms. Arneaud: Madam Chair, I think that was a prior situation when our terms and conditions would have been much more—I would say attractive—to legal officers. But I must say, a manager at this position, at this point in time, that is not the case,

because we would not have benefited or we would not have—maybe not as yet—because our terms and conditions are presently before the CPO and we have not had an increase in terms and conditions since 2012. So we are hoping that we can keep that parity that we had before when the CPO considers the new terms and conditions for our legal officers and we have a combination of established and contract as well within our organization.

Madam Chairman: Well, it seems to me as though the CPO in the past then, if I am to understand what has been said, the CPO has treated with salaries under the DPP's office in a different way from that of Legal Aid and Advisory Authority.

Ms. Arneaud: Yes, because we may have additional duties as legal officers. We do advisory as well as representation. So the combination may be what they take into consideration when they look at the terms and conditions. Remember, members of the public walk off the street and we give advice as well. The remit of the authority is to give advice and legal representation. So it may be the combination of duties that our legal officers are responsible for.

Mr. Sturge: Can I ask—this is directed to the DPP. Does the DPP's staff also not advise Ministries and so on, on criminal issues?

Mr. Gaspard SC: Well, Mr. Sturge, the distinction or difference posited by my friend is not really a distinction or difference I agree with. The DPP's office, apart from representing persons in court, conducts training sessions for police officers, customs officers in the past. We conduct training sessions for the Commissioner of State Lands, Town and Country at one point in time, forestry. And we give advice to people coming off the streets. We give advice to family members of accused persons. We give advice to the police, different departments.

So the DPP's office does not just provide legal representation in the courts. The DPP's office, I believe, gives advice and opinions to perhaps even more bodies

than Legal Aid does.

Mr. Sturge: So what you are saying in essence there is that there is a distinction without a difference and therefore you—

Mr. Gaspard SC: Well, I might find that semantic so I would just say there is no difference.

Mr. Sturge: Right, so there is no basis really for Legal Aid getting more money than a prosecutor.

Mr. Gaspard SC: Yeah. If that is the basis to advance, I do not agree with that at all.

Mr. Sturge: Guided.

Ms. Arneaud: I just wanted to clarify, if I may, that the present situation is that our legal officers do not enjoy the terms and conditions right now that the DPP legal officers enjoy. We are presently below their present terms and conditions.

Madam Chairman: Well, it seems to me that even though now you are below, the idea is that there must be some sort of parity. So I am very grateful to you for giving us that information because perhaps we need to enquire of the CPO, what is the reason for differential treatments of attorneys in different Ministries? That might be useful for the public to know. I see that we have two Permanent Secretaries here. Ms. Jacobs, could you make a few opening comments?

Ms. Jacobs: Okay, Madam Chair. We do have two Permanent Secretaries in the Ministry. As you would know, this is a merged Ministry, so we do have the Legal Affairs division which I am responsible for and the AG's division which PS Seerattan is responsible for. We also have a distinction in that she is the accounting officer and therefore holds responsibility for certain financial aspects and things like that. So that is the difference hence we have two Permanent Secretaries.

But what I would just say is, I will support my colleague in the sense that from

September, we have really been trying to put systems and structures in place having gone into a new place to really improve efficiency. So some of things she would have mentioned, that is also evident at my end, on the legal affairs end. So the function is slightly different and we have different responsibilities. So, like the Legal Aid and Advisory Authority will filter through me to the Minister and other entities.

Madam Chairman: So you would be responsible for Legal Aid, Registrar's General Office, that kind of thing?

Ms. Jacobs: Correct, but the authority, so less things have to really pass through.

Madam Chairman: I see.

Ms. Jacobs: Because the authority, under the Act, they are responsible for their management of their business.

Madam Chairman: Yes, and the DPP would have to speak to Ms. Seerattan when he wishes to have a photocopier bought? *[Laughter]* Interesting.

Ms. Jacobs: Yes, Ma'am.

Madam Chairman: Okay. Can we move on now to Mr. Travers Sinanan? Mr. Sinanan attended our first public hearing and he very kindly prepared a paper for us which we have all got and he has been kind enough to accept our invitation to make a few comments with respect to his proposals for the amelioration of the criminal justice system.

Mr. Sinanan: I am grateful, Madam Chairman. A pleasant good afternoon to everyone. First of all, I, like the hon. DPP, have been a tad naughty because my submissions were very late. But I must thank the staff, Mr. Ogilvie and Mr. Sieunarine, for doing their utmost to get it to yourselves. It was sent at 10 o'clock last night, so I do apologize.

Can I make this very brief opening statement? You have the submissions and

I would not take up much of the time because I am looking at the clock and I know we have been here for some time. These comments are my comments based on my own experience as a practitioner and a prosecutor for some 25 years in the United Kingdom and as a former DPP within the region. Can I say this? I had planned to make a brief opening statement but I think I would want to say this first in support of DPP Gaspard. The office of the DPP, the world over, has always been seen as the Cinderella of the government legal service. I leave that comment there. It is unfortunate but it is true.

