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OFFICE OF THE  
**OMBUDSMAN**  
TRINIDAD AND TOBAGO

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[www.ombudsman.gov.tt](http://www.ombudsman.gov.tt)

# 43<sup>RD</sup> ANNUAL REPORT

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2020





**March 12<sup>th</sup>, 2021**  
**The Honourable Bridgid Annisette-George, MP**  
**Speaker of the House**  
**Office of the Parliament**  
Parliamentary Complex  
Cabildo Building  
St. Vincent Street  
Port of Spain  
Republic of Trinidad and Tobago

Honourable Speaker,

I have the honour to present the **Forty-third Annual Report** of the Ombudsman, for the period **January 2020 to December 2020**.

The Report is submitted pursuant to Section 96 (5) of the Constitution of the Republic of Trinidad and Tobago.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Patrick Mark Wellington".

**Patrick Mark Wellington**  
**OMBUDSMAN**  
Republic of Trinidad and Tobago



OFFICE OF THE  
**OMBUDSMAN**  
TRINIDAD AND TOBAGO

## OUR VISION

A Public Administration that is accountable,  
fair and transparent for the benefit of all in Trinidad and Tobago.

## OUR MISSION

The Office of the Ombudsman of the Republic of Trinidad and Tobago in fulfilling its statutory mandate, is in the business of investigating and resolving complaints of administrative injustice in an impartial, ethical and expeditious manner; educating the public on their rights and responsibilities and; advocating for improvements in the quality and standards of service delivery in the Public Sector of Trinidad and Tobago.

## OUR VALUES

ACCESSIBILITY   SENSITIVITY   PROFESSIONALISM  
INTEGRITY   RESPECT   EQUITY   EXCELLENCE

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# 43rd ANNUAL REPORT (2020)

## CONTENTS

LETTER TO THE SPEAKER	1
OMBUDSMAN'S MESSAGE	5
INTRODUCTION	8
FIVE (5) THINGS TO KNOW ABOUT YOUR OMBUDSMAN	10
THE COMPLAINTS PROCESS	11

<b>THE OMBUDSMAN'S CASEBOOK:</b>	<b>12</b>
• <b>Case 1</b> - I Wasn't Aware of That!	<b>13</b>
• <b>Case 2</b> - 'Criblock' Wall Removal Met with Gridlock	<b>15</b>
• <b>Case 3</b> - An 8-Year-Old Plus Fact Finding Mission... Did we really dig this drain on your private land?	<b>19</b>

THE FIVE (5) MOST COMMON OMBUDSMAN'S ISSUES	21
STATISTICAL REPORT	22
COMMUNICATIONS AND OUTREACH	32
TESTIMONIALS	33
FREQUENTLY ASKED QUESTIONS (FAQs)	34
APPENDICES	36

# OMBUDSMAN'S MESSAGE

Mr. Patrick Mark Wellington  
Ombudsman

## AN UNPRECEDENTED YEAR. 2020.

I am pleased to present the 43<sup>rd</sup> Annual Report of the Office of the Ombudsman, for the period January 1<sup>st</sup> to December 31<sup>st</sup> 2020. This is in accordance with Section 96(5) of the Constitution of the Republic of Trinidad and Tobago, Chap. 1:01 states ***"The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations."***

In 2020, the country and indeed, the world was confronted by an unanticipated opponent, the Novel Coronavirus (COVID-19). Everywhere, we grappled with the catastrophic impact of this pandemic which has tested the resilience of many individuals in unimaginable ways. Every aspect of our daily lives has been and continues to be affected by COVID-19. From how we live and interact with each other to how we work and communicate. Dealing with the unforeseen challenges caused by this pandemic has taken a significant toll on persons across the world. The much needed restrictions implemented to curb the spread of this virus have deeply impacted persons from all walks of life: mentally, physically and financially. More crucial than ever, we need to co-operate and continue to consistently follow the recommended health and safety measures so as to rid Trinidad and Tobago and the rest of the world of this malignant plague.

## The Role of the Ombudsman amid a Pandemic (COVID-19):

Ombudsman institutions across the globe including my Office have had to redouble efforts during these challenging and unusual times to ensure that persons have adequate access to the delivery of public services. The International Ombudsman Institute (IOI), in its paper entitled COVID-19 Resolution highlighted that ***"In times of crisis, it is vital to defend and support the Ombudsman, as it is now that Ombudsman institutions and the important role they are playing, are needed more than ever."***

In March 2020, swift action had to be taken by the Government of Trinidad and Tobago to curtail the spread of COVID-19. Measures were implemented for all schools, non-essential businesses and Government Departments to be closed for a stipulated period of time.



This meant that persons were asked to stay at home unless they formed part of the essential staff of essential businesses and Government Departments or for essential activities such as making visits to supermarkets or pharmacies.

All locations of the Office of the Ombudsman, in accordance with the Government's list of essential services, closed its doors from March 31 to May 31, 2020. I realized at that time, my Office, like many other organizations would have to be creative in the provision of services to members of the public.

A system was instituted to allow for individuals to continue the submission of complaints to this Office. Drop-off boxes were placed at the three (3) office locations that is, at Port of Spain (Head Office); San Fernando and Tobago, as well as to the various municipal corporations. Members of the public were also encouraged to submit complaints via Mail/Post; Email and by Telephone.

In spite of several challenges and limitations such as those associated with the use of technology, my staff made the transition to working remotely from home. Some of these limitations included the availability of technological devices such as computers coupled with internet access. Further, several members of my staff members frequently visited the Office locations to perform tasks which were unable to be done from home.

The Office of the Ombudsman made a significant effort to continue responding to as many complaints and inquiries as possible during that time. Priority was given to the most urgent matters such as those relating to the Freedom of Information Act (FOIA), Chap. 22:02 which are time-sensitive and thus, required a quick response.

From June to October 23, 2020, given the updated directives of the Government at that time, members of staff operated on a rotational basis. At that time, we continued with the new strategy for persons to access our services until all office locations were adequately fitted with all the health and safety guidelines as recommended by the health authorities. An appointment system, was thereafter implemented to allow for face to face interviews with members of the public while being able to limit the influx of persons at our Offices on a daily basis. Subsequent to that timeline, my staff along with the rest of the public service returned to work on a full-time basis.

It was indeed even more challenging than usual for my Office to obtain feedback from Ministries/ Government Departments/State Agencies while public officers worked on a rotation system. Notwithstanding the fact that I understood the tremendous strain under which public officers have had to function and having to struggle to adapt to a **'new way of carrying out daily activities,'** the Office of the Ombudsman remained obligated to fulfilling its oversight responsibilities. These rapidly evolving circumstances were certainly beyond our control and as such, it was difficult to undertake our investigative process in an expeditious manner, thus delaying the resolution of matters.



### What's Ahead:

While the challenges of COVID-19 are likely to remain with us for some time to come, the Office of the Ombudsman is committed to continue working with Government Departments to enhance transparency, accountability and fairness in the delivery of public services.

This pandemic has indeed reiterated to us the adage that *'The only constant is change'* and because of that, we must be able to adjust to those ever changing situations emanating from COVID-19. This includes our greater reliance on digital infrastructure and connectivity in moving forward. Although, COVID-19 highlights the significance of technology, it also accentuates a digital divide among different sectors of society. As such, we must work together to bridge this gap to ensure that all sectors are afforded the same opportunities.

My Office will thrust ahead in its quest to achieving strategic plans such as its Public Education and Sensitization drive. Taking this pandemic into consideration, the use of technology will be the cornerstone in undertaking this drive. We aim to make use of the digital marketing tool: Webinars which are generally online (web) seminars that turn a presentation into a real-time conversation. Further, the benefits of this tool include: cost effectiveness; a wider audience reach and greater engagement with an audience. We will continue the hosting of virtual meetings as far as possible with Ministries/Government Departments/ State Agencies as a standard practice.

