

# ANNUAL REPORT 2013/2014



FINDING TRUTH-ENSURING JUSTICE



THE POLICE COMPLAINTS AUTHORITY'S  
FOURTH ANNUAL REPORT  
2013/2014

FINDING TRUTH-ENSURING JUSTICE



December 19, 2014

The Hon. Prakash Ramadhar, M. P.,  
Minister of Legal Affairs,  
Ministry of Legal Affairs,  
4<sup>th</sup> Floor,  
Registration House,  
72-74 South Quay,  
Port of Spain.

Dear Minister,

**Re: The Fourth Annual Report of the Police Complaints Authority**

I have the honour to present the Fourth Annual Report of the Police Complaints Authority, for the period October 1, 2013 to September 30, 2014.

The report is submitted pursuant to Section 20 (1) (a) of the Police Complaints Authority Act No. 8 of 2006.

Respectfully,



David West  
Director  
Police Complaints Authority



## OUR VISION

“The Reliable Authority  
Leading the Way to JUSTICE”

## OUR MISSION

“To work with our stakeholders to provide  
civilian oversight of police officers by  
conducting independent investigations with  
integrity and making sound recommendations  
for the benefit of all who seek justice.”

## OUR CORE VALUES

Integrity  
Confidentiality  
Professionalism  
Respect  
Reliability  
Accountability  
Fairness

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## DIRECTOR'S REMARKS

The Police Complaints Authority (PCA) became duly constituted on December 29, 2010. During the first four years of its existence, the PCA has earned the public's trust for its fearless, independent work in investigating criminal offences by police officers, police corruption and serious police misconduct.

It is right that I should pay tribute to the role that the PCA's first Director the Honourable Madame Justice Gillian C.I. Lucky, its Deputy Director, Master Ralph Doyle, and diligent staff played in earning this valued trust. The Hon. Madame Justice Lucky laid a solid foundation and I am honoured to succeed Her Ladyship as the Director of this organization. I look forward to working with Master Doyle and the staff to ensure that the PCA continues to perform its functions and duties to the highest standard.

Since assuming office I have assessed the PCA's caseload with a view to ascertaining what should be the focus and priorities, in this new phase of its existence.

From the previous reporting periods and up until the end of this period under review, the PCA received 1556 complaints. Of these complaints 958 are being actively investigated; 223 are before the courts (comprising some matters in respect of which the PCA made recommendations to the DPP for prosecution, and matters in respect of which the subject matter of the complaint is also the subject of judicial proceeding and therefore in accordance with section 37 of the Police Complaints Authority Act, cannot be investigated); and 375 have been submitted as completed by the Investigation's Department. What can be deduced from these figures is that although the public's faith in the PCA is strong, the



David West  
Director, Police Complaints Authority

expectation of our complainants of swift justice is not yet a reality.

As we move forward, the goal is to ensure, without sacrificing the quality of our investigations, that there is the shortest possible timeframe between the initiation of a complaint and completing the matter.

It is my intention to implement and make greater use of the powers conferred on the Authority by Part V of the PCA Act.

Part V of the PCA Act gives the Authority the power to hold hearings for the purpose of conducting an investigation. Further, the PCA Act confers on the Authority the same powers of a Commission of Enquiry established under the Commission of Enquiries Act Chap. 19:01 of the Laws of Trinidad and Tobago.

The exercise of these powers will enable the Authority to summon before it, police officers who are being investigated for criminal offences, police corruption and serious police misconduct. Based on the evidential findings of these hearing, the Authority can recommend to the Director of Public Prosecutions or the Commissioner of Police that either criminal or disciplinary proceedings be taken and in instances outside of the State, that the Attorney General be notified.

The PCA Act needs to be amended to give the PCA's investigators the same powers, privileges, authorities and immunities of members of the Trinidad and Tobago Police Service.

Without these powers and immunities, the PCA's investigators have

been limited in the exercise of what they are empowered by the PCA Act to do.

To improve the organization's efficiency, we need to increase the staff complement to meet the demands as we continue to provide civilian oversight of law enforcement in Trinidad and Tobago.

I want to reassure the public that I will continue the national conversation that we started with the community outreach and public education meetings. From January 2015, the PCA will launch an extensive educational drive beginning in Tobago and then moving across Trinidad. In so doing we continue our thrust to educate and sensitize on the role and functions of the PCA.

In the period under review, the PCA accomplished a significant goal, which was set from the previous financial year and that was to establish a permanent presence in Tobago. The PCA Tobago Office is just the beginning of a ramped up effort to ensure that the citizens of Trinidad and Tobago who reside on the island of Tobago get the quality of service from the PCA, to which they are entitled.

The PCA has been able to establish itself as an **independent** organization and we will continue to work relentlessly to safeguard our independence and make recommendations to the relevant authorities for the collective good of all who seek justice.



David West  
Director, Police Complaints Authority

## OUR PURPOSE AND OUR OPERATIONS

The Police Complaints Authority Act 2006 (“the Act”), proclaimed on January 1, 2007, repealed the Police Complaints Authority Act, 1993 (“the former Act”), which provided for complaints against police officers to be sent by the then Police Complaints Authority to the Trinidad and Tobago Police Service, (TTPS) for investigation.

The Act of 2006 distinctively established the Police Complaints Authority (PCA) as an **independent** corporate body mandated, among other things, to **investigate** complaints within its remit **without** the involvement of the police.