The priority and ultimate goal of a civilized society is to eradicate the triple evils that haunt us: delay, cost and complexity. All of which may be generated and interrelated from the uncontrolled nature of the criminal litigation process. It is an inescapable fact that the criminal justice system in this country, sad to say, is riddled with endemic delays. We speak of the golden thread that runs through the rule of law and the presumption of innocence, but the criminal justice system is hanging by a thread. That is not meant to be sensationalist; that is the truth of the matter.

Everyone sitting at this table and in this room knows what needs to be done. It is not rocket science. We know where the problems lie. We have to work smart, not hard. It is unfortunate that this jurisdiction, Trinidad and Tobago, which not so long ago was once renowned for having one of the strongest and erudite bars in the legal world of the Commonwealth Caribbean now finds itself being looked upon with scorn and dismay.

In some quarters, it is believed that this standing has been lost. I beg to differ. Trinidad and Tobago has the knowledge, it has the experience, it has the personnel to combat this particular problem. All that is needed is the sensible and robust deployment of resources and I say that with capitals and in bold and italics if you like, in this regard.

I have prepared my paper, I have submitted it and I have tried to deal with it from both the Magistrates' Court right up to the High Court, the assizes. Everything that has been said here in one form or fashion echoes what is on my paper. I am happy to receive your questions, comments and criticisms.

Madam Chairman: Mr. Sturge.

Mr. Sturge: Good day, Mr. Sinanan. We have a situation in Trinidad and Tobago where prosecutors—and I am not blaming them really because I know sometimes it is the fault of the police. Prosecutors would rise to tell a court that they are ready. The accused is arraigned, the jury is impanelled and then the next day, we find out that witnesses are unavailable because they are either dead, very ill, out of the jurisdiction.

There may be bad character applications, applications for fresh evidence and so on and so on that arise during the trial. And I believe largely it is the fault of the police officers not communicating with the State in terms of updates. But can you give us some idea as to how we can get rid of this problem because it causes multiple applications during the trial while the jury is already hearing evidence and therefore causes the trial to be prolonged?

Mr. Sinanan: For far too long, prosecutors have always been the cannon fodder. They are the ones with the cold face. But when the problems occur, no one wants to hear about the officer has not done his job, it is the prosecutor who is both the messenger and who gets shot, although they say do not shoot the messenger.

In my paper at page 3 and set out on to page 5, I deal with plea and case management hearings. It is important, it is imperative and it is vital that plea and case management hearings be had, heard and conducted by judges who dispense a robust approach to these matters because that protects a number of issues and ensures a quick trial, a fair trial, cost-effective and a timely hearing of the case. Prosecutors

who come before the courts and have to say that they have not received papers, may sometimes sound monotonous but unfortunately, they cannot say anything else. And judges should then have the power to summon to that court the officer in the case.

Ask the OIC. This is a small jurisdiction and we are blessed with telecommunications, speeding police cars who know how to get through traffic at the drop of a hat. They should therefore make sure that officers be ready and available at every plea and case management hearing.

When there is a case for plea and case management hearing, the officer should be linking with that prosecutor well in advance to know what the prosecutor needs, when the prosecutor needs it, when it can be supplied if it is lacking, and how soon they can get into court. Getting into court and standing around scratching one's head saying, "well I do not know" is limp and inexcusable. So the judges, if a prosecutor has a problem, the judges should then take a robust approach and ensure that the police officer is there if he is not there, because he or she should be there in the first instance.

Mr. Sturge: Mr. Sinanan, there is a question I wish to ask. Years ago when I first graduated, trials were much shorter, objections were dealt with immediately. You object, what is your objection, the prosecutor, what is your response and the judge would summarily deal with it. And Mr. Khan can bear me out. We have now a proliferation of legal arguments and most arguments being dealt with in writing during the course of a trial and judges delivering multiple rulings during the course of a trial, which, in any event, can bind no one because of deduction of stare decisis. Does that happen in the United Kingdom?

Mr. Sinanan: No. What tends to happen is you have a plea and case management hearing. On the plea and case management hearing form, you fill out the issues to be identified. You set a date with that judge, it may be two weeks hence. If it is

going to be a dismissal hearing, let us say, for lack of evidence, or if you have a particular issue with a voir dire or a statement. That is heard beforehand. That ruling is then binding. Well, that is a ruling but you still have the opportunity to raise it and the way it is raised at the trial is only if there is other evidence that surfaces that gives you cause to revisit it.

But these matters are dealt with as preliminary matters. That is why it says plea and case management. Dealing with these preliminary issues beforehand is case management. Pleas, when they come to court and they give a plea and it is not guilty, it is expected that the defence would be ready, once they have been provided with a term that has been used disclosure. Once disclosure is served upon them, then the defence should have no excuse of coming to court ready.