Additionally, the Office of the Ombudsman intends to make a greater investment in technology including updating its case management database and purchasing laptops and tablets for all members of staff while ensuring internet access. Moreover, investment will be made into staff training and development with respect to the competent use of various software and applications which are pertinent for office operations.

I must pay a special tribute to all frontline workers who have worked and continue to work tirelessly to be of service to persons of Trinidad and Tobago during this pandemic. I must also thank my dedicated staff and the many public officers who have diligently worked and adapted to working in these unprecedented times in order to assist my Office during the period under review.



**Patrick Mark Wellington**

**OMBUDSMAN**

Republic of Trinidad and Tobago

## INTRODUCTION

### The Office of the Ombudsman

The Office was established under **Section 93 (1) of the Constitution of the Republic of Trinidad and Tobago, Chap. 1:01** "...to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

See Appendix II for the Third Schedule to the Constitution (Matters not subject to investigation).

The Ombudsman is an Officer of Parliament and does not form part of the machinery of Government. The Office exists as an independent oversight body, in accordance with the provisions of the **Ombudsman Act, Chap. 2:52** and performs the dual role of:

- Providing a fair and impartial investigation service to members of the public who believe that they have been adversely affected by a decision or action of a public sector agency; and
- Assisting public sector agencies to improve their decision-making and administrative practices and procedures.

### The Ombudsman and the Freedom of Information Act (FOIA), Chap. 22:02

**The Freedom of Information Act (FOIA), Chap. 22:02** came into effect in 2001 and provides members of the public with a general right of access to official documents in the possession of public sector bodies or authorities. This right is qualified in that certain documents are not to be accessed by an application made under the said Act.

Section 12 of the Act lists these documents to include:

- ❖ ***Documents with information that is open to public access***
- ❖ ***A document which is available for purchase by the public***
- ❖ ***A document that is available for inspection that is in a registry maintained by the Registrar General or other public authority, and***
- ❖ ***A document which is a duplicate of a document of public authority***

Additionally, there are documents which are exempt from disclosure. These include inter alia:

- ❖ *Cabinet documents*
- ❖ *Law enforcement documents*
- ❖ *Documents relating to trade secrets*
- ❖ *Documents affecting personal privacy*

Section 15 of the Act places a statutory obligation upon public authorities to take all reasonable steps to inform an applicant of its decision, not later than thirty (30) days after the request for access to official documents was duly made. **Section 38A** (1) states:

“A person aggrieved by the refusal of a public authority to grant access to an official document, may, within twenty-one days of receiving notice of the refusal under Section 23 (1) complain in writing to the Ombudsman and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit within thirty days or as soon as practicable thereof.”

# FIVE THINGS TO KNOW ABOUT YOUR OMBUDSMAN



# THE COMPLAINTS PROCESS



## THE OMBUDSMAN'S CASEBOOK

This section highlights a selection of cases which were investigated by the Office of the Ombudsman.

### Summary:

- **CASE 1 : *I WASN'T AWARE OF THAT!***
- **CASE 2 : *'CRIBLOCK' WALL REMOVAL MET WITH GRIDLOCK***
- **CASE 3 : *AN 8-YEAR-OLD PLUS FACT FINDING MISSION...  
DID WE REALLY DIG THIS DRAIN ON YOUR PRIVATE LAND?***

## CASE 1: I WASN'T AWARE OF THAT!

Ms. C was employed as an Estate Constable I with the National Maintenance Training and Security Company (MTS). Having attained the age of sixty (60) years in December 2007, she submitted an application to the National Insurance Board (NIB) for her Retirement Benefits which she received in April 2008, retroactively.

Ms. C was re-employed, on contract, with the MTS from January 5, 2008 to December 14, 2012 and during that period, National Insurance (NI) contributions were deducted from her salary; however, upon completion of her contract, she approached the NIB for a refund of the contributions paid for the said period.

The NIB commenced an investigation in October 2014 and requested documents from the MTS showing evidence of the contributions paid for the period of her re-employment.

In October 2016, the NIB informed Ms. C that upon conclusion of their investigation, it was determined that she was not in fact the recipient of a Retirement Pension before returning to work since her first payment commenced in April 2008; and she resumed insurable employment in January 2008. Further, the NIB stated that the **National Insurance (Benefits) Regulations 16 (5)** states: "...with effect from March 1, 2004 a recipient of retirement pension who resumes insurable employment before he attains the age of sixty-five shall continue to receive the retirement pension and not be required to pay contributions."

Ms. C was subsequently advised of an overpayment of Retirement Benefits in the sum of One Hundred and Twenty-Eight Thousand, Seven Hundred and Sixty-Nine dollars and Twenty-Four cents **(\$128,769.24)**.

In September 2019, Ms. C approached the Ombudsman concerning her query of the overpayment of Retirement Benefits from the NIB. In October 2019, this Office wrote to the NIB seeking clarification of the **National Insurance (Benefits) Regulations 16 (5) and (7)** as it related to the determination of Ms. C's overpayment in order to respond to her.

After two (2) reminders, in July 2020 the NIB explained that sub-regulations 16 (5) and (7) apply to situations where a person was in receipt of a retirement grant and thereafter resumes insurable employment before attaining the age of sixty-five (65). These sub-regulations are identical save for the fact that they cover different time periods.

In Ms. C's situation therefore, her retirement pension payments commenced in April 2008, and so she was not in receipt of her retirement pension when she resumed insurable employment on January 5, 2008. Further, neither sub-regulation 16 (5) or (7) of the Regulations apply to Ms. C as such she was not entitled to a refund of contributions paid for the period 2008 to 2012 and the contributions were correctly paid.

The NIB further stated that although Ms. C attained the age of sixty (60) years in December 2007 and stopped working on that said day, she did not cease to be engaged in insurable employment, since she resumed insurable employment on January 5, 2008. For this reason, she did not qualify for retirement pension at the time of her application in December 2007; nor at the time her claim was processed in March 2008.

Ms. C was apprised of this information and her matter was discontinued by this Office.

### **Footnote:**

The explanation given by the NIB in Ms. C's matter is clear; however, there are concerns that the average person is not well informed of the processes and regulations of the NIB that may be applicable to them in any given situation. Efforts must be made by the NIB to engage in continuous public education and awareness activities via various forms of media such as radio, television, newspaper and online platforms. This would ensure that all persons which comprise the target population of the NIB have a better understanding and be aware of how they may be affected by those processes and regulations.

Further, it has been observed that the NIB's communication via letters to members of the public who utilize their services are not always consistent. In many cases, persons are not provided with acknowledgement letters and responses pertaining to their situation; sometimes they are only informed verbally. To curb any misunderstanding, the NIB may want to ensure that that they communicate officially to citizens regarding their matters.

It should be noted that the NIB was directly informed of the above recommendations along with other previous recommendations made by the Office of the Ombudsman.



## CASE 2: 'CRIBLOCK' WALL REMOVAL MET WITH GRIDLOCK

In May 2005, Ms. T received the keys to a housing unit from the Housing Development Corporation (HDC). One year later, in 2006, she observed that a crib wall on her property was not holding the land together and decided to express her concern, in writing to the Managing Director, HDC regarding the threat to the structural integrity of her home. A response to this however was not received.

In July 2010, Ms. T observed contractors in the area removing crib walls from properties on another street in close proximity to where she resides. She approached the Project Manager, HDC with respect to her concerns and was told that all crib walls in the area would be removed. The crib wall on her property however was not in fact removed.

Ms. T indicated that in March 2011 she again wrote to the Managing Director, HDC in an attempt to highlight her concerns and provided photographs of the damage being done to the structure of her home. In September 2012, two (2) Officers from the HDC visited her property and took photographs. Despite this, no further action was taken by the HDC.

