



JUDICIAL AND LEGAL SERVICE COMMISSION

ANNUAL
REPORT

2017



FOREWORD



In compliance with Section 66 of the Constitution, I am pleased to present the Ninth Report of the Judicial and Legal Service Commission (the Commission) for the year 2017.

The Ninth Report, as in previous reports, describes the procedures followed and the criteria adopted by the Commission in the exercise of its functions and powers during the year 2017.

Throughout 2017, the Commission continued its work with commitment, persistence and dedication. Several challenges would be an understatement to describe the tumultuous year; however, the Commission still continued to deliver on its mandate and perform its functions with fairness, integrity and efficiency.

In the year 2017, the Commission bid farewell to two outstanding Members whose invaluable contribution assisted the Commission. Mr Justice Roger Hamel-Smith and Mr Justice Humphrey Stollmeyer resigned from the Judicial and Legal Service Commission. My sincere thanks and appreciation for their service are extended. Particular mention must be made of Justice Roger Hamel-Smith whose quiet counsel during his six years with the JLSC has helped steer the Commission through the years often in challenging circumstances.

With the departure of the Judges came “new blood”. The Commission welcomed Senior Counsel Ernest Koylass, Madam Justice Charmaine Pemberton and Mrs Nicole Beaubrun-Toby as members of the JLSC.

I wish to extend my sincere thanks to all those who weathered the storm with the Commission and in this light I pay tribute to Ms Anastasius Creed, the Director of Personnel Administration, who proceeded on leave from 19th October, 2017 prior to her compulsory retirement from the Public Service with effect from 11th March, 2018, for the support extended during her tenure.

The experience and commitment of its members continues to be the Commission’s major asset as it seeks to meet the demand for dynamic judicial and legal staff.

The Commission acknowledges the administrative support of the Director of Personnel Administration and her staff in the fulfillment of its mandate.

A handwritten signature in blue ink that reads "Ivor Archie". The signature is fluid and cursive, with a large initial 'I'.

*Ivor Archie
Chairman
Judicial and Legal Service Commission*

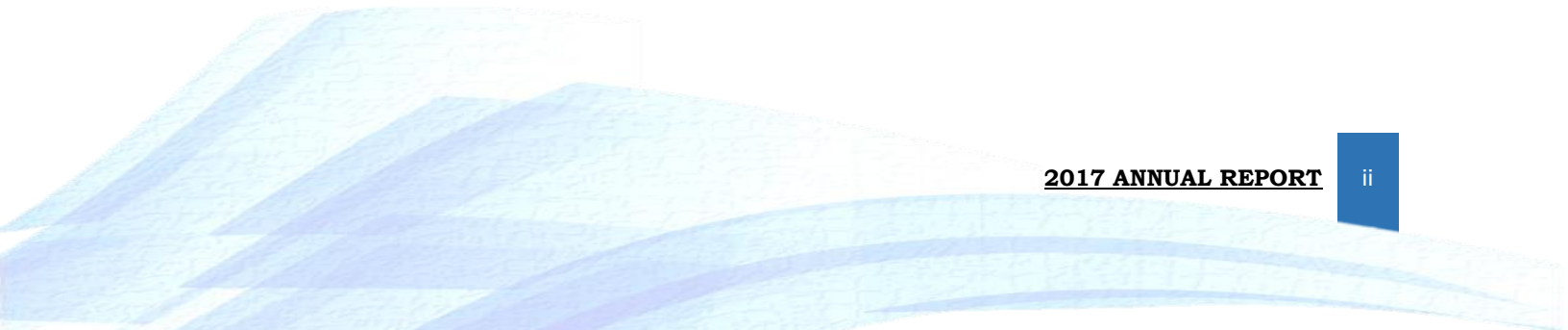


TABLE OF CONTENTS

Foreword.....	i
Table of Contents.....	iii
1.0 INTRODUCTION	1
1.1 Origin	1
1.2 Powers, Functions and Jurisdiction	1
2.0 PROCEDURES.....	2
2.1 Meetings	2
PART I2	
3.0 MEMBERSHIP.....	2
PART II.....	3
4.0 THE APPOINTMENT OF JUDGES	3
4.1 Recruitment and Selection of Judges	4
Recruitment.....	4
Selection.....	5
4.2 Appointment of Judges in 2017.....	5
Court of Appeal.....	5
High Court	5
Family and Children Division.....	6
PART III	7
5.0 OTHER APPOINTEMENTS, ACTING APPOINTMENTS AND PROMOTION7	
5.1 <i>Appointments/Promotions made during the year 2017</i>	7
5.2 Consultation with the Prime Minister in 2017	7
5.2.1 Challenges:	7
5.3 Temporary Appointment	7
5.3.1 Interpretation:	7
5.3.2 Temporary appointments made in 2017:.....	2
5.4 acting appointments	2
6.0 Advertisement	2
6.1 Promotional Offices	2
6.2 Entry level offices.....	10
7.0 Establishment of Selection Panels.....	11
8.0 CONSTRAINTS FACED BY THE COMMISSION IN EXERCISING ITS FUNCTIONS ..	12
8.1 APPOINTMENTS/PROMOTIONS:	12
8.2 OFFICERS ON NO-PAY LEAVE	14
8.3 NON-SUBMISSION OF PERFORMANCE APPRAISAL REPORTS	14
8.4 VACANCIES:	14
8.5 NON-SUBMISSION OF RECOMMENDATIONS FROM PERMANENT SECRETARIES AND	
HEADS OF DEPARTMENTS	15
For filling of vacant offices:.....	15
For acting appointments:	16
For Confirmation:.....	16
Policies.....	17
9.0 Policy for Order-of-Merit List	17
10.0 Recruitment	17
PART IV	17
11.0 TRANSFERS.....	17
PART V.....	18
12.0 TERMINATION OF APPOINTMENT	18
PART VI.....	18