If there are no issues, it is very—put it this way, it is a brave practitioner that raises before the trial judge, “Oh, there is now an issue”, simply because the question would be: why did you not raise it at the plea and case management hearing? It is a filter and it is a way whereby it narrows the issues, it streamlines what has to be done, it is cost-effective. That is why when the London riots happened, the additional 750 cases a month, in addition to the existing 200 per month, posed no problem because matters were dealt with in a very focused way.

12.25 p.m.

Mr. Sinanan: There is no reason why this country, blessed with its technology, blessed with its knowledge, blessed with its resources and its legal personnel, cannot achieve that. As I said, resources must be deployed. Give the DPP what he needs. Do not have him going into court with one hand tied behind his back, a patch over his eye and he is limping. I left out the parrot.

Madam Chairman: Mr. Sinanan, thank you for making that observation because while Mr. Gaspard was speaking it could not—I had to take into account that some

of the difficulties that he is encountering now are difficulties that the DPP 20 years ago had. And I find that the DPP's office has always been treated very badly and unfortunately that is because the officers, generally speaking, work well and work well in spite of what they are given or not given. But I think that is no excuse for not making sure that they are properly paid, that their security is assured and that they have everything that they need at their disposal, to ensure that there is quality justice.

I know that Mr. Rambharat wishes to make a comment. Now, I am looking at the clock and the reason for that is because we have Members from the House of Representatives on the panel. So I need to knock off at about 12.30. I know Mr. Rambharat wishes to say something.

Mr. Rambharat: Very briefly, Madam Chair. I just wanted to thank the DPP and the Legal Aid and Advisory Authority, the Ministry. I see Mr. Daniel Khan has returned with his students, to thank them. I found the written submissions to be very comprehensive. It would help us. I found the data in this country, it is very difficult to get data and we do not have a habit of making decisions using data. I found the data to be helpful, frightening at times. I think that this Committee has enough to work with.

I just want to point to two things. One is something I have been saying often: in the more recent reports from the Judiciary, there is this point being made about the pool of defence lawyers in criminal matters shrinking and it is affecting the pace at which trials proceed. The first time I saw it, I was taken aback because it is not something I had personally considered, in relation to the speed at which trials move, and I just wanted to get your feedback on that.

The second thing is something which, of course, I always raise. I wanted to know if criminals accused in rural areas faced any additional disadvantage based on

the challenges facing the criminal justice system and, in particular, whether the DPP found that criminals accused in rural areas, if it was more difficult to assign lawyers to those cases on a consistent basis and whether the Legal Aid and Advisory Authority found any difficulty in supporting and allocating counsel to clients in rural areas? Thank you.

Mr. Gaspard SC: First of all, if I may take your last enquiry first, in relation to accused persons from rural areas. As far as I am concerned there is no difficulty in assigning prosecutors to deal with accused persons in rural areas. That is not one of our bugbears.

With respect to the criminal justice system, it has been my experience that there may be some difficulty, in terms of people in rural areas, say, accessing—let us take the south of the country, the High Court trials take place in San Fernando and, say, people from Mayaro, Guaya, Rio Claro, et cetera, they have some distance to go to reach and access the courts, especially given the traffic situation.

What you also find happening is that, in the case of witnesses, the so-called stipend that witnesses are paid to secure their attendance or so, as to assist them to access the court, the stipend is abysmally low. It is a stipend from a different era. So you have a situation where witnesses sometimes have to forego job opportunities, salaries and remuneration to come to court, perhaps doing their civic duty, and at the end of the day they have to take moneys out of their pockets and sometimes even prosecutors are attempted to have to provide these witnesses with transportation money, thus running the risk that some people might say you are bribing the witness to come to court. But the witnesses would tell you point-blank that to come from Guaya, to come from Icacos, and then at the end of the trial you get a little stipend that is abysmally low, they may feel it is not worth their while. Some of them may go into hiding so that they cannot be served with the requisite court process, so as to

secure their attendance at court and I think that that is something that needs to be looked at.

If we are looking at the issue of the accessibility of persons in the outlying districts to the criminal justice system, either as witnesses, accused. I think that that is a matter that needs to be looked at.

Madam Chairman: Thank you. Mr. Coppin has a question.

Mr. Khan SC: In relation to legal aid assigning an attorney—

Madam Chairman: I beg your pardon. Sorry Mr. Khan.