In November 2012, Ms. T sought the assistance of the Ombudsman to have the crib wall on her property removed by the Housing Development Corporation (HDC). In that same month, the Ombudsman approached both the Managing Director and the Project Manager, HDC seeking feedback on Ms. T's matter. After several reminders were sent to the HDC from January 2013 to April 2013, the HDC by letter dated April 19, 2013 stated the following:

*"The Corporation is aware that the Complainant made averments that a crib wall constructed by itself and in close proximity to her housing property...is threatening the structural integrity to same. In response to these allegations, kindly note that the duly authorized officials of the Corporation have thoroughly engaged in investigating said claim.*

*Resulting from these investigations, the Corporation wishes to advise that such "Crib-Lock" type of retaining wall does not display any indications of structural failure, vertical or lateral movement, deformation or rotation, subsidence or heave or any other probable indication of distress occurring on Complainant's property relative to the presence of this wall.*

*In light of such findings, the Corporation therefore categorically refutes any and all claim, causes, or allegations that it has engaged in activities which have led to the structural damage of the Complainant's property..."*

In August 2013, upon receipt of the HDC's response, the Office of the Ombudsman engaged the services of an independent Engineering company with the aim of obtaining an independent technological report and further advice on this matter. A site visit was conducted on Ms. T's property on September 5, 2013 and on September 20, 2013, a report of this company's findings was received by this Office.

**A synopsis of this company's findings is as follows:**

- "1) A properly constructed 'Criblock' retaining wall is suitable to be used on this site.
- 2) The fill material used within the cribs of the 'Criblock' retaining wall does not meet the specifications recommended...
- 3) Significant erosion of the fill material has already occurred and this has caused some precast concrete sections near of the wall to shift and it has weakened the retaining wall."

In November of that same year, a copy of this report was sent to both the Minister of Housing and Urban Development and the Managing Director, HDC.

In March 2014, the Office of the Ombudsman was informed that Ms. T's matter was receiving the attention of the HDC and a response would be provided. Subsequent requests were made by the HDC for additional copies of the report.

Two (2) months later in May 2014, this Office requested that steps be taken by the HDC to review Ms. T's matter based on the findings of the independent technological report and that a report from them be submitted to this Office no later than June 2014. No response was received in relation to this Office's requests.

After numerous requests were made to the HDC over a five (5) year period to have this matter addressed, Ms. T informed this Office on November 25, 2019 of the following:

***"I made arrangements for Mr. D (HDC's representative) to access the property to view the deteriorated crib wall. On Friday 22 November, 2019, Mr. D and I spoke via telephone while he was on site and he verbally indicated that the crib wall will be removed within approximately two months' time (January 2020) because of the relevant paper work which has to be done. I was informed that Mr. D took measurements to remove the crib wall and he said that a solid wall will replace the crib wall along the side of the property..."***

In January 2020, this Office was informed that there was in fact a new HDC Board of Directors resulting in the entire process with respect to the removal of Ms. T's crib wall being initiated once again. In December of that same year, Ms. T notified this Office that the HDC made arrangements for the crib wall to be removed in January 2021.

The Office of the Ombudsman will follow up on this matter to confirm the removal of this wall.



**Ms. T's Crib wall**

Footnote:

***Statistical Analysis of the HDC:***

<b>Year</b>	<b>No. of new complaints received against the HDC</b>	<b>No. of new complaints under investigation at the end of each year</b>
<b>2016</b>	23	19
<b>2017</b>	23	19
<b>2018</b>	13	12
<b>2019</b>	13	13
<b>2020</b>	14	12
<b>TOTAL</b>	<b>86</b>	<b>75</b>

**Table 1.**

**Table 1** above illustrates the number of complaints received by the Office of the Ombudsman against the Housing Development Corporation (HDC) over a five (5) year period (2016-2020). Statistics illustrate that a total of eighty-six (86) complaints were received against the HDC for the five (5) year period (2016-2020). Of that figure, a total of seventy-five (75) or 86% of the complaints remained under investigation at the end of each year.

It is incumbent upon the Office of the Ombudsman to once again highlight the tardiness of the HDC in providing information relating to genuine complaints received from members of the public. As stated in the 42<sup>nd</sup> Annual Report of the Ombudsman (2019), "...the predominant issue with the HDC lies in the insurmountable frustration and unjustified distress that persons must bear in order to obtain some form of feedback and/or redress on matters"

This Office will reiterate its willingness to collaborate with the HDC to bring expeditious closure to matters brought against them and work towards striving for continuous improvement in the delivery of services to the public.

### CASE 3: An 8-Year-Old Plus Fact Finding Mission... Did we really dig this drain on your private land?

In October, 2012, Ms. S sought the assistance of the Ombudsman regarding the delay by the Drainage Division, Ministry of Works and Transport (The Ministry), in restoring her property to its original condition.

Ms. S claimed that sometime during May/June 2012, the Ministry, without her knowledge or consent, entered onto her private property located in the Sangre Grande district and excavated a drain through the middle portion of the property, approximately two (2) meters in depth. This action resulted in structural damage to her lands by causing erosion and flooding.

She indicated that she wrote the Ministry and drew their attention to the issue and requested that her lands be restored to its original form. Further, she visited the Ministry on several occasions to enquire into her matter but received no feedback.

The Office of the Ombudsman, upon receiving Ms. S's complaint, referred it to the Permanent Secretary of the Ministry. In April 2013, the Ministry advised that her matter was referred to the relevant department to be addressed and that a response would be forthcoming. When pressed for an update in August 2013, the Ministry reiterated its previous position as in April 2013.

In November of that same year, this Office directly approached the Head of the Drainage Division of the Ministry, to whom Ms. S's matter was referred for appropriate action. Despite several requests for information on this matter, no response was received. Again, in November 2014, this Office, approached the Drainage Superintendent of the Sangre Grande Drainage Division for information but to no avail.

Two (2) years later, in October 2016, Ms. S indicated to this Office that Officials of the Drainage Division informed her that the drain which was dug through her property would be relocated and that funds would have to be identified to undertake that project. When contacted to verify the said information, the Drainage Division advised that a meeting would have to be held with residents in the immediate vicinity including Ms. S and the Local Government Councillor for the area to arrive at an amicable solution.

The Office of the Ombudsman continued to pursue with Officials of the Sangre Grande Drainage Division, the matter of the convening of the meeting with stakeholders. The finalization of the said meeting was however held in administrative abeyance binding the conduct of the 2016 Local Government Elections.

In November 2018, an Official of the Sangre Grande Drainage Division informed the Ombudsman that a report on Ms. S's complaint was forwarded to the Director of Drainage.

In December 2018, the Ombudsman approached the Permanent Secretary of the Ministry and received the following response in January 2019:

- 1. In 2012, the Drainage Division embarked on a flood mitigation/de-silting exercise in the nearby Jacleon River, to address complaints of flooding by residents.*
- 2. The purpose of requesting the meeting with residents and the Councillor for the area was to establish property boundaries and building approvals; however, an attempt to convene the meeting was unsuccessful.*
- 3. A meeting is to be held with Ms. S to verify her property boundary and determine whether there was any encroachment on her property by the Ministry.*
- 4. The Ministry's position will be communicated to the Ombudsman following the completion of this exercise.*

After six (6) years, in 2019, the Ministry only then realized that it needed to verify whether any encroachment on Ms. S's property did in fact occur.

It should be noted that to date, in spite of the many attempts made by this Office for an update on Ms. S's matter, no response was received. The Office of the Ombudsman will actively continue to seek information from the Ministry to ascertain when a definitive decision could be arrived at to address this long outstanding matter.