13.0	DISCIPLINE	18
14.0	Complaints against members of the Judicial and Legal Service	18
15.0	Court matters	18
PART VII		20
16.0	FREEDOM OF INFORMATION REQUESTS	20
Acknowledgements		20
Appendix I - LAWS OF TRINIDAD AND TOBAGO		1
Appointment of Judges		1
Judicial and Legal Service Commission		2
Appendix II - First and Second Schedules		4
FIRST SCHEDULE		4
*SECOND SCHEDULE		6
Appendix III - STATISTICS		8
Appendix IV - Appointments/Promotions by the JLSC		11
Appendix V: Regulations 25 to 28		13

1.0 INTRODUCTION

This is the Ninth Report of the Judicial and Legal Service Commission (the Commission) which is being submitted pursuant to Section 66C (2) of the Constitution of the Republic of Trinidad and Tobago (the Constitution). The Constitution requires the Commission, before 1st October, in each year, to submit a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted. The period under review is 2017.

1.1 ORIGIN

The Commission is an executive body established under Section 110 of the Constitution and comprises the Chief Justice and the Chairman of the Public Service Commission (both ex officio) and three other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and otherwise in accordance with the stipulations set out in the said Section (*see Appendix I*).

1.2 POWERS, FUNCTIONS AND JURISDICTION

Section 104 of the Constitution gives the Commission the power to advise the President on the appointment of Judges other than the Chief Justice, the acting appointment of Judges and the revocation of such acting appointments. The President must act upon the advice which he receives from the Commission on all these matters.

Section 111 of the Constitution also vests in the Commission, the power to appoint persons to hold or act in prescribed public offices for which legal qualifications are required, including the power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices (*see Appendix I*).

Section 3 of the Judicial and Legal Service Act provides for the establishment and structure of the Judicial and Legal Service and practice by legal officers. Section 2 provides that the public offices in the public service set out in the First and Second Schedules shall be deemed to constitute the Judicial and Legal Service. In this regard, the schedules listing these offices are at *Appendix II*.

The total number of offices under the purview of the Commission currently stands at five hundred and three (503).

2.0 PROCEDURES

Section 129 of the Constitution gives the Commission the power to regulate its own procedure with the consent of the Prime Minister by regulation or otherwise. During the year 2017, the Commission continued to discharge its responsibilities in accordance with the procedures contained in the Public Service Commission Regulations (as amended) which it has adopted *mutatis mutandis* with the consent of the Prime Minister and as published in Notice No. 258 of the Trinidad and Tobago Gazette Volume 23, No. 51 dated 23rd February 1984.

2.1 MEETINGS

During the year 2017, the Commission met at the Hall of Justice on fifteen (15) occasions and considered one hundred and thirty-eight (138) Notes, which were prepared by the Secretariat of the Commission located at the Service Commissions Department.

Eleven (11) Statutory Meetings were held once per month. In addition, four (4) Special Meetings were held by the Commission to discuss issues/matters as they arose.

The Sub-Committees of the Commission met on twenty-two (22) occasions to conduct interviews of candidates for appointment to judicial and senior legal offices in the Judicial and Legal Service.

Additionally, between meetings forty (40) Notes were circulated among the Commission members for their views in writing. In such cases the Commission expressed their views in the majority. In 2017, Minutes of all meetings of the Commission, the decisions taken and matters noted by round robin were recorded and duly confirmed by the Commission.

A statement showing the number of meetings held by the Commission and the nature of the matters considered during the period under review is set out in *Appendix III*.

PART I

3.0 MEMBERSHIP

During the year 2017, the membership of the Commission comprised:

Name of Member	Office	Remarks
The Honourable The Chief Justice Mr. Ivor Archie	Chief Justice/ Chairman	
Mr. Justice Roger Hamel-Smith	Member	Resigned with effect from 30 th June, 2017
Mr. Justice C.V. Humphrey Stollmeyer	Member	Resigned with effect from 30 th June, 2017
Mrs. Maureen Manchouck Chairman, Public Service Commission	Member	
M. Ernest Koylass S.C.	Member	Member from 17 th May, 2017
Madam Justice Charmaine A.J. Pemberton	Member	Member from 19 th September, 2017
Mrs. Nicole Beaubrun-Toby	Member	Member from 11 th October, 2017

The Executive Director, Human Resource Management, Judicial and Legal Service, Service Commissions Department served as Secretary to the Commission during the period.

PART II

4.0 THE APPOINTMENT OF JUDGES

In the exercise of its powers under section 104 of the Constitution, the Commission established and published in the Trinidad and Tobago Gazette of 13th April, 2000, a detailed statement of the criteria and procedures used and followed in the selection of persons for appointment as Puisne Judges.

Those procedures are repeated here:

- ❖ anyone who wishes to be considered for appointment must make a written application to the Commission;
- ❖ anyone who is being considered for appointment will be interviewed by the Commission;

- ❖ when the need arises the Commission will advertise in the daily press the existence of vacancies on the Bench and invite applications for appointment;
- ❖ the views of the President of the Law Association and those of the President of the Criminal Bar Association (where relevant) are sought with regard to any judicial appointment; and
- ❖ the Commission may also seek the views of judges and other attorneys before making an appointment.

The criteria used by the Commission in making judicial appointments are grouped under the following main areas:

- ❖ Integrity
- ❖ Professional competence
- ❖ Temperament
- ❖ Experience

Selection of persons for appointment as Justice of Appeal are normally made from the High Court Bench but the Commission may advise the President to appoint to the Court of Appeal an outstanding candidate from outside the Judiciary. Seniority between High Court Judges is taken into account, but is not the only or governing factor.