Mr. Khan SC: On the issue of assigning attorney, the people accused for crime the rural areas are at a big disadvantage because the experienced and competent attorneys congregate in Port of Spain or San Fernando and you would not get them to go to the district court in order to represent an accused person at a summary matter. It is only if the matter comes to the Assizes. The lawyers who congregate, or who live in the district, let us say, of Mayaro, for what reason the lawyers in the country district could stop reading or stop developing their skills and those are the lawyers that would be appointed by the magistrate in order to represent the accused persons. So they are definitely at a disadvantage. If you want a competent attorney—and also some lawyers are of the view that, in the Port of Spain and San Fernando, “is peanuts yuh paying dem in order to go down to the country district and yuh better look fuh a monkey.” That is their attitude. You give peanuts to a monkey. You do not give it to me. They tell you openly they are not going. You see, what they have in mind, they are not assisting the country.

Many of the lawyers coming out from Hugh Wooding Law School, they think from the time they become a lawyer they have a magic wand in their hand to make money.

Madam Chairman: Mr. Khan, so if a lawyer says listen, I am not going to the

district court because you are not paying me enough, does that lawyer remain on the roll?

Mr. Khan SC: Yes, my lady, because we are grateful he is on the roll.

Madam Chairman: Okay, we have a question from Mr. Coppin.

Mr. Coppin: Through you to Mr. Gaspard again, Madam Chair. You spoke earlier about the threats that are faced by prosecutors as being one of the major obstacles in attracting persons to the DPP's department. I know you would have spoken about bullets and missiles and threatening texts and you had put forward a suggestion to the AG, or a proposal for some sort of risk allowance. Now, I know that is quite pecuniary but is there any other strategy that you would advocate, which would, perhaps, mitigate or help persons to basically still feel safe in the arms of the Office of the DPP?

Mr. Gaspard SC: Well, I would also have put forward a number of measures to the Commissioner of Police, in relation to the safety of officers at the DPP's office. But if I might identify one particular factor that could assist and that would redound, in my respectful view, to the amelioration of the criminal justice system and eradicate delay, a lot of time is spent bringing prisoners from the prison to the respective courts. It might be that, given the fact that we are in 2016, we can deal with the issue of remanding prisoners by video link. We can deal with the issue of remanding prisoners by having a particular court dealing with the remanding of prisoners, so that magistrates, when they sit at nine, they actually sit to hear evidence and not to be going through their list for an hour or two dealing with the remanding of prisoners, and so on.

If we have a remand court, for instance, which is situated closer, in closer proximity to the prisons it will be cheaper for the State, I expect; and State Counsel, people attached to my office, do not have to run the risk of travelling from Port of

Spain along the bus route, the Eastern Main Road, the highways, et cetera, to get to Arima, to get to Grande, to get to Mayaro, to get to Rio Claro, to get to Point Fortin, to get to La Brea when that court sits.

Madam Chairman: Thank you, Mr. Gaspard.

Mr. Sturge: Madam Chair, I have one last question.

Madam Chairman: Is it a very brief question?

Mr. Sturge: Directed to both Mr. Gaspard and Mr. Sinanan, do you think the decriminalization of marijuana would assist the criminal justice system?

Mr. Gaspard SC: I think the decriminalization can assist, in terms of the reduction of the backlog and the sluggishness of the system. Since there are many persons who are not really—and to some extent, to the Chief Justice’s credit, the drug treatment courts is an idea that has been advanced and has the capability of helping out in this regard. There are some persons who end up in prison and before the courts, who are not criminals, per se, but who have a drug addiction problem. Those persons, again, you can actually do some diverting, deal with the persons, in terms of their drug addiction problem or some sort of ticketing system so that you would remove some of the burden currently plaguing the Magistrates’ Courts.

So I do think—and the thing is we would also need, in order to get that idea to fly properly, you also need a public sensitization programme. It is not as though you are saying marijuana, for instance, is legal. It is decriminalize, which is a completely different thing from some people thinking that you are legalizing marijuana. The distinction and the difference need to be concretized by means of a public education process.

Mr. Sturge: Thank you.

Madam Chairman: Thank you, Mr. Gaspard.

Mr. Sinanan: I would be very brief. They attempted to downgrade marijuana or

cannabis, as it is called in the UK, from grade B to grade C. They found that then there was an increase in its usage and they had to re-grade it or upgrade it. I think it depends on the quantity, it depends on its usage, it depends on the circumstances. But there must be, obviously, as has been said, a public programme to let people know that, you know, in some instances the possession of a small quantity of marijuana or weed has resulted in cautions at the police station. People admit and say, yes I had it on me; and the police say, well here is the caution. But we have to very cautious as to how we approach that and make sure it is not something that is abused.

Madam Chairman: Thank you all very much. This has been an enriching session. You all have very kindly provided us with written and oral material that we will certainly be relying upon to produce our report.

My invitation to all of you is, if you have any other comment that you wish to make please feel free to communicate with Mr. Ogilvie who is the clerk to this particular committee because we would welcome your comments prior to the production of our report.

Thank you very much for attending today. This session is adjourned, I suppose, or at an end.