# THE FIVE MOST COMMON OMBUDSMAN ISSUES

1

## POOR COMMUNICATION:

- Poor communication is unclear and difficult to read
- Calls not returned
- Lack of proper information

2

## POOR SERVICE:

- inability to reach public officer

3

## UNPREDICTABLE ENFORCEMENT:

- Over-enforcement
- Under-enforcement

4

## FAULTY DECISION:

- Wrong
- Unreasonable
- Unfair
- Unexplained

5

## UNREASONABLE DELAY:

- In returning calls or emails
- In processing appeals
- In handling complaints

## STATISTICAL REPORT

### Summary:

- OVERVIEW OF INVESTIGATIONS FOR 2020
- **FIGURE I-** FIVE (5) YEAR TREND OF NEW COMPLAINTS RECEIVED AND COMPLAINTS BROUGHT FORWARD FROM PREVIOUS YEARS
- **FIGURE II-** TOTAL NUMBER OF COMPLAINTS RECEIVED BY EACH OFFICE LOCATION (PORT OF SPAIN (HEAD OFFICE); SAN FERNANDO AND TOBAGO) for the period January to December, 2020
- **TABLE I-** TOTAL NUMBER OF CASES BROUGHT FORWARD TO 2020 AND NEW COMPLAINTS RECEIVED IN THE SAME YEAR
- **TABLE II-** TOTAL NUMBER OF NEW COMPLAINTS RECEIVED FOR THE PERIOD 2020
- **TABLE III-** DISTRIBUTION OF COMPLAINTS FOR THE PERIOD JANUARY TO DECEMBER 2020
- **FIGURE III-** TOTAL NUMBER OF FREEDOM OF INFORMATION (FOIA), CHAP. 22:02 REQUESTS RECEIVED; RESOLVED AND UNRESOLVED FOR 2020
- **TABLE IV-** BREAKDOWN OF THE TOTAL NUMBER OF FOIA MATTERS RECEIVED BY THE OFFICE OF THE OMBUDSMAN IN EACH OF THE FOUR (4) QUARTERS FOR THE PERIOD 2015-2020
- **TABLE V-** OUTREACH SERVICES-EXTERNAL OFFICE DAYS (Statistics for the period January to December 2020)

### An explanation of the jargon used throughout this section:

- ◆ NO JURISDICTION/ADVISED- The Office looked at the complaint and it was not a matter to investigate
- ◆ NOT SUSTAINED-Following investigations, the complaint was found to be without merit
- ◆ SUSTAINED/RESOLVED- Investigations demonstrate that the complaint has merit
- ◆ WITHDRAWN/DISCONTINUED-The Office took the decision to cease pursuit of the matter for a number of reasons
- ◆ UNDER INVESTIGATION- Matters are still on-going



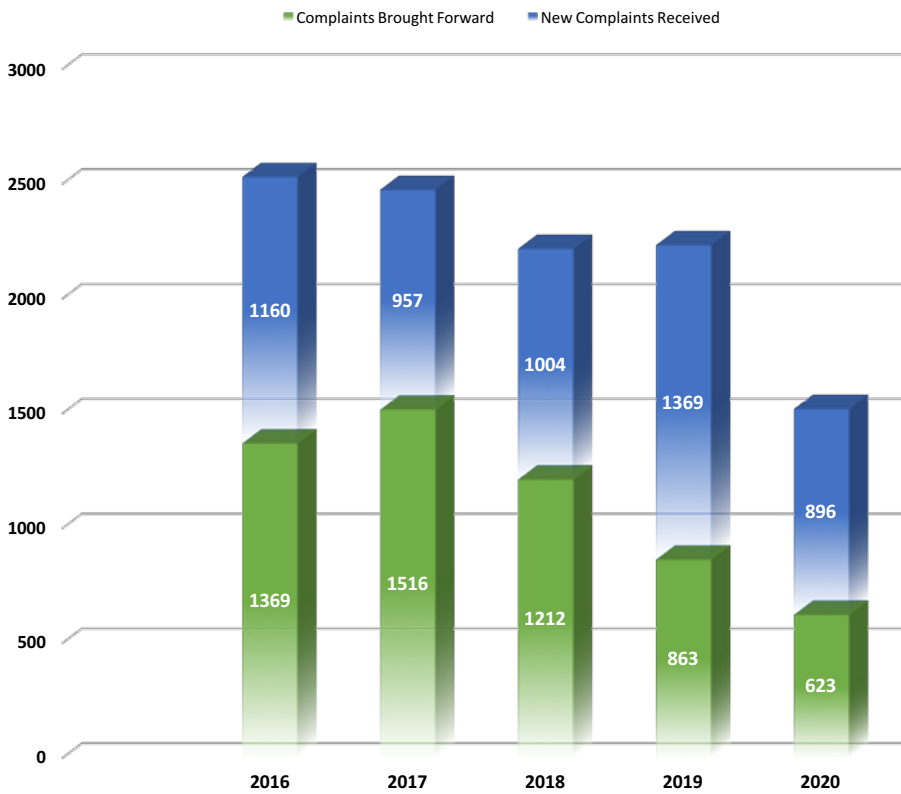
## OVERVIEW OF INVESTIGATIONS FOR 2020

In March 2020, restrictions were imposed by the Government of Trinidad and Tobago in an attempt to curb the spread of the Novel Coronavirus (COVID-19). This meant that Government Departments including the Office of the Ombudsman which were deemed non-essential were to close their doors for a stipulated period of time.

As a result, the daily activities of this Office such as the investigation of matters received by members of the public were significantly affected. This is reflected in the statistical data for the period January to December, 2020.

For the period under review, the Office of the Ombudsman managed a caseload of one thousand, five hundred and nineteen (1,519) complaints. This figure comprised eight hundred and ninety-six (896) new complaints received in 2020 and six hundred and twenty-three (623) unresolved complaints brought forward from previous years. In comparison to the last reporting period, that is 2019, the number of new complaints received by the Office significantly decreased by of four hundred and seventy-three (473) or 34.6% and the number of brought forward cases decreased by two hundred and forty (240) or 27.8%. See **Figure I**.

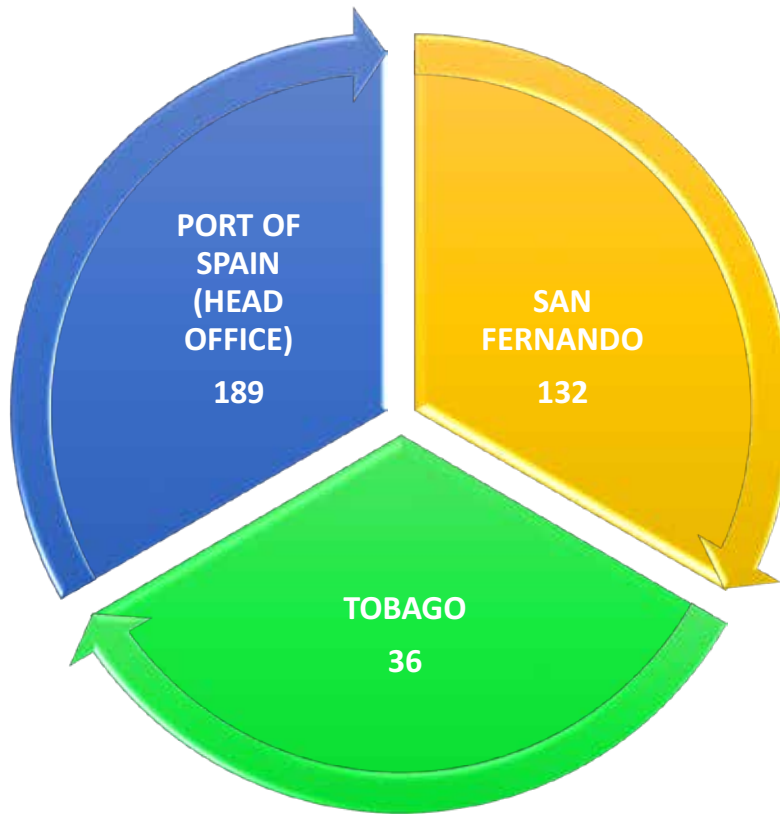
**FIGURE I - FIVE (5) YEAR TREND OF NEW COMPLAINTS RECEIVED AND COMPLAINTS BROUGHT FORWARD FROM PREVIOUS YEARS (2016-2020)**



**Figure I** above demonstrates the total number of new complaints received and brought forward from previous years over a five (5) year period (2016-2020) by the Office of the Ombudsman.

