



Statutory Authorities Service Commission Department

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Comments of the Statutory Authorities Service Commission

on the

**3rd Report of the Joint Select Committee on Human Rights Equality
and Diversity, Second Session of the 11th Parliament (2016/2017)**

on the

**Treatment of Child Offenders at the Youth Training Centre,
St Michael's Interim Rehabilitation Centre for Young Male Offenders
and St Jude's Interim Rehabilitation Centre for Young Female
Offenders**

The Statutory Authorities Service Commission (SASC), by law, is a non-political body with the sole purpose of maintaining neutral services operating on the basis of merit, free from patronage, discrimination, nepotism and injustice. It is vested with the powers to appoint persons to hold or to act in the relevant posts, including the power to make appointment on promotion and transfer and to confirm appointments and to remove and exercise disciplinary control over persons holding or acting in offices governed by the SASC (Chapter 24:01 Section 5 of the Laws of Trinidad and Tobago). In this regard, the SASC stands ready to continue to partner with all parties to continue to promote measures designed to enhance the equalisation of opportunities and improvement in the quality of life and status of all peoples. These include: marginalized groups on the basis of gender, age (elderly, youth, children) disability and the creation of inclusive and more equitable society through greater social justice and sustainable human development within Trinidad and Tobago.

Your report speaks specifically to the treatment of 'Child Offenders' in three (3) facilities two of which fall under the purview of the SASC, namely the St Michael's Interim Rehabilitation Centre for Young Male Offenders (SMIRCYMO) and St Jude's Interim Rehabilitation Centre for Young Female Offenders (SJIRCYFO). In your report you identified the following as it refers to the operations of the SASC:-

- i. Executive Summary
 - 1.6 Inadequate staff available to cater to the needs of the Children.

- ii. Parliamentary Committee Report on the SASC (2014)
 - 3.8 the findings and recommendations of the committee suggests that the expeditious and effective disciplinary process was not in place to deal with behavioural issues, in particular, at the Children's Homes and as such disciplinary action by the SASC may be too long, particularly as it concerns situations involving children.

 - 3.10 Training
In terms of discipline, the SASC indicated that staff training in the area of care and protection was necessary.

3.12 Abuse Report

Alleged staff members were on suspension from St Michael's and in the case of St Jude's, upon completion of data collection, the Manager requested an investigation and the matter was referred to the SASC.

- 3.13 the Children's Authority of Trinidad and Tobago (CATT) indicated that there was an absence of a human resource policy at the SMIRCYMO to address staff misconduct and the procedures for investigation and redress were not in place.

Although the media highlighted alleged reports of abuse by staff, the SMIRCYMO Board appeared to be powerless to institute corrective actions without the input of the SASC.

In some instances, where matters had progressed to investigations by management, the staff was not subject to disciplinary action by the SASC.

3.29 Staffing challenges

- ✚ staff attitude and misconception of training
- ✚ lack of unity amongst staff to adhere to guidelines especially in relation to resident discipline
- ✚ insufficient knowledge – the role of new types of staff, new policies, new procedures
- ✚ inability of existing middle management to manage/supervise due to the structure of the organisation
- ✚ employees remain resistant to policy changes and hostile to new staff especially those hired on contract

Comments of the SASC on the issues raised in the Report as identified above.

Introduction

The Management of the Homes is complex in that, currently three (3) of the four Homes are under the control of the Board of certain churches, they fall under the purview of a line Ministry, terms and conditions are treated with by the Chief Personnel Officer (CPO) and staffing and discipline by the SASC. That notwithstanding, the role of each is clear. The SASC does not get involve in the day to day operations of the Homes except to fulfill its mandate as enunciated previously.

Staffing

With respect to the staffing issue of inadequate staff available to meet the needs of the children, this is a matter for the Board and the line Ministry to determine the appropriate caregiver to children ratio to cater for the needs of the children. Once this is established then the other arms are brought into play such as the Public Management Consulting Division (PMCD) of the Ministry of Public Administration, Cabinet to get the approval and the CPO if there is need to establish or review job descriptions (JDs) and classification. Once positions are placed on the establishment the SASC stands as a committed partner to ensure that the vacancies are filled.

In 2015, the SASC was asked to hold its hands on filling all vacancies at the Homes by the Gender and Child Affairs Division of the Office of the Prime Minister pending a review of the JDs. While the Commission was not obligated to do this, the Commission took the decision to accede to the request of the Gender and Child Affairs Division. This was not a popular decision for the Commission since the representative Union of workers made representation on behalf of workers in this regard. Also workers threatened the Commission with legal action. To date the review of the Job Description has not been completed. Children's Homes must be licensed and to fulfil this requirement caregivers must have certain minimum qualifications which are higher than those prescribed at this time. Failure to meet these new minimum qualifications can result in the Homes not being licensed.

It is the Commission's view that a lot of the change management issues that were identified above have to do with the long delay in completing the JDs. The interim measure that was put in place to treat with the short fall that would be created while the Commission held its hands on filling vacancies was the approval by Cabinet to hire Caregivers on contract. This measure has seen a significant increase in contracted employees. This has clearly created uneasiness in the

minds of the permanent employees who perceives that they are being marginalized. Change is a process that has to be properly managed to derive positive effects.