### APPOINTMENTS

Section 6 (1) of the Act provides for the PCA to be comprised of a Director and Deputy Director to be appointed by the President of Trinidad and Tobago on the joint advice of the Prime Minister and the Leader of the Opposition. By Section 7 of the Act, the Director or Deputy Director shall have at least ten (10) years’ experience as an Attorney-at-Law.

On December 29, 2010, the Authority’s first Director and Deputy Director were appointed for the maximum period of five (5) years.

### RESIGNATION OF THE FIRST DIRECTOR OF THE PCA

During the period under review, the Authority’s first Director, (Ms. Gillian Lucky) tendered her resignation to His Excellency Anthony Thomas Aquinas Carmona, O.R.T.T., S.C. on September 2, 2014. A Press Release from the Office of the President dated September 2, 2014 stated, inter alia,-

*“Attorney-at-law, Ms. Gillian Lucky, in accordance with section 13 of the Police Complaints Authority (PCA) Act Chapter 15:05, resigned today (September 2, 2014) as Director of the Police Complaints Authority (PCA)....*

*...In Ms. Lucky’s instrument of resignation, she stated: “Permit me to take this opportunity to thank Your Excellency and the Office of the President for all the support given to the PCA...”*

*...Your Excellency is assured that I leave the PCA knowing that the Deputy Director and the members of staff will continue to fulfil the mandate of the PCA...”*

## FUNCTIONS

The PCA is given extensive functions by virtue of Section 21(1) of the Act, namely:-

- (a) To investigate criminal offences involving police officers, police corruption and serious police misconduct;
- (b) To undertake enquires into, or audits of, any aspect of police activities for the purpose of ascertaining whether there is police corruption or serious police misconduct or circumstances that may be conducive to both;
- (c) To monitor an investigation conducted by any person or authority in relation to any matter mentioned in paragraph (a) and to undertake audits of those investigations;
- (d) To advise the Police Service and other public authorities on ways in which police corruption and serious police conduct may be eliminated;
- (e) To gather evidence that may be admissible in the prosecution of a person who is not a police officer for a criminal offence in relation to the Police Service and to furnish that evidence to the Director of Public Prosecutions, or where an authority outside the State is concerned, the Attorney General;
- (f) To gather evidence that may be used in the investigation of serious police misconduct and furnish such evidence to the Commissioner of Police or the Police Service Commission for appropriate action;
- (g) To gather evidence that can be used in the prosecution of a police officer involved in a criminal offence and furnish such evidence to the Director of Public Prosecutions; or
- (h) To perform any other functions that may be conferred on it by any other written law.

With such important functions, it is incumbent that the PCA be provided with the resources necessary to effectively and efficiently fulfil its statutory mandate

## INDEPENDENCE

By Section 19 of the Act, the Authority is not subject to the direction or control of any other person in the performance of its functions or the exercise of its power.

## POWERS

For the purpose of the performance of its functions, Section 22 (1) of the Act vests the Authority with the powers of a Commission of Enquiry as provided for under the Commissions of Enquiry Act.

By Section 24 of the Act the powers and functions of the Authority are exercisable by:

- (a) the Director or Deputy Director personally;
- (b) any person not being a police officer appointed by the Authority to conduct an investigation; or
- (c) any other person acting under and in accordance with the general or special instructions of either the Director or Deputy Director.

The Authority may conduct investigations on its own initiative or on the basis of complaints from the public, a police officer, a public body or authority or an appropriate unit or disciplinary tribunal of the Police Service.

## ANNUAL REPORT

Section 20 (1) of the Act imposes a statutory obligation on the Authority to submit to the Minister an annual report of its activities in the preceding financial year and a copy of the audited statement of accounts for that period for laying in Parliament.

By section 4 of the Act as amended by Act No. 12 of 2011, ““Minister”<sup>1</sup> means the Minister to whom responsibility for the Police Complaints Authority is assigned;”. The Trinidad and Tobago Gazette (Extraordinary) Vol. 52 No. 136 published on Wednesday October 16, 2013, provides that the Minister to whom responsibility for the Police Complaints Authority is assigned is the Minister of Legal Affairs.

This Report features the activities of the Authority for the period October 1, 2013 to September 30th, 2014.

## AUDITED ACCOUNTS

Section 18 (2) of the Act states:

*“The accounts of the Authority shall be audited annually by the Auditor General or by an auditor authorised by him for such purpose”.*

The Financial Statements of the Authority for the financial year ended September 30, 2014 were forwarded to the Auditor General for audit in compliance with the Act.

A Financial Report on the income and expenditure of the PCA for the period October 1, 2013 to September 30, 2014 is found on page 11 of this Report.

<sup>1</sup>By section 6 of the Miscellaneous Provisions (Ministry of Justice) Act, 2011 – “Minister” means the Minister to whom responsibility for the Police Complaints Authority is assigned;”





# FINANCIAL REPORT FOR THE PERIOD OCTOBER 1, 2013 TO SEPTEMBER 30, 2014

The Police Complaints Authority was allocated funding in the amount of Fourteen Million, Four Hundred Thousand dollars (\$14,400,000.00) to facilitate capital and recurrent expenditure for the financial year 2013/2014. The Authority was also allocated an amount of Two Million, Sixty Thousand and Nine Hundred and Forty dollars (\$2,060,940.00) to meet the payment of direct charges on the Consolidated Fund.