**TOTAL NUMBER OF COMPLAINTS RECEIVED BY EACH OFFICE LOCATION  
(PORT OF SPAIN (HEAD OFFICE); SAN FERNANDO AND TOBAGO)  
For the period January to December, 2020**

**FIGURE II**



**Figure II** above illustrates the total number of complaints received (which fell within the Ombudsman's jurisdiction) against Ministries/Government Departments/State Agencies by each Office location in 2020.

**Table I** below illustrates the total number of cases brought forward to 2020 and new complaints received in the same year. A total of four hundred and ninety-six (496) cases or 50.6% were under investigation as at December 31, 2020.

**Table I**

	NUMBER	PERCENTAGE (%)
Total number of complaints brought forward from previous years	623	
Total number of complaints received in 2020	896	
<b>TOTAL</b>	<b>1.519</b>	100
Less total number of Private matters	(87)	5.7
Less enquiries/referrals	(434)	28.6
Less total Freedom of Information Act (FOIA) matters	(18)	1.2
Total number of complaints pursued	<b>980</b>	64.5
Total number of complaints concluded	(484)	49.4
*Complaints sustained/resolved	257	26.2
*Complaints not sustained	15	1.5
*Complaints withdrawn/discontinued	169	17.2
*Complaints with no jurisdiction/advised	43	4.4
<b>TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AS AT DECEMBER 31, 2020</b>	<b>496</b>	<b>50.6</b>

**Table II** shows that for the period, January to December 2020, investigations were pursued on three hundred and fifty-seven (357) new complaints. At the end of the reporting period, a total of ninety-seven (97) of these cases or 27.2% had been resolved and a total of two hundred and sixty (260) cases or 72.8% remained under investigation.

**Table II**

	NUMBER	PERCENTAGE (%)
Total number of complaints received in 2020	896	100
Less total number of Private matters	(87)	9.7
Less enquiries/referrals	(434)	48.4
Less total Freedom of Information Act (FOIA) matters	(18)	2.0
Total number of complaints pursued	357	39.8
Total number of complaints concluded	(97)	27.2
*Complaints sustained/resolved	47	13.2
*Complaints not sustained	3	0.8
*Complaints withdrawn/discontinued	27	7.6
*Complaints with no jurisdiction/advised	20	5.6
<b>TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AS AT DECEMBER 31, 2020</b>	<b>260</b>	<b>72.8</b>

**Table III**

**DISTRIBUTION OF COMPLAINTS FOR THE PERIOD JANUARY TO DECEMBER, 2020**

The table below illustrates the distribution of complaints received against Ministries/Government Departments/Agencies for the reporting period and their current status at the end of this period. It also highlights the total number of Freedom of Information (FOIA), Chap. 22:02 matters, Enquiries/Referrals and Private matters for the same period.

MINISTRIES/GOVERNMENT DEPARTMENTS/AGENCIES	NO JURISDICTION/ ADVISED	NOT SUSTAINED	SUSTAINED/ RESOLVED	WITHDRAWN/ DISCONTINUED	UNDER INVESTIGATION	GRAND TOTAL
<b>AGRICULTURE, LAND AND FISHERIES</b>						<b>16</b>
* General	0	0	0	1	9	10
* Commissioner of State Lands	0	0	0	2	4	6
<b>OFFICE OF THE ATTORNEY GENERAL AND MINISTRY OF LEGAL AFFAIRS</b>						<b>5</b>
* General	0	0	2	0	1	3
* Legal Aid And Advisory Authority	0	0	0	1	1	2
<b>EDUCATION</b>						<b>31</b>
* General	1	0	2	1	27	31
<b>ELECTIONS AND BOUNDARIES COMMISSION</b>						<b>1</b>
<b>ENVIRONMENTAL MANAGEMENT AUTHORITY</b>						<b>3</b>
<b>FINANCE</b>						<b>15</b>
* General	0	0	6	1	7	14
* Comptroller of Accounts	0	0	0	0	1	1
<b>HEALTH</b>						<b>38</b>
* General	0	0	1	2	7	10
* East Regional Health Authority	1	0	0	0	0	1
* North Central Regional Health Authority	0	0	1	0	0	1
* North West Regional Health Authority	0	0	2	2	11	15
* Public Health	0	0	0	1	6	7
* South West Regional Health Authority	0	0	0	1	3	4
<b>HOUSING AND URBAN DEVELOPMENT</b>						<b>16</b>
* General	1	0	0	0	1	2
* Housing Development Corporation (HDC)	0	0	2	0	12	14
<b>JUDICIARY</b>						<b>16</b>
	3	0	2	0	11	16
<b>LABOUR</b>						<b>1</b>
* Friendly Societies Division	0	0	0	0	1	1
<b>MAGISTRACY</b>						<b>4</b>
	1	1	1	0	1	4
<b>NATIONAL INSURANCE BOARD (NIB)</b>						<b>77</b>
	0	0	16	7	54	77
<b>NATIONAL SECURITY</b>						<b>36</b>
						36