The weighting given to the criteria for selecting the two levels of judges differs to some extent. While integrity is of prime and equal importance in both cases, greater importance is attached to professional competence in appointments to the Court of Appeal.

Selection of persons to fill vacancies on the High Court Bench is made by the Commission after due consideration of the merits of experienced and talented members of the legal profession, both within and outside the Judicial and Legal Service, who have indicated their willingness to serve.

4.1 RECRUITMENT AND SELECTION OF JUDGES

RECRUITMENT

In 2017, the Commission adopted an Assessment Centre type methodology in its recruitment and selection process for the office of Judge (Court of Appeal and High Court). The Commission agreed that candidates who successfully applied for these

offices would undergo the following stages in effort to select the best candidates for the office:-

- An assessment exercise
- An interview
- A psychometric assessment

SELECTION

In accordance with the provisions of section 104 (2) (d) (i) of the Constitution of the Republic of Trinidad and Tobago, His Excellency the President made appointments to the office of Puisne Judge during the period 2017 as follows:

4.2 APPOINTMENT OF JUDGES IN 2017

In 2017, appointments of Judges were made by His Excellency the President Anthony Thomas Aquinas Carmona, SC, ORTT as follows:-

COURT OF APPEAL

Mr Justice Andre Des Vignes was appointed as Justice of Appeal, Court of Appeal of the Supreme Court of the Judicature of Trinidad and Tobago:-

HIGH COURT

The following persons were selected for the office of Puisne Judge, Judiciary in the year 2017 as follows:-

Supreme Court

- ❖ Mr Kevin Ramcharan
- ❖ Mrs Marcia Ayers-Caesar
- ❖ Mrs Avason Quinlan-Williams
- ❖ Ms Jacqueline Wilson
- ❖ Ms KathyAnn Waterman-Latchoo
- ❖ Mrs Lisa Ramsumair-Hinds

Mrs Marcia Ayers-Caesar resigned her office with effect from 27th April, 2017.

FAMILY AND CHILDREN DIVISION

The Children and Family Act of 2016 provides for the establishment of a Division of the High Court named the Family and Children Division. According to the Act, under this Division the following offices have been assigned:-

4. (1) there shall be a Division of the High Court to be known as the "Family and Children Division" which shall comprise the Family Court Subdivision known as the "Family Court" and the Children Court Subdivision known as the "Children Court".

(3) The Division shall comprise up to twenty-two Puisne Judges and up to twenty-eight Masters.

Consequent on the operationalizing of the Family and Children Division the Commission decided that offices of Judge of the Family and Children Division of the Supreme Court of Judicature of Trinidad and Tobago be advertised within the Judicial and Legal Service and throughout the Commonwealth Caribbean with a view to establishing an Order-of-Merit List from which future promotions/acting appointment could be made.

The following persons were selected for the office of Puisne Judge of the High Court, Judiciary in the year 2017 as follows:-

Family and Children Division

- ❖ Mrs Jacqueline Sealy-Burke
- ❖ Ms Gail Gonzales
- ❖ Mrs Sharon Gibson

Mrs Sealy-Burke subsequently withdrew her interest in the office of Puisne Judge (Family and Children Court).

In accordance with the provisions of section 104 (2) (d) (ii) of the Constitution of the Republic of Trinidad and Tobago, His Excellency the President extended the temporary appointment of Mrs Halcyon-Young as Puisne Judge of the High Court, Judiciary (Supreme Court) for assignment to the Family Court for a further period of six months from 1st June, 2017.

Listed at *Appendix IV* are the number of appointments made and other actions taken in respect of the offices of Judge.

PART III

5.0 OTHER APPOINTMENTS, ACTING APPOINTMENTS AND PROMOTION

5.1 APPOINTMENTS/PROMOTIONS MADE DURING THE YEAR 2017

During the year 2017, the Commission filled eighty-two (82) vacancies. A total of fifty-two (52) appointments; twenty-nine (29) promotions and one (1) appointment on transfer were made to offices listed at *Appendix IV*.

5.2 CONSULTATION WITH THE PRIME MINISTER IN 2017

During the year 2017, the Commission sought and obtained the concurrence of the Prime Minister for thirteen (13) acting appointments in respect of the undermentioned offices of:-

- Chief Parliamentary Counsel;
- Director of Public Prosecutions;
- Registrar General;
- Solicitor General; and
- Chief State Solicitor.

Each of the aforementioned offices have been permanently filled with substantive holders.

Also in the year 2017, the Prime Minister signified his non-objection for the promotion of Mrs Cheryl Charles. Mrs Charles was promoted as Chief State Solicitor with effect from 19th September, 2016.

5.2.1 CHALLENGES:

Requests for persons to act in the aforementioned offices should be received with the endorsement of the Permanent Secretary, Ministry of the Attorney General and Legal Affairs, at least one month before the effective date of the proposed appointment to facilitate the processing of the requests and transmission to the Prime Minister. In the period under review, these requests were received less than one week before the commencement of the proposed appointment and in some cases well after the period of the acting appointment.

5.3 TEMPORARY APPOINTMENT

5.3.1 INTERPRETATION:

A temporary appointment is made for specific period and determines on the expiry of the period specified.

5.3.2 TEMPORARY APPOINTMENTS MADE IN 2017:

The Commission made temporary appointments in respect of the undermentioned five (5) offices during the period under review:

- Court Executive Administrator
- Senior Magistrate
- Magistrate
- Deputy Controller of Patents
- Registrar, Environmental Commission

The temporary positions arose as a result of officers either:

- proceeding on no-pay leave to accept Government employment on contract; or
- acting appointments in higher offices.