The total allocation of Sixteen Million, Four Hundred and Sixty Thousand and Nine Hundred and Forty dollars (\$16,460,940.00) was released to the Authority during the financial year 2013/2014. The sum of Two Million, Three Thousand and Seventy- Six dollars (\$ 2,003,076.00) was expended in respect of direct charges and the full allocation of Fourteen Million, Four Hundred Thousand dollars (\$14,400,000.00) under Sub-Item 01 was expended. Excess funds expended in the sum of Two Million, One Hundred and Eighty-Seven Thousand and Nine Hundred and Forty-Four dollars (\$2,187,944.00) under Sub-Item 01 were met from unutilized funds from previous years.

The Table below shows the actual unaudited Receipts and Expenditure of the Authority during the year under review.

HEAD /SUB-HEAD ITEM/SUB-ITEM	APPROVED ALLOCATION	TOTAL RELEASES	TOTAL EXPENDITURE
24: Ministry of Legal Affairs			
04: Current Transfers and Subsidies			
009: Other Transfers			
01: Police Complaints Authority	\$14,400,000.00	\$14,400,000.00	\$16,587,944.00
04: Police Complaints Authority -Direct Charges	\$ 2,060,940.00	\$2,060,940.00	\$ 2,003,076.00
<b>TOTAL</b>	<b>\$16,460,940.00</b>	<b>\$16,460,940.00</b>	<b>\$18,591,020.00</b>



Police Complaints  
Authority

## THE PCA'S TOBAGO OFFICE

The Police Complaints Authority (PCA) established an office on the island of Tobago on February 3, 2014. This office is located on the Old Milford Road, Crown Point.

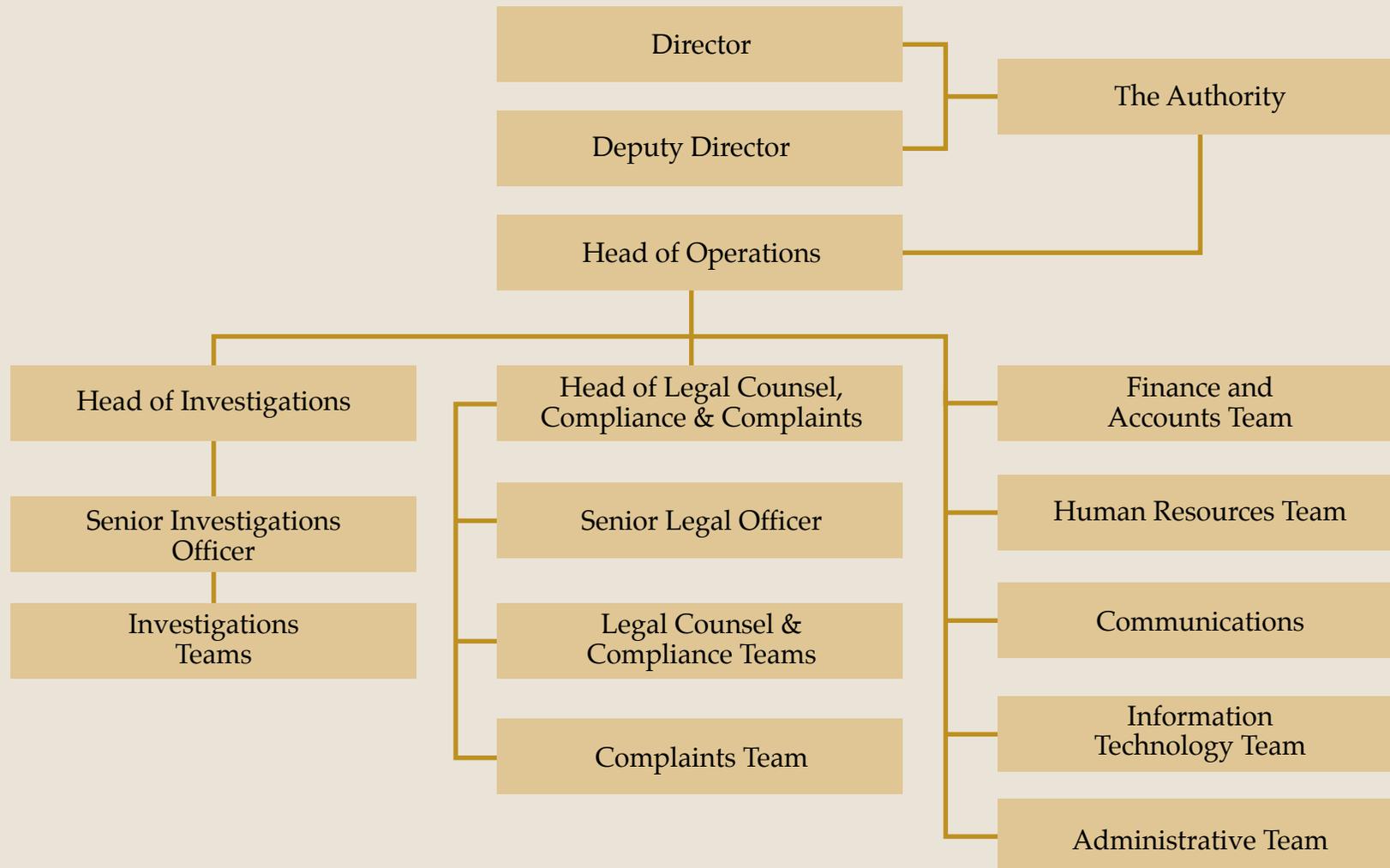
During its public outreach campaigns conducted in 2012 and 2013, residents of Tobago indicated their need for easier access to the PCA. At the time the only PCA office was located in Port of Spain. Complaints originating from Tobago were dealt with by regularly dispatching Investigators to the island.