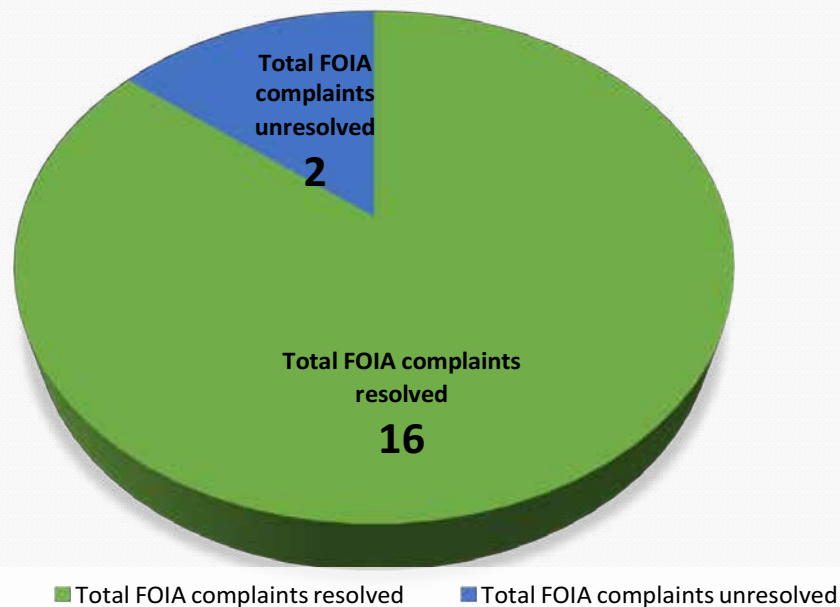
* General	0	0	0	0	3	3
* Fire Services	0	0	0	0	2	2
* Immigration	0	0	1	0	3	4
* Police Service	0	0	0	0	7	7
* Prison Service	10	1	0	1	8	20
<b>OFFICE OF THE PRIME MINISTER</b>						<b>3</b>
* General	0	0	0	0	2	2
* Communications Division	0	0	0	0	1	1
<b>PERSONNEL DEPARTMENT (OFFICE OF THE CHIEF PERSONNEL OFFICER)</b>	0	0	1	0	3	<b>4</b>
<b>PLANNING AND DEVELOPMENT</b>						<b>2</b>
* Town And Country Planning Division	0	0	0	0	2	2
<b>PUBLIC UTILITIES</b>						<b>1</b>
* Trinidad and Tobago Postal Corporation (TPOST)	0	0	0	0	1	1
<b>RURAL DEVELOPMENT AND LOCAL GOVERNMENT</b>						<b>38</b>
* General	1	0	1	2	30	34
* Borough Corporations	0	0	0	1	1	2
* Regional Corporations	1	0	0	0	1	2
<b>SERVICE COMMISSIONS DEPARTMENT</b>	0	0	0	0	4	<b>4</b>
<b>SOCIAL DEVELOPMENT AND FAMILY SERVICES</b>						<b>23</b>
* General	1	1	5	3	13	23
<b>TOBAGO HOUSE OF ASSEMBLY</b>						<b>13</b>
* Education, Innovation and Technology	0	0	0	0	3	3
* Finance and the Economy	0	0	0	0	3	3
* Health, Wellness and Family Development	0	0	2	0	2	4
* Infrastructure, Quarries and the Environment	0	0	0	0	2	2
* Land Management Agency	0	0	0	0	1	1
<b>WORKS AND TRANSPORT</b>						<b>8</b>
* General	0	0	0	1	5	6
* National Maintenance Training and Security Company Ltd. (MTS)	0	0	1	0	0	1
* Port Authority of Trinidad and Tobago	0	0	0	0	1	1
<b>YOUTH DEVELOPMENT AND NATIONAL SERVICE</b>						<b>2</b>
* General	0	0	1	0	1	2
<b>SUB-TOTAL</b>	<b>20</b>	<b>3</b>	<b>47</b>	<b>27</b>	<b>260</b>	<b>357</b>
<b>FREEDOM OF INFORMATION ACT (FOIA), Chap. 22:02</b>						<b>18</b>
<b>ENQUIRIES/REFERRALS</b>						<b>434</b>
<b>PRIVATE MATTERS</b>						<b>87</b>
<b>GRAND TOTAL</b>						<b>896</b>

## THE OMBUDSMAN AND THE FREEDOM OF INFORMATION ACT (FOIA), CHAP. 22:02

For the period January to December 2020, the Office of the Ombudsman received a total of eighteen (18) requests for review of decisions made by Ministries/Government Departments/State Agencies under the provisions of the Freedom of Information Act (FOIA), Chap. 22:02. Of the eighteen (18) matters received, sixteen (16) matters or 89% were resolved and two (2) matters or 11% remained unresolved at the end of 2020. **See Figure III below.**

### FIGURE III

**FIGURE III- Total number of FOIA complaints resolved and unresolved for the period January to December 2020**



## An Analysis of FOIA matters received in each quarter for the period 2015- 2020

Table IV below illustrates a breakdown and analysis of the total number of FOIA matters received by the Office of the Ombudsman in each of the four (4) quarters for the period 2015-2020.

YEAR	1 <sup>ST</sup> QUARTER	2 <sup>ND</sup> QUARTER	3 <sup>RD</sup> QUARTER	4 <sup>TH</sup> QUARTER	TOTAL (for each year)
2015	5	2	0	0	7
2016	2	4	6	8	20
2017	2	2	4	5	13
2018	2	10	7	4	23
2019	2	8	3	1	14
2020	3	1	4	10	18
<b>TOTAL</b> (for each quarter)	<b>16</b>	<b>27</b>	<b>24</b>	<b>28</b>	<b>95</b>

**TABLE IV**

The data above reveals that the implementation of COVID-19 restrictions did not impact the figures of the 1<sup>st</sup> quarter of 2020 and in comparison to the 1<sup>st</sup> quarters of the previous years (2015 to 2019), were considered to be 'normal'.

In the 2<sup>nd</sup> quarter, the number of matters received was markedly lower in comparison to the other quarters of 2020 and to the 2<sup>nd</sup> quarters of the previous years (2015 to 2019). This may be the effect of the COVID-19 restrictions and the subsequent rotation schedule of the Public Service which resulted in the delayed processing of FOIA requests.

It may be observed that the figures of the 3<sup>rd</sup> quarter of 2020 when compared to figures of the 2<sup>nd</sup> quarter of the same year reflect the ease of restrictions such as a resumption of the regular Public Service work cycle and complainants realizing that their FOIA requests were being delayed. If we compare the 3<sup>rd</sup> quarter of 2020 with the 3<sup>rd</sup> quarters of 2015 to 2019, this figure could be considered 'normal'.

In the 4<sup>th</sup> quarter, the Office of the Ombudsman noted that FOIA requests lodged by persons in the 2<sup>nd</sup> and 3<sup>rd</sup> quarters, began to arrive at the Office. This may be attributed to the issue of non-responses by Public Authorities during those periods. Evidently, this 4<sup>th</sup> quarter was **'unique'** and can be regarded an **'anomaly'** since the highest number of FOIA matters was received by this Office during this period. This is in comparison to the 4<sup>th</sup> quarters of 2015 to 2019 and to the previous quarters of 2020.

Looking at the bigger picture, the total number of matters received for the period January to December 2020 can be regarded as 'normal' in the general sense, when compared to the totals of the previous years (2015 to 2019), despite the unusual events of 2020.





## OUTREACH SERVICES-EXTERNAL OFFICE DAYS

An Investigator from the Office of the Ombudsman visits various locations across the country to ensure that members of the public have convenient access to its services. This is done to accommodate those persons who are unable to visit our three (3) main office locations in Port of Spain, San Fernando and Tobago. These visits are conducted once a month and are facilitated at the following municipal corporations:

- Point Fortin Borough Corporation
- Mayaro/Rio Claro Regional Corporation
- Siparia Regional Corporation
- Couva/Tabaquite/Talparo Regional Corporation
- Chaguanas Borough Corporation
- Sangre Grande Regional Corporation

### Statistics for the period January to December 2020:

Due to the implementation of Government restrictions with respect to the COVID-19 pandemic, members of the Investigative staff at the Office of the Ombudsman were only able to make outreach visits to the various municipal corporations for the months, January to March, 2020. For that period, a mere forty-seven (47) persons accessed the services offered by the Office.

A total of eleven (11) persons visited the Point Fortin Borough Corporation; three (3) visited the Mayaro/Rio Claro Regional Corporation; thirteen (13) visited the Siparia Regional Corporation; three (3) visited the Couva/Tabaquite/Talparo Regional Corporation; four (4) visited the Chaguanas Borough Corporation and thirteen (13) visited the Sangre Grande Regional Corporation. In comparison to 2019, there was a 64.4% decrease in the number of persons accessing our outreach services.

**Table V** below illustrates this information.

MONTHS 2020	Point Fortin Borough Corporation	Mayaro/Rio Claro Regional Corporation	Siparia Regional Corporation	Couva/Tabaquite/Talparo Regional Corporation	Chaguanas Borough Corporation	Sangre Grande Regional Corporation	TOTAL
<b>JANUARY</b>	4	1	6	1	3	11	26
<b>FEBRUARY</b>	6	2	4	2	1	2	17
<b>MARCH</b>	1	NO VISIT	3	0	0	NO VISIT	4
<b>APRIL - DECEMBER</b>	<b>NO VISITS</b>	<b>NO VISITS</b>	<b>NO VISITS</b>	<b>NO VISITS</b>	<b>NO VISITS</b>	<b>NO VISITS</b>	<b>---</b>
<b>GRAND TOTAL</b>	<b>11</b>	<b>3</b>	<b>13</b>	<b>3</b>	<b>4</b>	<b>13</b>	<b>47</b>

**Table V**

## COMMUNICATIONS AND OUTREACH

### ❖ Public Education and Awareness Outreach session

On February 10, 2020, the Office of the Ombudsman hosted an education and awareness session entitled "The Ombudsman & You" with a group of Form 4 students of St. Joseph Convent, San Fernando.