12.39 p.m.: *Meeting adjourned.*

APPENDIX III

Status of works and the initial assessments of the Courts

Attachment I

What is the status of improvement works on the various Magistrates Courts?

The Judiciary currently has 18 Magistrates' Court, 3 Supreme Court, and 1 Family Court buildings situated at various geographical locations in Trinidad and Tobago, as shown at **Appendix I**. **Appendix II** provides an initial assessment of the physical conditions of all Court buildings.

Based on the initial assessment, a number of Magistrates' Court buildings were deemed to have existing infrastructural issues that could render these buildings unsafe and undesirable for carrying-out the work of the Court, if the said issues were not corrected in the short-term. The proposed corrective works and recommendations for meeting the infrastructural needs of each court building are provided at **Appendix III**.

In addressing the extent of the work necessary for each court building, various factors, which include but are not limited to the following were taken into consideration:

- the outcome of occupational health and safety risk assessments;
- the court workload, current staffing needs, and average customer traffic;
- availability of funding;
- ownership of the property; and
- the anticipated construction of four judicial complexes at Trincity, Sangre Grande, Chaguanas and Penal/Siparia. These locations were later changed by the former Ministry of Justice to Arima, Sangre Grande, Chaguanas, and Penal/ Siparia.

Appendix IV provides a status of the improvement works for Magistrate's court buildings that were assessed as needing said works.

Finally, while not yet an existing Magistrate's Court building, it is expected that with the completion of the building located at Nos. 1-3 Independence Avenue, San Fernando, there will be a new court building in the San Fernando in the Victoria West Magisterial District.

Construction work on this building began in January, 2015, and has been on-going since. At present, demolition works and refurbishment and strengthening of the steel structure has been ninety-percent completed. Due to funding constraints during the year, work was not able to keep apace as expected. With confirmation of financing, in fiscal 2016, the practical completion is expected to be reached in May, 2016.

Appendix I

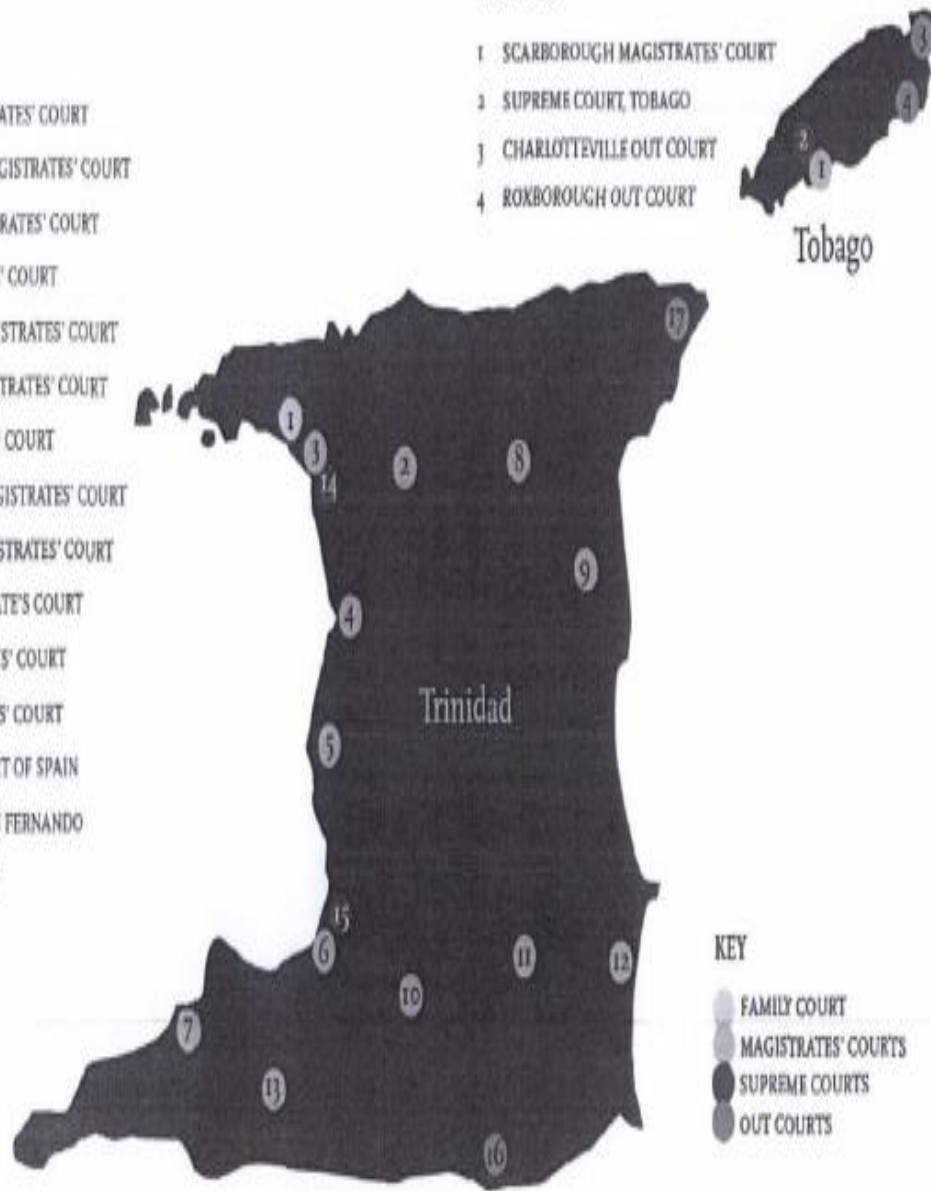
Judiciary of Trinidad and Tobago – Map of Court Locations