Traditionally, Investigators were assigned to Tobago for three to four days, at a time, to investigate complaints made via the PCA office in Trinidad. Over time, it was evident that this approach fell short of providing Tobagonians with the service to which they are entitled. The establishment of the Tobago office had always been an objective of the Authority and this intent had been expressed in the PCA's Strategic Plan, 2012 – 2015.

In accordance with section 15 (1) of the PCA Act, **“The Authority shall be located in the place provided for it by the Government.....”** Accordingly, the Authority in April 2013, through liaising with the Ministry of Justice (and later the Ministry of Legal Affairs) and, the Property and Real Estate Division (PRESD) of the Ministry of Housing, Land and Marine Affairs, began working towards the establishment of a permanent PCA office on the island.

While the relevant Ministries continue to work on providing this permanent accommodation, the PCA responded to the needs of Tobago in the shortest possible time and as an interim measure, the Authority negotiated a short-term agreement for the establishment of an office. This arrangement, though provisional, will remain in force until PRESD provides suitable permanent accommodation.

# FUNCTIONAL ORGANIZATIONAL CHART OF THE PCA



# THE HUMAN RESOURCES DEPARTMENT

## AN INTRODUCTION

The goal of the Human Resources (HR) Department is to assist the Police Complaints Authority (PCA) to achieve its mandate, while ensuring employees are engaged and motivated towards the organization's success.

The HR Department provides services and support to the organization in keeping with the PCA's vision and mission. The Department fosters the values of inclusiveness, camaraderie, long-term employee engagement and life-long learning. In all areas of work, the HR Department firmly upholds the tenets of confidentiality, accountability and trust.

## HIGHLIGHTS FROM THE HUMAN RESOURCES DEPARTMENT FOR 2013-2014

### RECRUITMENT AND SELECTION

The HR Department oversees the recruitment, interviewing, assessment, background checks and selection of employees. During the period under review, the PCA recruited nine (9) new employees to ensure appropriate staffing needs were met throughout the organization. The positions filled include Administrative Coordinator, Communications Coordinator, Investigations Officer, Legal Counsel and Complaints Officer.

Additionally, four (4) employees were promoted within the core delivery departments of Investigations, Human Resources and Information Technology to ensure alignment with the operational needs of the Authority.

### TRAINING AND DEVELOPMENT

In keeping with its philosophy of continuous learning, the PCA offered a variety of training and development opportunities during the period under review.

- During the period January - July 2014, the former Director conducted weekly workshops with the Investigations and Legal Counsel, Compliance and Complaints staff. Topics covered during these sessions included:-
  - Issues and Relevance of Evidence;
  - Identification and Recognition of Evidence;

- Protocols for conducting an investigation;
  - Use of photographs, audio and video recording and CCTV footage as evidence;
  - Code for prosecutors and its relevance to PCA attorneys and investigators;
  - Dealing with fatal shooting investigations by the Trinidad and Tobago Police Service;
  - Powers of the PCA – obtaining information and documents;
  - Scientific approaches to conducting PCA investigations; and
  - The Laws, Rules and Procedures with respect to Identification of Persons.
- In May 2014, the Deputy Director attended the Canadian Association for Civilian Oversight of Law Enforcement’s (CACOLE’s) conference in British Columbia, Canada. The theme of the conference - **‘Civilian Oversight: Building Confidence and Trust’** featured informative sessions on the topics, trends and issues currently at the forefront of the oversight landscape. The Deputy Director was a member of the Conference panel on **‘International Perspectives on Oversight.’**
  - In June 2014, the Deputy Director and the Senior Legal Officer attended a high-level one-week study programme facilitated by the Public Administration International (PAI) in London, England. This programme entitled **‘Righting Wrongs: Ombudsmen, Justice and Public Service’** focused on a variety of systems and approaches to complaint handling and dispute resolution, improving public services and promoting good governance in different countries. The programme provided a valuable opportunity for the PCA to improve its capacity to manage

investigations, produce effective reports, communicate with the public and other key stakeholders and deal with the media. It also allowed the PCA to make international comparisons and identify areas for developing and improving its system.

- In June 2014, five members of staff from the Legal Counsel, Compliance and Complaints, Investigations and Human Resource Departments attended a four-day **Alternative Dispute Resolution** workshop. This training workshop was hosted by the Stitt Feld Handy Group - a leading Alternative Dispute Resolution (ADR) organization based in Ontario, Canada. These employees learned how to use Principled Negotiation, developed at Harvard University. They also developed practical skills and techniques required to resolve disputes while preserving relationships, handle challenging issues and emotional people and negotiate difficult situations.
- In June 2014, the former Director was invited to visit the Crown Prosecution Service (CPS) Headquarters in London, England, where she met with the Director of Public Prosecutions and Director International Division of the CPS of England and Wales and discussed the work of the International Division. She also met with the CPS' lawyers to discuss matters related to successful case building and visited the Independent Police Complaints Commission (IPCC) and the Police Ombudsman Office in Northern Ireland which have mandates similar to that of the PCA.
- Additionally, other professional programmes attended by staff throughout the year included:-

- ICAC Caribbean Conference of Accountants
- Selecting Suppliers and Managing their Performance
- Corporate Cash Management
- Dealing with Difficult People
- Ethics, Professional Responsibility and Morality
- Microsoft Dynamics GP Solutions Showcase
- Digicel Cloud Solutions