# TESTIMONIALS



OFFICE OF THE  
**OMBUDSMAN**  
TRINIDAD AND TOBAGO



"Without knowing me, you went above and beyond. I would like to express sincerest gratitude for your patience and invaluable assistance in my need."

With thanks,

**-Mr. G-**



"I wish to thank your Office for assisting me... You are the first to help me get a breakthrough, and I am indebted to you.

Please continue to assist me with a grateful heart."

Complainant

**-J-**



"These words are sent to you today with thanks and gratitude, for your kind and generous way, for all that you've done and continue to do..."

Thank you.

**-E. M. -**

## FREQUENTLY ASKED QUESTIONS (FAQs)

### 1) WHAT MUST BE DONE BEFORE A COMPLAINT IS MADE?

- ❖ An official complaint must first be lodged in writing within the Government Department where the alleged injustice occurred.
- ❖ The Department should be given a reasonable amount of time to adequately address the matter before it is brought to the attention of the Office of the Ombudsman.

### 2) HOW DO I LODGE A COMPLAINT?

All complaints must be made IN WRITING to the Ombudsman. They can be made by:



**Electronic**  
(website / email)



**Mail / Post**



**Facsimile (Fax)**



**In person** at any of our 3 Office locations OR at the Monthly Community Outreach Visits

If you are unsure whether you have a valid complaint, you may contact the Office for further information.

### 3) WHAT INFORMATION SHOULD MY COMPLAINT INCLUDE?

Your complaint should include:

- ✓ Name
- ✓ Telephone contact
- ✓ Residential Address and/or Mailing address
- ✓ Email Address (optional)
- ✓ A summary of:
  - ❖ The facts of the complaint and the current status of the matter
  - ❖ The Government Department involved
  - ❖ The date when the complaint was lodged with the Government Department
  - ❖ The name of the person to whom you reported the matter
  - ❖ Copies of documents pertinent to your complaint (if available)

#### 4) **WHAT TYPE OF COMPLAINTS CAN THE OMBUDSMAN INVESTIGATE?**

- ❖ Delay by Government Departments in processing and paying pension and severance benefits.
- ❖ Delay by the National Insurance Board (NIB) in processing claims for NIS benefits.
- ❖ Delays in obtaining birth certificates, passports, medical reports.
- ❖ Requests for official documents under the Freedom of Information Act, Chap. 22:02.
- ❖ Delay by Government Departments in responding to letters of complaints and requests for assistance.

#### 5) **ARE THERE AREAS THAT THE OMBUDSMAN CANNOT INVESTIGATE?**

Some of the matters which the Ombudsman cannot investigate include:

- ❖ Civil or criminal proceedings before any Court.
- ❖ Contractual or other commercial transactions.
- ❖ Personnel matters in relation to working in the public service.
- ❖ Terms and conditions of members of the armed forces.
- ❖ Policy decisions of Ministers or Government Departments e.g. HDC Housing Allocations, Town and Country, etc.
- ❖ Allegations of victimization by Government Agencies and Departments.

# APPENDICES

## **Appendix I**

Schedule of Community Visits

## **Appendix II**

Extract from the Constitution related to the Office of the Ombudsman and Third Schedule to the Constitution (Matters Not Subject to Investigation)

## **Appendix III**

Ombudsman Act, Chap. 2:52

## **Appendix IV**

Extract from the Freedom of Information Act (FOIA), Chap. 22:02

## APPENDIX I

# SCHEDULE OF COMMUNITY VISITS

### POINT FORTIN

Point Fortin Borough Corporation  
Guapo Cap-de-Ville Road, Point Fortin  
2nd Wednesday each month  
Time: 9:00 a.m. to 12 noon

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### CHAGUANAS

Chaguanas Borough Corporation  
Cor. Taitt & Cumberbatch Streets, Chaguanas  
2nd Friday each month  
Time: 9:00 a.m. to 12 noon

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### SIPARIA

Siparia Regional Corporation  
High Street, Siparia  
3rd Monday each month  
Time: 9:00 a.m. to 12 noon

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### COUVA

Couva/Tabaquite/Talparo Regional Corporation (main building)  
Railway Road, Couva  
3rd Wednesday each month  
Time: 9:00 a.m. to 12 noon

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### SANGRE GRANDE

Sangre Grande Regional Corporation  
Technical Section,  
Brierley Street, Sangre Grande  
Last Tuesday each month  
Time: 9:00 a.m. to 12 noon

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### MAYARO/RIO CLARO

Mayaro/Rio Claro Regional Corporation  
De Verteuil Street, Rio Claro  
Last Thursday each month  
Time: 9:00 a.m. to 12 noon

APPENDIX II  
EXTRACT FROM THE CONSTITUTION OF TRINIDAD AND TOBAGO  
ACT NO. 4 OF 1976

**PART II - OMBUDSMAN**

***Appointment and conditions of office.***

91. (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.
- (2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.
- (3) The Ombudsman shall hold Office for a term not exceeding five years and is eligible for re-appointment.
- (4) Subject to subsection (3), the Ombudsman shall hold office in accordance with section 136.

***First Schedule.***

- (5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

***Appointment of staff of Ombudsman.***

92. (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions
- (2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).

***Functions of Ombudsman.***

93. (1) Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.



## APPENDIX II - CONT'D

- (2) The Ombudsman may investigate any such matter in any of the following circumstances:
- (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
  - (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
  - (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.
- (3) The authorities other than departments of Government to which this section applies are –
- (a) local authorities or other bodies established for purposes of the public service or of local Government;
  - (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenue consist wholly or mainly of moneys provided out of public funds;
  - (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
  - (d) such other authorities as may be prescribed.

***Restrictions on matters for investigation.***

94. (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.
- (2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

APPENDIX II - CONT'D

- (3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.
- (4) The Ombudsman shall not investigate-
- (a) any action in respect of which the Complainant has or had-
    - (i) a remedy by way of proceedings in a Court; or
    - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a Court;or
  - (b) any such action, or actions taken with respect to any matter, as is described in the Third Schedule
- (5) Notwithstanding subsection (4) the Ombudsman-
- (a) may investigate a matter notwithstanding that the Complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
  - (b) is not in any case precluded from investigating any matter by reason only that it is open to the Complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

**Third Schedule.**

**Discretion of Ombudsman.**

95. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94, act in his discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that –
- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
  - (b) the subject matter of the complaint is trivial;
  - (c) the complaint is frivolous or vexatious or is not made in good faith; or
  - (d) the complainant has not a sufficient interest in the subject matter of the complaint.

## APPENDIX II - CONT'D

**Report on  
Investigation.**

96. (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.
- (2) Upon completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he sees fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.
- (3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.
- (4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.
- (5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigation.