5.4 ACTING APPOINTMENTS

One hundred and thirteen (113) acting appointments were made in the year 2017. These appointments were made in the following circumstances:-

- against vacant offices;
- for officers on:
 - vacation leave,
 - no-pay leave
 - leave to pursue courses
 - official business out of the country
 - secondment

6.0 ADVERTISEMENT

6.1 PROMOTIONAL OFFICES

During the year 2017, interviews were conducted for the undermentioned promotional offices that were advertised within the Judicial and Legal Service as follows:

Office/Group/Ministry/Department	Number of applications received	No. of candidates interviewed	No. of days of interviews
Master of the High Court (Group J1), Family and Children Division, Judiciary (Supreme Court)	38	17	2
Senior State Counsel (Group L4B), Police Service Commission, Service Commissions Department	23	13	2
Court Executive Administrator (Group J3A) Department of Court Administration – Judiciary	3	2	1
Deputy Controller of Patent (Group J3) Intellectual Property Office, Ministry of the Attorney General and Legal Affairs	2	1	1
Assistant Registrar and Deputy Marshal (Group J5) Judiciary (Supreme Court)	42	28	4
Magistrate (Group J4), Judiciary (Magistracy)	29	16	3
Administrative Secretary to the Chief Justice (Group J3B), Judiciary (Supreme Court)	26	10	2
Chairman, Equal Opportunity Tribunal	24	9	2
Registrar and Marshal (Group J2), Judiciary (Supreme Court)	9	5	1
State Counsel III Criminal Law Department, Ministry of the Attorney General and Legal Affairs	14	5	1

Office/Group/Ministry/Department	Number of applications received	No. of candidates interviewed	No. of days of interviews
Deputy Registrar and Marshal (Group J4), Judiciary (Supreme Court) <i>(Advertised in Oct. 2017. Completed in 2018)</i>	13		
Chief Magistrate (Group J1) Judiciary (Magistracy) <i>(Advertised in Oct. 2017. Completed in 2018)</i>	2		
Head, Legal Division (Group L5B) Office of the Ombudsman <i>(Advertised in Oct. 2017. Completed in 2018)</i>	25		
Total	250	106	19

6.2 ENTRY LEVEL OFFICES

During the year 2017, interviews were conducted for the undermentioned entry-level offices that were advertised within the Judicial and Legal Service as follows:

Office/Group/Ministry/Department	Number of applications received	No. of candidates interviewed	No. of days of interviews
State Counsel I (Group L7A/L7B), Criminal Law Department, Ministry of the Attorney General and Legal Affairs	181	59	7
Legal Research Officer I (Group L7B/L7A), Police Service Commission Secretariat, Service Commissions Department	78	8	1
State Counsel I (Group L7A/L7B), Inland Revenue Division, Ministry of Finance	64	18	2

Office/Group/Ministry/Department	Number of applications received	No. of candidates interviewed	No. of days of interviews
Examiner of Title (Group L7B/L7A) Registrar General's Department (Advertised in Oct. 2017. Completed in 2018)	20		
Total	343	85	10

7.0 ESTABLISHMENT OF SELECTION PANELS

In 2016, the Commission had agreed to the establishment of Selection Panels to assist in the recruitment and selection process for offices under its purview. The Commission had decided that Retired Judges and Permanent Secretaries/Heads of Departments, who indicated an interest in serving, would serve on the interview panels.

In 2017, the Panels conducted interviews for the under mentioned offices:-

Office	Ministry/Department	No. of candidates interviewed
State Counsel I (Criminal)	Attorney General and Legal Affairs	59
Legal Research Officer	Attorney General and Legal Affairs	8
State Counsel I - Service Commissions Department	Service Commissions Department	15
State Counsel I- Inland Revenue Division	Finance	18
State Counsel III Criminal Law Department, Ministry of the Attorney General and Legal Affairs	Attorney General and Legal Affairs	4
Total		104

8.0 CONSTRAINTS FACED BY THE COMMISSION IN EXERCISING ITS FUNCTIONS

8.1 APPOINTMENTS/PROMOTIONS:

Despite the Job Evaluation Exercise which was conducted by the office of the Chief Personnel Officer in 2002, the job specifications for some judicial and legal offices are outdated and do not reflect current best practices. The determination of salaries and terms and conditions remains within the sole discretion of the Executive and Legislature. The Salaries Review Commission (SRC) Report must be laid in Parliament before it can be applied and enforced. There is an inordinate delay in classifying offices and/or providing job specifications for some offices, without which, the Commission is unable to advertise the office and to appoint to the office. In 2017, the following offices remained unclassified and/or without job specifications/descriptions by the office of the Chief Personnel Officer. This prevents the Commission from filling these vacancies:-

- Ministry of Energy and Energy Industries
- Ministry of Finance (Treasury Solicitor's Department)
- Ministry of Health
- Tobago House of Assembly
- Office of the Prime Minister (Legal Services Unit)

Office/Group	Ministry/Department	No. vacant	Remarks
State Counsel III (Group L5C)	Energy	3	<ul style="list-style-type: none"> ➤ Two (2) additional offices created with effect from 27th July, 2017 by CM#1341 dated 27th July, 2017 resulting in a total of three (3) vacant offices. ➤ Job specification to be developed by the Chief Personnel Officer.
Deputy Treasury Solicitor To be classified	Finance (Treasury Solicitor's Department)	1	<ul style="list-style-type: none"> ➤ Office to be classified by the Chief Personnel Officer. ➤ Job specification to be developed by the Chief Personnel Officer.