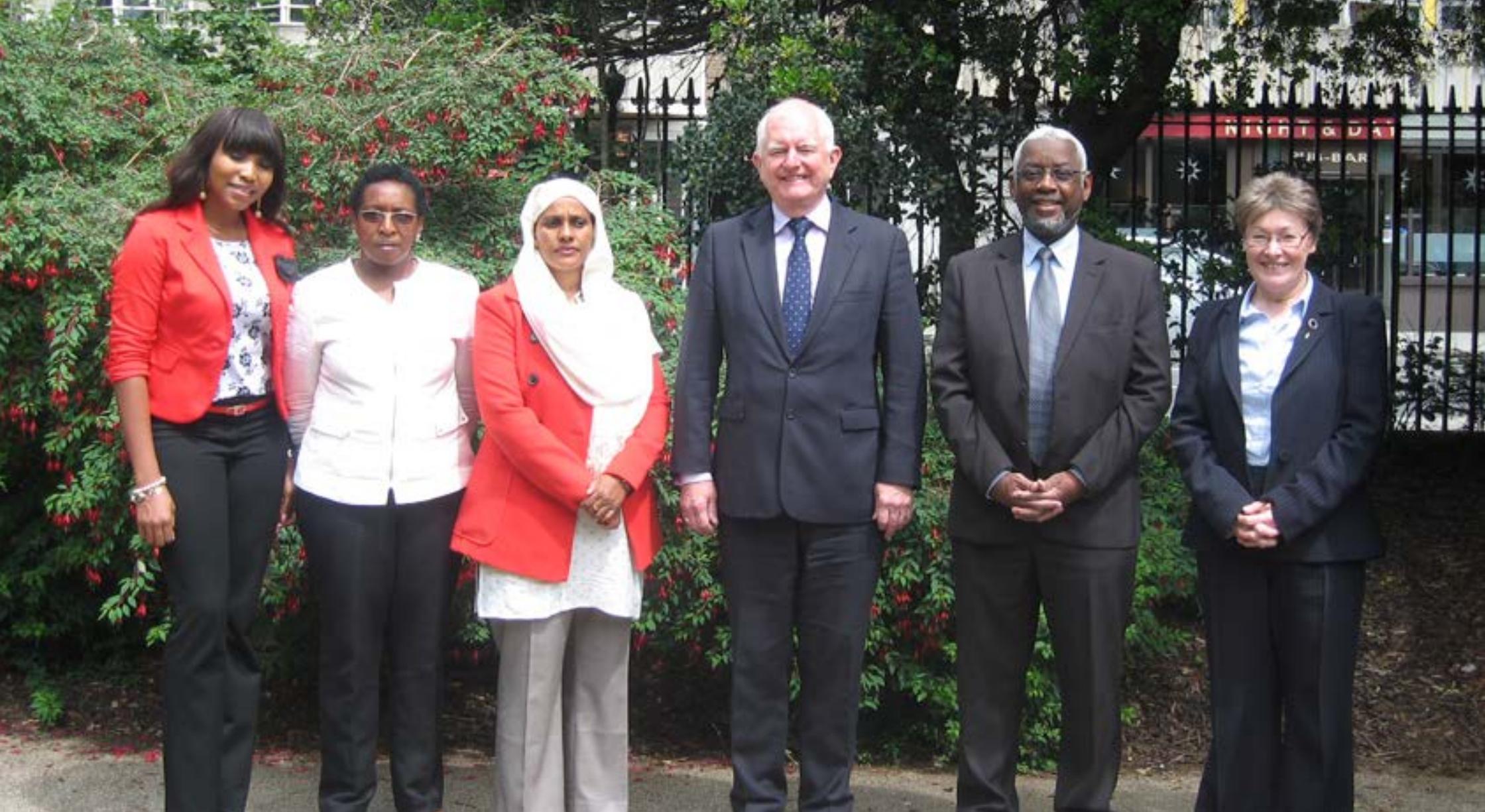
### SIGNIFICANT DEVELOPMENTS DURING 2013 - 2014:

- Implementation of a new Investigations Business Process
- Implementation of a comprehensive Compensation Review

### INVESTIGATIONS BUSINESS PROCESS

In October 2013, the Authority formally instituted a new Investigations Business Process aimed at improving the efficiency and timeliness of Core Processes of the Investigations Department in order to improve performance and productivity and enable the Department to achieve its strategic goals. Work processes were restructured and modernized using a case management system. In addition, a complaint classification and rating model was developed and implemented throughout the Department.

The HR Department looks forward to providing the Authority and staff with the support services required to fulfil our objectives in the new fiscal year.



RIGHTING WRONGS: Ombudsmen, Justice and Public Service, June 2-6, 2014. (L-R): Ms Folusho Olakunle (Nigeria), Dr Regina Mwatha (Kenya), Commissioner Saadia Abdikadir Mohamed (Kenya), Sir Tony Redmond (Programme Director), Master Ralph Doyle (Trinidad and Tobago), Ms. Claire Cameron (PAI Managing Director), missing from photograph Senior Legal Counsel, Police Complaints Authority (Trinidad and Tobago).

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# THE INFORMATION TECHNOLOGY DEPARTMENT

## AN INTRODUCTION

PCA's information technology systems serve an important function in assisting the PCA in meeting its mandate.

One of the main objectives of the Information Technology (IT) Department is to ensure reliability, security and trustworthiness of the internal network at the Police Complaints Authority.