Recently, after consultation with the Permanent Secretary Office of the Prime Minister (Gender and Child Affairs) the Commission recommenced appointing persons who have been employed on a temporary basis in excess of 2 years as well as promoting eligible officers to next promotional positions. This decision was taken based on a CPO memorandum dated 1989 (copy attached). The SASC also wrote to the CATT asking that consideration be given to amending the legislation to make provision for the existing staff as it pertains to the qualification requirement for staff for the purposes of licensing of the Homes. The CPO's Circular was cited in support of the SASC's recommendation.

Discipline

One of the major issues identified is that an expeditious and effective disciplinary process was not in place to deal with behavioural issues, in particular, at the Children's Homes and as such disciplinary action by the SASC may be too long, particularly as it concerns situations involving children. Section 88 (1) and (2) of the SASC Regulations grants the Commission the Authority to immediately remove persons suspected of committing offences against a child, pending investigation and disciplinary action.

The SASC cannot deny that there are mitigating factors that challenge the disciplinary process and this can be explained as follows:-

- ✚ Where a member is accused of misconduct of a criminal nature the onus is on the manager of the Home to make a report to the nearest police station and indicate in writing that such a report was made. In such an instance, the employee is placed on immediate suspension until the completion of the police investigations. In this case the Commission's actions would be based on the outcome of the matter in court.

The challenge is that in some instances no such report is made and then it is brought to the notice of the Commission to investigate. In these instances, the process of natural Justice has to be exercised. The accused has to be given the opportunity to respond in writing, witness statement(s) must be received and an investigator appointed.

The appointment of an investigator by the Commission is based on nomination of a public officer from either the Authority/Home where one can be sourced and where one cannot be sourced the line Ministry is asked to nominate someone from the Ministry who is senior to the alleged person. This process sometimes is delayed and there are times when, after a person is nominated and appointed, the person after a while would indicate

that he/she is unable to do/complete the investigation and this aspect of the process has to be repeated.

Secondly, a challenge that reoccurs from time to time is that the investigation is flawed and has to be redone. This is a big challenge for the Commission since it cannot influence the investigation and as such can only give the person nominated the guidelines to conduct the exercise. The Commission has had to ask for investigations be redone two and three times.

The Commission has been speaking with the CATT in this regard and was informed that the CATT was duty bound to report all criminal allegations to the police. Additionally, the CATT has trained investigators conducting the investigations. The CATT has indicated that its report could be made available to the SASC to conduct its disciplinary procedure. The State Counsel II at the SASC is looking into the feasibility of this procedure with a view to making appropriate recommendations for the Commission's consideration. Should this be an acceptable alternative the Commission would be able to have access to resources that would aid in expeditious and efficient disciplinary process.

✚ Where an employee is charged by the police for a criminal offence the Homes are required to inform the Commission immediately and in such an instance that officer is placed on immediate suspension pending the outcome of the police investigations.

The Commission has observed that in some instances there are delays in providing the Commission with the information. Currently, we are trying to get information from one of the homes whether one of the employees had in fact been charged by the police and this information has not been supplied.

✚ In instances where the Commission has been asked to investigate matters of indiscipline, other than criminal nature the same process identified above is used to appoint an investigator. In addition to the same challenges as mentioned above there is also the issue of the annual Performance Appraisal Report (PAR). In many instances the correct PAR process is not followed and as such the proper disciplinary action cannot be taken. In some instances, the Commission would be advised by Legal Counsel that no useful purpose would be served in continuing the matter.

The Commission has recognized that the PAR is an important HR tool that, if properly administered, would be able to address most of the discipline issues identified in the Report. While training does not form part of the Commission's mandate it has taken the

bold step to go to the Authorities under its purview including the Homes to do training in the proper process and use of the PAR.

Training

The SASC is not responsible for training of staff at the Authorities. Notwithstanding this, the Commission, as indicated above, had done PAR training. During those sessions the Commission also explained to the entity that it is incumbent upon the organisation to provide the employees with the appropriate training when they come to the Home. The Commission explained to the Authorities/Homes that the Commission would appoint people on the basis of the job description and the minimal qualification requirement. However, when the person comes to the Home the management should provide proper orientation and continuous training to satisfy the requirements of the changing job environment.

The SASC cannot make regulations on its own volition but can make recommendations and to this end the Commission has been fulfilling its obligations with a view to improving the quality of service it provides.

The SASC continues to experience operational constraints in respect of staffing, technology and accommodation.

Staffing

The Commission's establishment does not include any IT, HR and Audit positions. Recommendations were made to the PMCD to include some of the positions identified above to strengthen the capacity of the SASC. The increased capacity would allow the Commission to more effectively respond to its mandate.

Technology

Approximately 90% of the computers at the SASC are in excess of 10 years old. There is a single server and back up is done on external hard drive. Recommendations were made in the annual budget (2016 and 2017) for funds for the replacement of the old computers and secure backup server. Funding was also requested for the establishment of a website.

Accommodation

The Commission has made representation for more suitable accommodation and continues to look forward to better accommodation for the staff.