Office/Group	Ministry/ Department	No. vacant	Remarks
State Counsel III (Group L5C)	Finance (Treasury Solicitor's Department)	3	<ul style="list-style-type: none"> ➤ Three (3) offices created with effect from 11th May, 2017 by Cabinet Minute No. 957 dated 11th May, 2017. ➤ Job specification to be developed by the Chief Personnel Officer.
State Counsel III (Group L5C)	Health	1	<ul style="list-style-type: none"> ➤ Office created with effect from 27th August, 2015 by Cabinet Minute No. 2160 dated 27th August, 2015. ➤ Job specification yet to be developed by the Chief Personnel Officer.
State Counsel III (Group L5C)	Office of the Prime Minister (Legal Services Unit)	1	<ul style="list-style-type: none"> ➤ Office created by Cabinet Minute #885 with effect from 23rd June, 2016 dated 23rd June, 2016. ➤ Job specification yet to be developed by the Chief Personnel Officer.
State Counsel II Group L6A	Office of the Prime Minister (Legal Services Unit)	1	<ul style="list-style-type: none"> ➤ Office created by Cabinet Minute #885 with effect from 23rd June, 2016 dated 23rd June, 2016. ➤ Job specification yet to be developed by the Chief Personnel Officer.
State Counsel II (Group L6A)	Tobago House of Assembly	1	<ul style="list-style-type: none"> ➤ Office transferred by Cabinet Minute No. 2237 dated 17th November, 1988 from the office of the Prime Minister, Central Administrative Services Tobago (CAST) to the Tobago House of Assembly Office. ➤ Job specification to be developed by the Chief Personnel Officer.

8.2 OFFICERS ON NO-PAY LEAVE

More recently, the Commission has observed that officers are being granted no-pay leave to take up employment on secondment or on contract in State Agencies, other Ministries and Departments or at Agencies in the wider Region. In these instances, officers are on leave for up to five (5) years and their offices can only be filled on a temporary basis. In these circumstances, the Commission is unable to consider for appointment/promotion, the officers who are actually performing the duties of the office.

8.3 NON-SUBMISSION OF PERFORMANCE APPRAISAL REPORTS

The non-submission of Performance Appraisal Reports seriously hampers the work of the Commission. Despite reminders to Permanent Secretaries and Heads of Departments for the early submission of such reports, Permanent Secretaries and Heads of Departments continue to submit Performance Appraisal Reports in respect of the job performance and conduct of officers well after the reporting period. This retards the Commission from filling offices in a timely manner.

8.4 VACANCIES:

The Commission continues to be concerned by the number of vacant offices in the Judicial and Legal Service and is gravely concerned by the large number of vacancies in the Criminal Law Department of the Ministry of the Attorney General and Legal Affairs particularly given the crime climate.

The Director of Public Prosecution's office is plagued by staff shortages at all but the entry level as the Commission was able to fill thirty-two (32) of the thirty-three (33) offices of State Counsel I (Criminal Law) in 2017.

The table below sets out the status of the offices in the Criminal Law Division Ministry of the Attorney General and Legal Affairs:

Office/Group	Grade	Ministry/ Department	Department	No. of offices	No. filled	No. vacant
Director of Public Prosecutions	(Group L1)	Attorney General and Legal Affairs	Criminal Law	1	1	-
Deputy Director of Public Prosecutions	(Group L2B)	Attorney General and Legal Affairs	Criminal Law	3	1	2

Office/Group	Grade	Ministry/ Department	Department	No. of offices	No. filled	No. vacant
Assistant Director of Public Prosecutions	(Group L3)	Attorney General and Legal Affairs	Criminal Law	6	2	4
Senior State Counsel	(Group L4B)	Attorney General and Legal Affairs	Criminal Law	15	3	12
State Counsel III	(Group L5C)	Attorney General and Legal Affairs	Criminal Law	25	13	12
State Counsel II	(Group L6A)	Attorney General and Legal Affairs	Criminal Law	46	11	35
State Counsel I	(Group L7A/L7B)	Attorney General and Legal Affairs	Criminal Law	33	32	1
Total				129	63	66

8.5 NON-SUBMISSION OF RECOMMENDATIONS FROM PERMANENT SECRETARIES AND HEADS OF DEPARTMENTS

When recommendations are late or nonexistent, this affects the work of the Commission in fulfilling its Constitutional mandate and has a negative impact on the administration of justice. The following are instances where the Commission's work is impeded:-

FOR FILLING OF VACANT OFFICES:

The Commission continues to receive late recommendations, or no recommendations, for the filling of vacant offices in the various Ministries and Departments. Regulation 13 of the Public Service Commission Regulations as adopted by the Judicial and Legal Service Commission provides that:-

13. (1) As soon as it is known that a vacancy will occur the Permanent Secretary or Head of Department shall communicate to the Director in writing and shall make his recommendations regarding the filling of the vacancy.

(2) Where a vacancy exists for more than three months and no request has been made by the Permanent Secretary or Head of Department for the filling of the vacant post, the Director shall send to each Permanent Secretary or Head of Department a statement of existing vacancies in his Ministry or Department requesting early recommendations for filling vacancies.

(3) If recommendations, or satisfactory explanations for a lack thereof, are not received within a month, the Director shall report the fact to the Commission and the Commission shall require the Permanent Secretary or Head of Department to inform it of the reasons for failure to request the filling of the vacancy.

The Commission has had to resort to acting under Regulation 13(3) as stated above to enquire of the Permanent Secretary/Head of Department of their reasons for failure to request a filling of a vacancy.

FOR ACTING APPOINTMENTS:

Regulations 25 to 28 of the Public Service Commission Regulations as adopted by the Judicial and Legal Service Commission outline the process for acting appointments made not as prelude to appointment (*Appendix IV*).