For the financial period October 1, 2013 to September 30, 2014 the IT Department implemented the following measures:-

## SECURITY OF INFORMATION TECHNOLOGY INFRASTRUCTURE

- Implementation of Closed Circuit Television (CCTV) system;
- Implementation of security systems at the Tobago office;
- Upgraded anti-virus software;
- Updated firewall policies;
- Designed a contingency plan; and
- Implemented software systems providing anti-virus systems and security updates.

## NETWORK AND EQUIPMENT ENHANCEMENTS

- Designed and implemented a secure IT network for the PCA Tobago office;
- Installed wireless network enhancements;
- Installed audio-visual equipment; and
- Acquired equipment to assist the Investigations Department.

## INFORMATION TECHNOLOGY APPLICATIONS

- Implemented Adobe Professional Software to assist in securing editing documents;
- Implemented a case management system to electronically document complaints; and
- Facilitated the on-going customization of the case management system;

## TRAINING

- Training on the operations of the case management system.

# THE COMMUNICATIONS DEPARTMENT

## AN INTRODUCTION

One of the crucial roles of the Communications Department is to facilitate a public presence of the Police Complaints Authority (PCA). Through the community outreach programme, advertising, publications and press releases, as well as the website [www.pca.org.tt](http://www.pca.org.tt) and the Facebook page, the Department facilitates and manages the channels through which the public gets information about the PCA, as well as the means through which the organization gets feedback from the public.

For the period under review the Department co-ordinated the collective response of the PCA's appearance before a Joint Select Committee (JSC) of Parliament, a synopsis of which is presented below.

## A SYNOPSIS OF THE PCA'S APPEARANCE BEFORE A JOINT SELECT COMMITTEE (JSC) OF PARLIAMENT

On April 22, 2014, the PCA appeared before a Joint Select Committee (JSC) of Parliament.

During this time, the former Director stated the following:-

- The PCA is rigorous in protecting the public's interest;
- For the three years of the PCA's operations **to date**, there has been no unauthorized release of information;
- Personnel from the Jamaican civilian oversight body, the Independent Commission of Investigations (INDECOM), will visit Trinidad and Tobago to share with the PCA its processes and make recommendations to the PCA; and
- The PCA gathered information, undertook enquiries and monitored the Trinidad and Tobago Police Service's investigation but did not conduct an investigation into the allegation of a new or revised Flying Squad Unit.

The Chairman thanked the PCA team for its candour and thoroughness and stated that the team had, *"admirably and satisfactorily dealt with the questions asked."*

In response to further questions from JSC members, the former Director communicated that the PCA:

- Has a red-flagging system for police officers against whom repeated complaints are made;
- Makes recommendations to the Acting Commissioner of Police



Senator the Honourable Elton Prescott, S.C., Chairman of the Joint Select Committee of Parliament on April 22, 2014.



Manager, Finance and Accounts Ms. Janet Best and Administrative Coordinator (fmr.) Ms. Louise E. Leotaud prepare for the PCA's appearance before a JSC of Parliament on April 22, 2014.

(CoP) relating to disciplinary measures for offending police officers;

- Uses a classification system for different types of complaints made against police officers;
- Has established a relationship with the TTPS's Professional Standards Bureau that facilitates the PCA in monitoring, auditing, gathering of evidence and undertaking of enquiries into allegations against police officers;
- Has a priority rating for each complaint submitted;
- Has determined from its statistics that the majority of complaints relate to excessive use of force by police officers;
- Recommended to the Acting CoP, a review of the TTPS's use of force policy and its departmental orders;
- Implemented outreach sessions with leaders and trainers in the TTPS as well as with members of the public;
- Submitted a recommendation for the installation of CCTV cameras in police stations which was accepted by the Acting CoP;
- Submitted a further recommendation to the Acting CoP that a database be kept of court judgments that are adverse to police officers. This recommendation has not to date been accepted;
- Would like to develop its capacity in a manner similar to Jamaica's INDECOM, which has its own forensic science unit and conducts its own ballistic testing;
- Has benefitted from in-house staff training as a result of the tri-partite arrangement between Trinidad and Tobago, Canada and the United Kingdom; and
- Would like to see the establishment of a Caribbean Association for Civilian Oversight of Law Enforcement (CARICOLE).

The former Director in closing said the PCA welcomed the opportunity to be transparent, accountable and to face the public's scrutiny. She added that the public must continue to set a high bar for the PCA as it deserves every opportunity to intensely examine its operations.

## COMMUNITY OUTREACH

The PCA's Community Outreach Programme was designed to educate and sensitize the public to gain a better appreciation of the role and responsibilities of the PCA.

The PCA believes that by going into communities across both Trinidad and Tobago, the organization will be better informed about the unique needs of the public based on the complaints of residents.

For the period under review, the PCA conducted one such meeting in the Constituency of Diego Martin West. The meeting was held at the Pt. Cumana Community Centre on July 21, 2014.

At this meeting, the former Director in her presentation sought to clarify certain misconceptions about the PCA. Emphasis was placed on the following:-

1. The PCA does not employ police officers, therefore no police officers work at the PCA. The former Director noted that there is still confusion between the Police Complaints Division (PCD) of the TTPS and the PCA, which is an independent organization with no affiliation to the TTPS. It was also stated that the PCA had the commitment from the Acting Commissioner of Police, Mr. Stephen Williams that the PCD

- will be renamed to avoid confusion.
2. The appointments of the Director and Deputy Director of the PCA are made by the President of the Republic of Trinidad and Tobago on the joint advice of both the Prime Minister and the Leader of the Opposition.
  3. The PCA accounts to Parliament and has no line minister. Reference was made to section 6 of the Miscellaneous Provisions (Ministry of Justice) Act, 2011, which states that “Minister” means the Minister to whom responsibility for the Police Complaints Authority is assigned. The PCA is therefore accountable to Parliament and not to any politician and there is no risk of political interference into the operations of the PCA.