TRINIDAD

- 1 FAMILY COURT
- 2 TUNAPUNA MAGISTRATES' COURT
- 3 ST. GEORGE WEST MAGISTRATES' COURT
- 4 CHAGUANAS MAGISTRATES' COURT
- 5 COUYA MAGISTRATES' COURT
- 6 SAN FERNANDO MAGISTRATES' COURT
- 7 POINT FORTIN MAGISTRATES' COURT
- 8 ARIMA MAGISTRATES' COURT
- 9 SANGRE GRANDE MAGISTRATES' COURT
- 10 PRINCES TOWN MAGISTRATES' COURT
- 11 RIO CLARO MAGISTRATE'S COURT
- 12 MAYARO MAGISTRATES' COURT
- 13 SIPARIA MAGISTRATES' COURT
- 14 SUPREME COURT, PORT OF SPAIN
- 15 SUPREME COURT, SAN FERNANDO
- 16 MORUGA OUT COURT
- 17 TOCO OUT COURT

TOBAGO

- 1 SCARBOROUGH MAGISTRATES' COURT
- 2 SUPREME COURT, TOBAGO
- 3 CHARLOTTEVILLE OUT COURT
- 4 ROXBOROUGH OUT COURT



Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
1. Arima	Arima Magistrates' Court	<ul style="list-style-type: none"> Seek a new location with a fit for purpose building. Upgrade fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance in existing building 	The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance	<p>A new site was identified, however it was not found to be suitable.</p> <p>Efforts continue to find a greenfield site.</p>
2. Caroni (Chaguanas)	Chaguanas Magistrates' Court	Refurbish and expand court building	<p>The Chaguanas Magistrates' Court is nearing completion, and is at the stage where Finishes, Furniture and Equipment are being installed and procured.</p> <p>Practical completion is expected to be reached at the end of March, 2016.</p>	<p>The project involves a complete refurbishment and expansion of the existing Chaguanas Magistrate's Court</p> <p>The Judiciary has not been successful in its efforts to obtain a "greenfield" site to construct a new court building despite its efforts to pursue this alternative in conjunction with the Property and Real Estate Services Division (PRESD), after having identified the necessary parcel of land.</p> <p>With the forgoing of the plans to construct a Judicial Complex at Carlsen Field and with no date provided as to when said construction will take place, the Judiciary made a decision to continue with the refurbishment plans for the existing court building.</p>
3. Couva	Couva Magistrates' Court	Refurbish and expand court building	Design work was completed in fiscal 2015 and an engineer's estimate was submitted for the revised design for Judiciary's	The Judiciary received Cabinet approval in August 2013 for a reduced scope of works for the refurbishment and expansion of

Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
			<p>comment by the National Maintenance Training and Security Limited (MTS) (the project manager).</p> <p>At present the Judiciary is preparing to approach Cabinet for approval of the additional funding necessary to commence the project</p>	<p>the Couva Magisterial District based on the Ministry of Justice's communication that a Judicial Centre will be built at Carlsen Field. It was the intention that criminal matters would have been transferred in the first instance from the Couva Magisterial District to the said Judicial Centre, thus reducing the need for a second court room and non-intersecting secure circulation zones at the Couva Magistrates' Court. Designs and costing were therefore originally completed with this type of operation in mind. However, additional design work had to be done when the Ministry of Justice announced that the Judicial Centre at Carlsen Field was no longer a priority.</p>
4. South Eastern	Mayaro Magistrates' Court	<p>Undertake the following works to existing building:</p> <ul style="list-style-type: none"> • Refurbishment and restoration of roof and ceiling • Upgrade fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	<ul style="list-style-type: none"> • Upgrade to the roof, ceiling and other areas were completed. • The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance 	
	Rio Claro Magistrates' Court	<ul style="list-style-type: none"> • Refurbish and expand court building • Upgrade fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH 	<p>The design and tender has been completed for the required works.</p> <p>The Judiciary is awaiting the tender evaluation report from the project manager.</p>	<p>In fiscal 2015, designs were finalised and submitted for tender. Following the invitation, it was realised that all bids were above the Cabinet approved budget. At present, the project</p>

Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
		compliance in existing building		<p>manager is undertaking the evaluation of the tenders. The Judiciary is awaiting the recommendation of the tender evaluation committee.</p> <p>The construction period is expected to be 18 months, upon the confirmation of financing.</p>
5. Victoria East (Princes Town)	Princes Town Magistrates' Court	<ul style="list-style-type: none"> • Seek a new location with a fit for purpose building. • Upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance in existing building 	The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance	A new site has not been identified to date, however efforts continue to find a greenfield site.
6. Victoria West	San Fernando Magistrates Court (Old)	<ul style="list-style-type: none"> • Refurbish and restore roof • Upgrade fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance in existing building • Upgrade and modernise entire building 	<p>Minor refurbishment of the interior of the building was completed. The Judiciary is in the process of upgrading the electricity supply to the building.</p> <p>A feasibility study has been completed for both the restoration of the roof of the building, as well as the building in its entirety.</p> <p>The Judiciary is awaiting confirmation of funds to commence the tendering process for the restoration of the roof.</p>	It is expected that with the completion of the building situated at No. 1-3 Independence Square (currently under construction) (See Appendix II), the Old San Fernando Magistrates' Court building will be available to carry out the required restoration works, upon the availability of funding.
7. North Eastern	Sangre Grande Magistrates' Court	<ul style="list-style-type: none"> • Seek a new location with a fit for purpose building. • Undertake the following works to existing building: <ul style="list-style-type: none"> o provision of adequate 	Minor refurbishment work was completed. Other refurbishment work is being pursued by the land lord.	A new site was identified for the construction of a Judicial Complex in Sangre Grande, however this building has not materialised to date.

Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
		<ul style="list-style-type: none"> seating and covered area for customers o modification of internal work areas for staff o refurbishment of gate for Magistrates' car port o upgrade fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance in existing building 	<p>The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance</p> <p>This building still remains less than ideal for a court</p>	
8. St. Patrick West (Point Fortin)	Point Fortin Magistrates Court	<p>Undertake the following works to existing building:</p> <ul style="list-style-type: none"> • upgrade of sewer system • installation of a high security fence • re-sealing and caulking of shop front glass • construction of a Court Vault for securing of Court Files • upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	<p>Minor refurbishment work was completed to prevent leaks in various areas of the building. Works are still being pursued to address said leaks.</p> <p>Tenders have been invited for the installation of a new perimeter fence and upgrade of a sewer system.</p> <p>The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance.</p>	
9. St. Patrick East (Siparia)	Siparia Magistrates Court	<ul style="list-style-type: none"> • Refurbish and expand court building or seek a new location with a fit for purpose building. • Undertake the following works to existing building: <ul style="list-style-type: none"> o construction of customer seating and covered area 	<p>A number of minor refurbishment works were either completed or are ongoing in order to make this building habitable.</p> <p>The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware</p>	<p>There is a great need for larger and modern facilities for this Court. However in its present state this existing court building cannot be expanded.</p> <p>The Judiciary has requested the acquisition and vesting of the State lands adjacent to the</p>

Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
		<ul style="list-style-type: none"> ○ refurbishment of public and staff washrooms ○ modernisation of courtrooms ○ upgrade of electrical and plumbing services ○ upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	necessary for achieving OSH compliance.	courtbuilding. The Judiciary is informed that the relevant Cabinet Note has been drafted and sent for approval.
10. St George West (Port of Spain)	Port of Spain Magistrates' Court	<p>Undertake the following works to existing building:</p> <ul style="list-style-type: none"> • refurbishment and expansion of prisoner cells • modification of internal work areas • upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	<p>A number of minor refurbishment works were either completed or are ongoing in order to make this building habitable, including the upgrade to prison cells.</p> <p>The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance.</p> <p>This building remains in fair condition.</p>	
11. St George East (Tunapuna)	Tunapuna Magistrates' Court	<ul style="list-style-type: none"> • Interior re-configuration and upgrade for staff work area • upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	<p>A number of minor refurbishment works were either completed or are ongoing in order to make this building habitable, including the upgrade to the sewer system, air conditioning system, and plumbing and electrical services.</p> <p>The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware</p>	

Magisterial District	Court building	Assessed Infrastructural Needs	Status of Improvement Work	Comments
			necessary for achieving OSH compliance. This building remains in fair condition.	
12. Tobago (and out courts)	Scarborough Magistrates' Court	Undertake the following works to existing building: <ul style="list-style-type: none"> • refurbishment and restoration of roof • replacement of air-conditioning system • upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	A number of minor refurbishment works were either completed or are ongoing in order to make this building habitable, including the restoration of the roof and, air conditioning system. The Judiciary is currently engaged in the procurement process for the supply, delivery and installation of the hardware necessary for achieving OSH compliance. This building remains in good condition.	
	Roxborough Magistrates out-Court	Undertake the following works to existing building: <ul style="list-style-type: none"> • upgrade and expansion of entire structure • outfitting of the Court • upgrade of fire alarms, fire extinguishers, fire hoses, emergency lights, other equipment for OSH compliance 	This building was closed due to its dilapidated condition. A new design was completed for the refurbishment and restoration of the building. The Judiciary is currently pursuing the necessary approvals for the designs.	