Regulations 27 and 28 in particular provide for Permanent Secretaries to submit recommendations in advance of the commencement of the period of acting appointment and to provide reasons for passing over officers.

The Commission continues to receive recommendations well after the recommended period and in most cases without proper justification.

FOR CONFIRMATION:

The Commission's functions also include the confirmation of the appointments it has made. The Commission has observed that recommendations for the confirmation of officers' appointments are made well after officers' probationary periods have elapsed.

POLICIES

9.0 POLICY FOR ORDER-OF-MERIT LIST

In 2016, the Commission had decided that:

- (i) Order-of-Merit Lists be established for a period of one (1) year with effect from the date of the Commission's decision;
- (ii) the Order-of-Merit List would be subject to review by the Judicial and Legal Service Commission on a date to be determined by the Commission three (3) months prior to the expiration of the List; and
- (iii) in appointing candidates from the Order-of-Merit List, where possible, the respective dates of their appointment should be so staggered to reflect their positions on the Order-of-Merit List.

The Commission continued to adhere to this policy in 2017 and created Order-of-Merit Lists in respect of fourteen (14) offices.

10.0 RECRUITMENT

In 2015, the Commission had decided that with effect from 1st September, 2015:

- (i) it would only be considering applications from applicants with a Bachelor of Laws with First and Second Class Honours; and
- (ii) if applicants are not in possession of a Bachelor of Laws with First or Second Class Honours, that consideration be given to any supplemental higher qualification they may possess.

The Commission has continued to incorporate this policy as a shortlisting mechanism for advertised offices.

PART IV

11.0 TRANSFERS

The Commission did not receive any request for transfer in 2017.

PART V

12.0 TERMINATION OF APPOINTMENT

No requests were made for the termination of the appointment of any officer in the Judicial and Legal Service during the year 2017.

PART VI

13.0 DISCIPLINE

There were no allegations of misconduct reported against members of the Judicial and Legal Service in the year 2017.

14.0 COMPLAINTS AGAINST MEMBERS OF THE JUDICIAL AND LEGAL SERVICE

During the year 2017, the Commission considered one (1) complaint against a member of the Judicial and Legal Service. The Commission sought the comments of the Head of Department in the matter before adjudicating.

15.0 COURT MATTERS

In 2017, seven (7) Court matters were filed involving the Judicial and Legal Service Commission. Three (3) matters were concluded in favour of the Commission, one (1) matter was withdrawn by the Claimant. Three (3) matters are still on-going.

Decision	Claim / Civil Appeal No.	Subject
Case determined in favour of the Judicial and Legal Service Commission	CV2017-01720	Application CV2017-01720 by Khadija Sinanan for a Judicial Review in a matter of a decision by the Judicial and Legal Service Commission.

Decision	Claim / Civil Appeal No.	Subject
Matter is on-going	CV2017-03190	Claim No. CV2017-03190 filed by the Attorney General in the matter of the interpretation of the indictable offences (Preliminary Inquiry) Act Chap 12:01, The Summary Courts Act, Chap 4:20 and in the matter of the determination of various pending matters which commenced and remained unfinished before Magistrate Marcia Ayers-Caesar.
Matter is on-going	CV2017-02628	Claim No. CV2017-02628 – Mrs Marcia Ayers-Caesar and the Judicial and Legal Service Commission and the Attorney General of Trinidad and Tobago.
Matter is on-going	S134	Civil Appeal No. S134 of 2015 – Mr. Nairob Smart and the Director of Personnel Administration and Judicial and Legal Service Commission.
Matter was withdrawn by the Claimant	CV2017-01899	C.V/ 2017-01899 Application by Mr. Wayne Sturge for Judicial Review of the failure and or refusal of the Judicial and Legal Service Commission to make decision pursuant to Section 15 of the Freedom of Information Act.
Civil Appeal was dismissed	Civil Appeal Application No. S 61 of 2017	Interpretation of Section 110 of the Constitution to determine whether the appointment of a retired judge to the Judicial and Legal Service Commission under Section 110 (3)(b) is valid and proper
Appeal was dismissed	Court of Appeal	Challenge of the constitutionality of the composition of the Judicial and Legal Service Commission

PART VII

16.0 FREEDOM OF INFORMATION REQUESTS

During the year 2017, the following requests for information were submitted to the Service Commissions Department under the Freedom of Information Act, No. 26 of 1999:-

Nature of Freedom of Information request	2017
Information/Copy of Documents	19
Request for Information	21
Totals	41

Of the aforementioned requests, twenty-nine (29) were granted in full to the applicants. Three (3) requests were not granted as the documents were considered exempt documents and or deemed to be individual's personal information. Nine (9) requests could not have been granted as the information did not exist in the Service Commissions Department and/or did not form part of the records of the Judicial and Legal Service Commission/Service Commissions Department.

ACKNOWLEDGEMENTS

In conclusion, the Commission once again wishes to express its appreciation to the Director of Personnel Administration and to the officers of the Service Commissions Department, for their valuable assistance during the year under review.

The Constitution

CHAPTER 7

THE JUDICATURE

PART 1

APPOINTMENT OF JUDGES

104. (1) The Judges, other than the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Where --

- (a) the office of any such Judge is vacant;
- (b) any such Judge is for any reason unable to perform the functions of his office;
- (c) any such Judge is acting as Chief Justice or a Puisne Judge is acting as a Justice of Appeal;
or
- (d) the Chief Justice advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, acting in accordance with the advice of the Judicial and Legal Service Commission -

- (i) may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require;
- (ii) may, notwithstanding section 136, appoint a person who has held office as a Judge and who has attained the age of sixty-five to be temporarily a Puisne Judge for a fixed period of not more than two years.