The former Director indicated that the core function of the PCA is to investigate matters where there is the allegation of police corruption, serious police misconduct, criminal offences involving police officers and/or the commission of a criminal offence by any other person but involving TTPS.

It was noted by the former Director that the PCA is not “against the police”. She said, “The PCA works for justice and truth. There is no presumption of wrongdoing. It is important to ensure balance. Justice is about people who are right having their rights and people who have done wrong being made to account for their wrongdoing.”

Other matters included fatal shooting(s) by police of civilians. The former Director noted that the increasing incidence of same was of great concern to the public and the PCA. It was stated that to date (July 21, 2014) there were thirty (30) fatal police shooting of civilians and that twenty-three (23) were engaging the attention of the PCA.

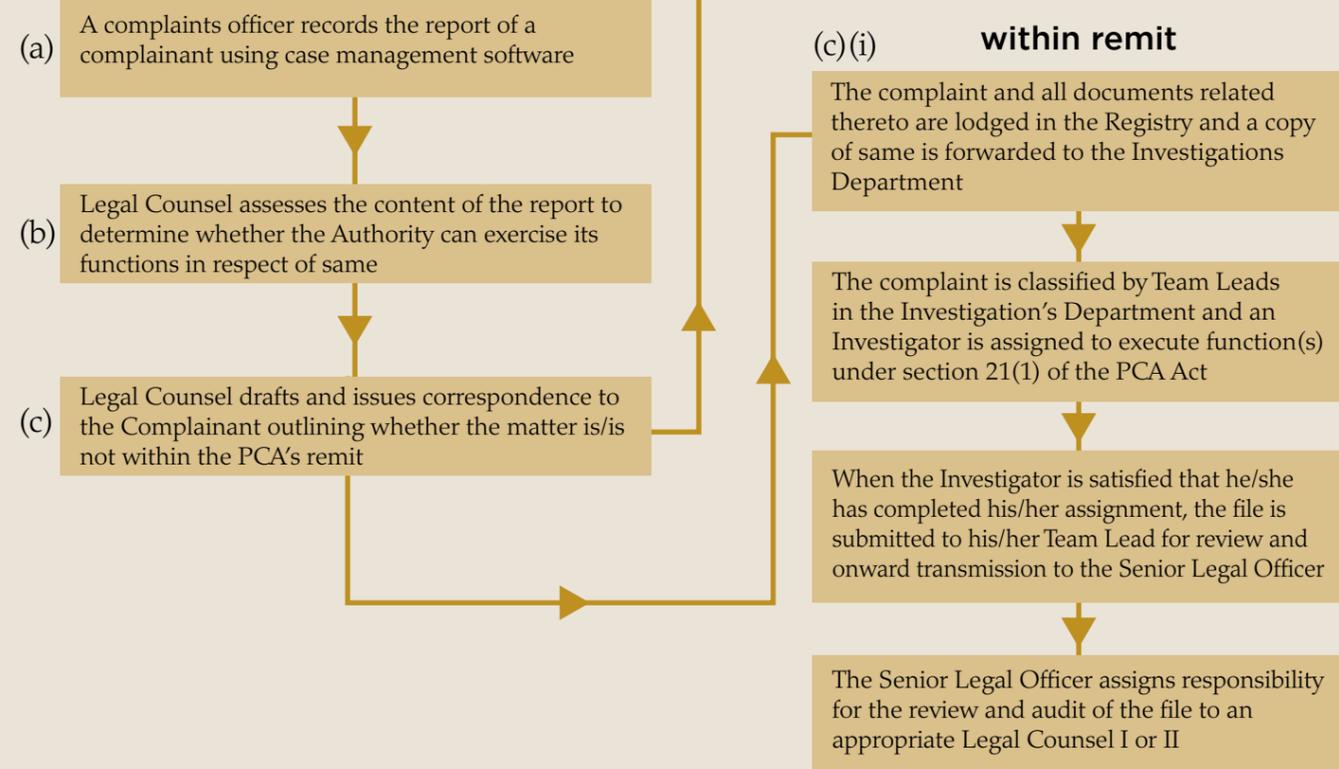
The former Director added that in addition to being concerned about the number of police killings the PCA was also concerned about the varying accounts of the details surrounding these shootings.