Brief Conditional Assessment of Magistrates' Courts

Magisterial District	Building Condition	Building Ownership	Number of Courtrooms
1. Arima	Cramped conditions; not well maintained by landlord	Rented/ Leased	3
2. Caroni (Chaguanas)	Under Construction	Owned	3
3. Couva	Fair conditions for customers but confined space for staff; Poor Access for Disabled Persons	Owned	1
4. South Eastern	Rio Claro – Dilapidated; Poor Access for Disabled Persons	Owned	1
	Mayaro – Dilapidated; Poor Access for Disabled Persons, needs electrical wiring upgrade; Not suitable for a court building.	Shared with Government offices	1
5. Victoria East (Princes Town)	Confined space for staff and customers. Poor Access for Disabled Persons. Not suitable for a court building.	Shared with Government offices	2
6. Victoria West	• San Fernando Magistrates Court (Madinah Building): Good but confined spaces	Rented/ Leased	5
	• San Fernando Magistrates Court (Old): Dilapidated; Poor Access for Disabled Persons	Owned	3
	• San Fernando Magistrates' Court (No. 1-3 Independence Avenue, San Fernando) – Under construction	Owned	4
7. North Eastern	Sangre Grande – Confined space for staff and customers. Poor conditions. Poor Access for Disabled Persons	Rented	2
	Toco Out Court – Confined space; Poor access for Disabled Persons	Owned	1
8. St. Patrick West (Point Fortin)	Refurbished; Poor Access for Disabled Persons	Owned	2
9. St. Patrick East (Siparia)	Dilapidated; Poor Access for Disabled Persons; needs electrical wiring upgrade	Owned	2
10. St George West (Port of Spain)	Fair condition. Confined space for staff and customers.	Owned	14
11. St George East (Tunapuna)	Fair condition. Confined space for customers. Some mechanical services prone to breakdowns.	Site shared with Government offices	4
12. Tobago (and out courts)	• Scarborough Magistrates' Court – Fair condition	Owned	3
	• Charlotteville Out-Court – Fair. Not suitable for a court building.	Owned/ Shared with Government or Other Office	1
	• Roxborough Out-Court – Dilapidated, Unsafe. Building closed.	Owned	1

Magistrates' Courts - Assessed Infrastructural Needs for Capital Expenditure

Magisterial District	Court building	Assessed Infrastructural Needs
1. Arima	Arima Magistrates' Court	<ul style="list-style-type: none"> • Seek a new location with a fit for purpose building. • upgrade fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance in existing building
2. Caroni (Chaguanas)	Chaguanas Magistrates' Court	Refurbish and expand court building
3. Couva	Couva Magistrates' Court	Refurbish and expand court building
4. South Eastern	Mayaro Magistrates' Court	Undertake the following works to existing building: <ul style="list-style-type: none"> • Refurbishment and restoration of roof and ceiling • Upgrade fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance
	Rio Claro Magistrates' Court	<ul style="list-style-type: none"> • Refurbish and expand court building • Upgrade fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance in existing building
5. Victoria East (Princes Town)	Princes Town Magistrates' Court	<ul style="list-style-type: none"> • Seek a new location with a fit for purpose building. • Upgrade of fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance in existing building
6. Victoria West	San Fernando Magistrates Court (Old)	<ul style="list-style-type: none"> • Refurbish and restore roof • Upgrade fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance in existing building • Upgrade and modernise entire building
7. North Eastern	Sangre Grande Magistrates' Court	<ul style="list-style-type: none"> • Seek a new location with a fit for purpose building. • Undertake the following works to existing building: <ul style="list-style-type: none"> ○ provision of adequate seating and covered area for customers ○ modification of internal work areas for staff ○ refurbishment of gate for Magistrates' car port ○ upgrade fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance in existing building
8. St. Patrick West (Point Fortin)	Point Fortin Magistrates Court	Undertake the following works to existing building: <ul style="list-style-type: none"> • upgrade of sewer system • installation of a high security fence • re-sealing and caulking of shop front glass • construction of a Court Vault for securing of Court Files • upgrade of fire alarms, fire extinguishers, fires hoses, emergency lights, other equipment for OSH compliance
9. St. Patrick East (Siparia)	Siparia Magistrates Court	<ul style="list-style-type: none"> • Refurbish and expand court building or seek a new location with a fit for purpose building. • Undertake the following works to existing building: <ul style="list-style-type: none"> ○ construction of customer seating and covered