- (3) The appointment of any person under subsection (2) to act in the office of Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

Part III

JUDICIAL AND LEGAL SERVICE COMMISSION

110. (1) There shall be a Judicial and Legal Service Commission for Trinidad and Tobago.

(2) The members of the Judicial and Legal Service Commission shall be -

- (a) the Chief Justice, who shall be Chairman;
- (b) the Chairman of the Public Service Commission;
- (c) such other members (hereinafter called "the appointed members") as may be appointed in accordance with subsection (3).

(3) The appointed members shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition as follows:

- (a) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeal from any such court;
- (b) two from among persons with legal qualifications at least one of whom is not in active practice as such, after the President has consulted with such organisations, if any, as he thinks fit.

(4) Subject to section 126 (3) (a) an appointed member shall hold office in accordance with section 136.

111. (1) Subject to the provisions of this section, power to appoint persons to hold or act in the offices to which this section applies, including power

to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Service Commission.

- (2) Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister.
- (3) A person shall not be appointed to any such office if the Prime Minister signifies to the Judicial and Legal Service Commission his objection to the appointment of that person to that office.
- (4) This section applies to such public offices as may be prescribed, for appointment to which persons are required to possess legal qualifications.

APPENDIX II - FIRST AND SECOND SCHEDULES

**First and Second Schedules to the
Judicial and Legal Service Act
Chapter 6:01 of the Laws of the Republic of Trinidad and Tobago
(as amended)**

FIRST SCHEDULE

LEGAL OFFICES

PART I

CIVIL LAW DEPARTMENT

Solicitor General.
Deputy Solicitor General.
Assistant Solicitor General.
Senior State Counsel.
State Counsel IV.
State Counsel III.
State Counsel II.
State Counsel I.
Chief State Solicitor.
Deputy Chief State Solicitor.
Assistant Chief State Solicitor.
Senior State Solicitor.
State Solicitor II.
State Solicitor I.
Registrar General.
Deputy Registrar General.
Assistant Registrar General.
Senior Assistant Registrar General.
Examiner of Title.
Specialist Legal Officer.
Controller of the Intellectual Property Office.
Deputy Controller of the Intellectual Property Office.

PART II

CRIMINAL LAW DEPARTMENT

Director of Public Prosecutions.
Deputy Director of Public Prosecutions.
Assistant Director of Public Prosecutions.
Senior State Counsel.
State Counsel IV.
State Counsel III.
State Counsel II.
State Counsel I.

PART III

LEGISLATIVE DRAFTING DEPARTMENT

Chief Parliamentary Counsel.
Deputy Chief Parliamentary Counsel.
Assistant Chief Parliamentary Counsel.
Senior Parliamentary Counsel.
Parliamentary Counsel III.
Parliamentary Counsel II.
Parliamentary Counsel I.

PART IV

LAW COMMISSION

Director of Law Revision.
Commission Secretary.
Senior Legal Research Officer.
Legal Research Officer II.
Legal Research Officer I.
Assistant Legal Research Officer.
Senior Parliamentary Counsel.
Parliamentary Counsel II.
Parliamentary Counsel I.
Law Reform Officer.
Legislative Draftsman.

PART V

OTHER MINISTRIES AND DEPARTMENTS

Treasury Solicitor.

Legal Adviser.

Senior State Counsel.

State Counsel IV.

State Counsel III.

State Counsel II.

State Counsel I.

Head of the Legal Division in the Office of the Ombudsman.

Chief State Counsel, Inland Revenue Division, Ministry of Finance.

Assistant Chief State Counsel, Inland Revenue Division,

Ministry of Finance.

Registrar, Environmental Commission.

***SECOND SCHEDULE**

JUDICIAL OFFICES

PART I

Chief Magistrate.

Deputy Chief Magistrate.

Senior Magistrate.

Magistrate.

Magistracy Registrar and Clerk of the Court.

Magistrate (Appointed on Contract).

Coroner.

Coroner (Appointed on Contract).

PART II

Master of the High Court.

Registrar and Marshal.

Deputy Registrar and Marshal.

Assistant Registrar and Deputy Marshal.

PART III

Court Executive Administrator.
Administrative Secretary to the Chief Justice.

PART IV

Registrar, Appeal Board.

PART V

Registrar, Industrial Court.
Assistant Registrar, Industrial Court.

PART VI

Registrar, Equal Opportunity Tribunal.



APPENDIX III - STATISTICS

STATISTICS ON MATTERS CONSIDERED BY THE JUDICIAL AND LEGAL SERVICE COMMISSION FOR THE YEAR 2017

PARTICULARS	TOTAL
No. of Regular Meetings	11
No. of Special Meetings	4
No. of Notes Considered at Meetings	138
No. of Notes Considered by Written Opinions	40
No. of Interviews conducted by the Commission	191
No. of occasions sub-Committees of the Commission met to conduct interviews	22
No. of Interviews conducted by Selection Panels appointed by the Commission	104
Meeting with Permanent Secretary/Head of Department	0
Judge Court of Appeal	
Decision to advertise for Judge of Court of Appeal	0
Selection for appointment as Judge of the Court of Appeal of the Supreme Court	1
Appointment as Justice of Appeal by the President	1
Revocation of Appointment as Judge Court of Appeal	0
Retirement- Judge Court of Appeal	0
Resignation - Judge Court of Appeal	1
Puisne Judge	
Appointment of Puisne Judge	9
Acting Appointment of Puisne Judge	0