**Power to obtain  
evidence.**

97. (1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.
- (2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

APPENDIX II - CONT'D

**Prescribed  
Matters  
concerning  
Ombudsman.**

98. (1) Subject to subsection (2), Parliament may make provision -
- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
  - (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
  - (c) generally for giving effect to the provisions of this Part.
- (2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.
- (3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.
- (4) No Complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.
- (5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.
- (6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.
- (7) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.
- (8) No proceedings of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

APPENDIX II - CONT'D  
**THIRD SCHEDULE TO THE CONSTITUTION**  
(MATTERS NOT SUBJECT TO INVESTIGATION)

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organization.
2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.
3. Action taken under any law relating to extradition or fugitive offenders.
4. Action taken for the purposes of investigating crime or of protecting the security of the State.
5. The commencement or conduct of civil or criminal proceedings before any Court in Trinidad and Tobago or before any international Court or tribunal.
6. Any exercise of the power of pardon.
7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which section 93 applies not being transactions for or relating to-
  - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
  - (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to-
  - (a) the terms and conditions of service as such member; or
  - (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.
10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court application for review is required to be made;

**APPENDIX III**

**LAWS OF TRINIDAD AND TOBAGO**

**OMBUDSMAN ACT, CHAPTER 2:52**

**An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution**

**(Assented to 24th May, 1977)**

ENACTMENT	ENACTED by the Parliament of Trinidad and Tobago as follows:
<b>SHORT TITLE</b>	1. This Act may be cited as the Ombudsman Act.
<b>MODE OF COMPLAINT</b>	2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing.  (2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person or the time being in charge of the place where the writer is detained.
<b>PROCEDURE IN RESPECT OF INVESTIGATION</b>	3. (1) Where the Ombudsman proposes to conduct an investigation under Section 93(1) of the Constitution he shall afford to the principal officer of the department or authority concerned, an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make such representations.  (2) Every such investigation shall be conducted in private.  (3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries as he thinks fit.  (4) Where, during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which section 93 of the Constitution applies, the Ombudsman may refer the matter to the authority competent to take such disciplinary or other proceedings against him as may be appropriate.  (5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.  (6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person, out of moneys provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those that are for the time being prescribed for attendance in the High Court, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this sub-section, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.

## APPENDIX III

## LAWS OF TRINIDAD AND TOBAGO

## OMBUDSMAN ACT, CHAPTER 2:52

## An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution

(Assented to 24th May, 1977)

<p><b>PROCEDURE IN RESPECT OF INVESTIGATION (Cont'd)</b></p>	<p>(7) For the purposes of Section 93 (2)(a) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him.</p> <p>(8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.</p>
<p><b>EVIDENCE</b></p>	<p>4. (1) The power of the Ombudsman under Section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer; employee or member of any department or authority and whether or not such documents are in the custody or under the control of any department or authority.</p> <p>(2) The Ombudsman may summon before him and examine on oath-</p> <p>(a) any person who is an officer or employee or member of any department or authority to which Section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;</p> <p>(b) any complainant; or</p> <p>(c) any other person who in the Ombudsman's opinion is able to give any relevant information, and for the purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Act.</p> <p>(3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Act 1911 to 1939 of the United Kingdom in so far as it forms part of the law of Trinidad and Tobago, to maintain secrecy in relation to, or not to disclose, any Matter shall be required to supply any information to or answer any Questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.</p> <p>(4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.</p> <p>(5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under Section 10, no statement made or answer given by that or any other person in the course of any inquiry or any proceedings before the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any Court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.</p> <p>(6) No person shall be liable to prosecution for an offence against the Official Secrets Act 1911 to 1939 of the United Kingdom, or any written law, other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.</p>

## APPENDIX III

### LAWS OF TRINIDAD AND TOBAGO

#### OMBUDSMAN ACT, CHAPTER 2:52

An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution

(Assented to 24th May, 1977)

<p><b>DISCLOSURE OF CERTAIN MATTERS NOT TO BE REQUIRED</b></p>	<p>5. (1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing –</p> <ul style="list-style-type: none"> <li>(a) might prejudice the security, defence or international relations of Trinidad and Tobago (including Trinidad and Tobago relations with the Government of any other country or with any international organizations);</li> <li>(b) will involve the disclosure of the deliberations of Cabinet; or</li> <li>(c) will involve the disclosure of proceedings of Cabinet, or any Committee of Cabinet, relating to matters of a secret or confidential nature, and could be injurious to the public interest, the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper, or thing to be produced.</li> </ul> <p>(2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.</p>
<p><b>SECRECY OF INFORMATION</b></p>	<p>6. A person who performs the functions appertaining to the office of the Ombudsman or any office or employment there under –</p> <ul style="list-style-type: none"> <li>(a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any provisions of Sections 93 and 96 of the Constitution, so, however, that no disclosure made by any such person in proceedings for an offence under section 10, or under the Perjury Act and by virtue of Section 4(2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions of section 3(4) or Section 9, shall be deemed inconsistent with any duty imposed by this paragraph; and</li> <li>(b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph(a).</li> </ul>
<p><b>NOTICE OF ENTRY ON PREMISES</b></p>	<p>7. Before entering upon any premises pursuant to section 97(2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority which the premises are occupied.</p>
<p><b>DELEGATION OF POWERS</b></p>	<p>8. (1) With the prior approval in each case of the Prime Minister, functions herein before assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in section 6.</p> <ul style="list-style-type: none"> <li>(2) No such delegation shall prevent the exercise of any power by the Ombudsman.</li> <li>(3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.</li> <li>(4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.</li> </ul>



## APPENDIX III

## LAWS OF TRINIDAD AND TOBAGO

## OMBUDSMAN ACT, CHAPTER 2:52

## An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution

(Assented to 24th May, 1977)

<b>REPORTS</b>	<p>9. (1) The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament.</p> <p>(2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by section 96(5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under section 12.</p>
<b>OFFENCES</b>	<p>10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who –</p> <p>(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;</p> <p>(b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;</p> <p>(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or</p> <p>(d) in a manner inconsistent with his duty under Section 6(a), deals with any documents, information or things mentioned in that paragraph.</p>
<b>PRESCRIPTION OF AUTHORITIES SUBJECT TO THE OMBUDSMAN'S JURISDICTION</b>	<p>11.(1) The authorities mentioned in the Schedule are authorities to which section 93(3)(d) of the Constitution applies.</p> <p>(2) The President may, by Order, amend the Schedule by the addition thereto or deletion therefrom of any authorities or the substitution therein, for any authorities, of other authorities.</p>
<b>REGULATIONS</b>	<p>12. The President may make Regulations for the proper carrying into effect of this Act, including, in particular, for prescribing anything required or authorised to be prescribed.</p>

## APPENDIX IV

### LAWS OF TRINIDAD AND TOBAGO EXTRACT FROM THE FREEDOM OF INFORMATION ACT (FOIA), CHAP. 22:02

**Time limit for determining requests.**

- 15.** A public authority shall take reasonable steps to enable an applicant to be notified of the approval or refusal of his request as soon as practicable but in any case not later than thirty days after the day on which the request is duly made.

**Reasons to be given for deferment or refusal.**

- 23.** (1) Where in relation to a request for access to a document of a public authority, a decision is made under this Part that the applicant is not entitled to access to the document in accordance with the request or that provision of access to the document be deferred or that no such document exists, the public authority shall cause the applicant to be given notice in writing of the decision, and the notice shall—
- (a) state the findings on any material question of fact, referring to the material on which those findings were based, and the reasons for the decision;
  - (b) where the decision relates to a public authority, state the name and designation of the person giving the decision;
  - (c) where the decision does not relate to a request for access to a document which if it existed, would be an exempt document but access is given to a document in accordance with section 16(2), state that the document is a copy of a document from which exempt information has been deleted;
  - (d) inform the applicant of his right to apply to the High Court for judicial review of the decision and the time within which the application for review is required to be made;
  - (e) where the decision is to the effect that the document does not exist or cannot, after a thorough and diligent search, be located, inform the applicant of his right to complain to the Ombudsman.

**Review by the Ombudsman. [92 of 2000].**

- 38A.** (1) A person aggrieved by the refusal of a public authority to grant access to an official document, may, within twenty-one days of receiving notice of the refusal under section 23(1), complain in writing to the Ombudsman and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit within thirty days or as soon as practicable thereof






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