PARTICULARS	TOTAL
Extended for a further period of acting appointment of Puisne Judge	3
Extended for a further period of temporary appointment of Puisne Judge	0
Temporary Appointment of Puisne Judge	0
Request for Extension of Acting Appointment as Puisne Judge	3
Revocation of Acting Appointment of Puisne Judge	0
Application for Permanent Appointment as Puisne Judge	0
Retirement	0
Resignation	1
Decision to Advertise	0
Representations	1
Complaints Against Puisne Judge	0
Decision to Interview	1
Request to defer Appointment as Puisne Judge	2
Judicial and Legal Service Commission	
Promotions	29
Appointments	59
Acting Appointments	113
Temporary Appointments	4
Transfer	0
Appointment on Transfer	1
Released for Appointment on Transfer	0
Appointment on Secondment	0
Released for Appointment on Secondment	3

PARTICULARS	TOTAL
Amendment to Acting Appointment	0
Cancellation of Permanent Appointment	9
Cancellation of Promotion	0
Cancellation of Acting Appointment	0
Confirmations	16
Complaints against legal officers	0
Request for determination of Seniority	1
Noted No Pay Leave on grounds of Public Policy	1
Noted No Pay Leave for Private Reasons	1
Noted grant of extension of No Pay Leave	1
Noted application for Judicial Review against JLSC	1
Noted Status of Investigation of allegation of misconduct	0
Noted creation of posts	5
Noted Compulsory Retirement	2
Noted Voluntary Retirement	0
Noted Resignation	7
Noted Civil Appeal	4
Request to defer assumption of duty	2
Request for Transfer	0
Request for abatement of probationary period	0
Request for information under the FOIA 1999	41
Representations	3
Transfer as a result of re-alignment	107

APPENDIX IV - APPOINTMENTS/PROMOTIONS BY THE JLSC

Office	Ministry/Department	No. of Promotions	No. of Appointment	No. of Appointments on Transfer
Assistant Registrar and Deputy Marshal	Judiciary (Supreme Court)	2	4	1
Assistant Chief State Solicitor	Chief State Solicitor's Department Attorney General and Legal Affairs	2		
Chief State Solicitor	Chief State Solicitor's Department Attorney General and Legal Affairs	1		
Controller of Patents	Intellectual Property Office Attorney General and Legal Affairs	1		
Deputy Chief State Solicitor	Chief State Solicitor's Department Attorney General and Legal Affairs	1		
Deputy Controller of Patents	Intellectual Property Office Attorney General and Legal Affairs		1	
Deputy Registrar and Marshal	Judiciary (Supreme Court)	1		
Justice of Appeal	Judiciary (Supreme Court)		1	
Legal Research Officer I	Police Service Commission Secretariat, Service Commissions Department		2	
Master of the High Court	Judiciary (Family and Children Division)	6	2	

Office	Ministry/Department	No. of Promotions	No. of Appointment	No. of Appointments on Transfer
Parliamentary Counsel III	Chief State Solicitor's Department Attorney General and Legal Affairs	1		
Puisne Judge	Judiciary (Family and Children Division)		2	
Puisne Judge	Judiciary (Supreme Court)		5	
Senior Magistrate	Judiciary (Supreme Court)	1		
Senior Parliamentary Counsel	Chief State Solicitor's Department Attorney General and Legal Affairs	2		
Senior State Counsel	Police Service Commission Secretariat, Service Commissions Department	2	1	
Senior State Solicitor	Chief State Solicitor's Department Attorney General and Legal Affairs	4		
State Counsel I	Inland Revenue Division		3	
State Counsel I (Criminal)	Attorney General and Legal Affairs		39	
State Solicitor II	Chief State Solicitor's Department Attorney General and Legal Affairs	4		
Total		29	52	1
		82		

APPENDIX V: REGULATIONS 25 TO 28

Regulations 25 to 28 of the Public Service Commission Regulations as adopted by the Judicial and Legal Service

25. Permanent Secretary to notify eligible officers of vacancy.

(1) Where an acting appointment falls to be made whether as a prelude to a substantive appointment or not, the Permanent Secretary or Head of Department shall notify those officers within the Ministry or Department who are eligible for consideration.

(2) The Permanent Secretary or Head of Department shall, after notification as required by subregulation (1), allow a period of seven days to elapse before forwarding any recommendations in relation to such acting appointment, for the purpose of allowing the officers of the Ministry or Department to make representations on the filling of such vacancy.

(3) Where representations have been made by or on behalf of any officer in the Ministry, the Permanent Secretary or Head of Department shall forward such representations in their original form to the Director.

(4) Where a vacancy occurs in an office and an acting appointment falls to be made for a period not likely to exceed twenty-eight days as a result of sudden illness or other very special circumstances, the Permanent Secretary or Head of Department may appoint an officer to act for such period and the provisions of subregulations (1), (2) and (3) shall not apply to such acting appointment.

26. Principles of selection for acting appointment not as prelude to appointment.

(1) Where an acting appointment falls to be made otherwise than as a prelude to a substantive appointment, the officer appointed shall –

(a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment;

(b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendations for an acting appointment, the Commission shall examine whether the exigencies of the particular service would best be served by transferring an officer from another district next in line of seniority to act when there is an officer in the same district who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowances and other expenditure shall be borne in mind.

27. Permanent Secretary to submit recommendations in advance

The Permanent Secretary or Head of Department shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective, but the Commission may waive the provisions of this regulation where the necessity to submit recommendations has been occasioned by sudden illness, or very special circumstances or in any other circumstances which the Commission may consider appropriate.

28. Permanent Secretary to state reasons for passing over officers.

In submitting recommendations for acting appointments, Permanent Secretaries and Heads of Departments shall state the reasons why officers, if any, are being passed over.

Notes

Notes



JUDICIAL AND LEGAL SERVICE COMMISSION

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