A participant makes his point at the PCA Community Outreach sensitization session for the Constituency of Diego Martin West, Pt. Cumana Community Centre, July 21, 2014

# THE COMPLAINTS PROCESS

## WALK IN COMPLAINTS



**(d) Satisfactory**  
Legal Counsel I or II then examines the file, creates a memorandum and outlines a recommended course of action (pursuant to section 21(2) or section 44 of the PCA Act) and forwards same to Team Lead (Legal) or Senior Legal Officer

The file is then subjected to a second review by either Team Lead (Legal) or Senior Legal Officer

**(d) Unsatisfactory**  
Unsatisfactory Investigations are returned to the Investigations Unit for further action

**Upon completion of further action**

File is returned to the Legal Counsel I or II who originally requested the action and same is subjected to a review to ensure that all actions were completed as requested

**Successful completion of further action**

Legal Counsel I or II generates a memorandum together with recommendations and submit same to Team Lead (Legal)/Senior Legal Officer. Team Lead (Legal)/Senior Legal Officer generates a memorandum to the Authority for consideration and decision

**Satisfactory**

The course of action recommended by Legal Counsel I/II is endorsed/amplified by Team Lead or Senior Legal Officer and a memorandum is submitted to the Authority

**Unsatisfactory**

The file is returned to the Investigations Unit for further action

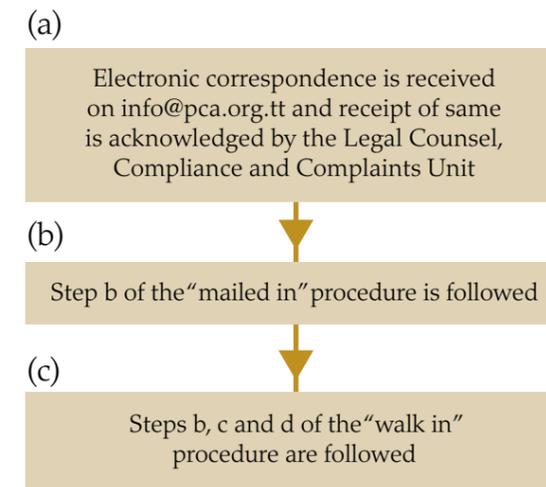
**(d)(i)**

Where the Authority approves the recommended course, the file can either be closed with no further action or forwarded to the Commissioner of Police, the Police Service Commission or the Director of Public Prosecutions and thereafter the Complainant is immediately informed of the action taken and the reasons of the Authority

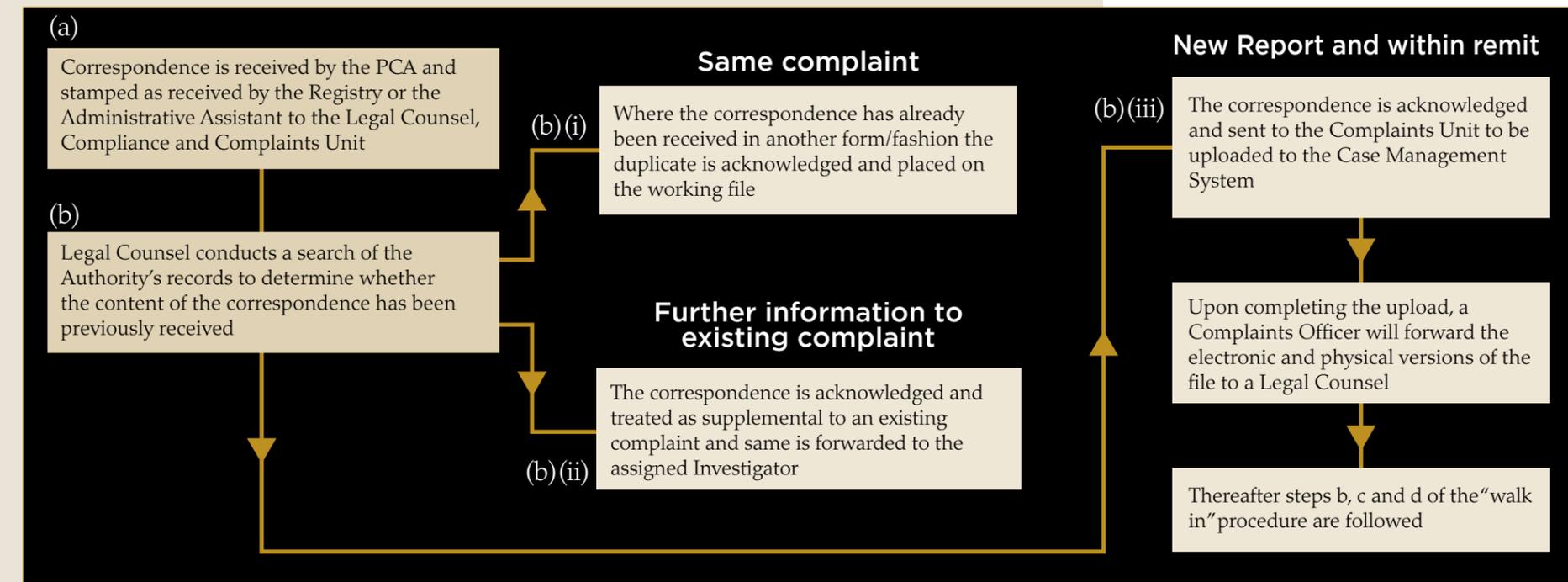
**(d)(ii)**

Where the Authority rejects the recommended course, it will give directions to the respective department for further action or an alternative course of action is prescribed

## EMAILED COMPLAINTS



## MAILED IN COMPLAINTS



# PROTOCOL FOR NEWSPAPER ARTICLE “OWN INITIATIVE” INVESTIGATIONS UNDER SECTION 26 OF THE POLICE COMPLAINTS AUTHORITY ACT, CHAPTER 15:05

Pursuant to Section 26 of the Police Complaints Authority Act, Chapter 15:05, “the Authority may conduct an investigation on its own initiative...”. Such initiations may sometimes be triggered by articles of interest in newspapers.

For the purpose of clarity, “articles of interest” include newspaper articles containing content which suggests that the matter falls within the remit of the PCA/should be investigated by the PCA.

Newspaper articles of interest are identified and submitted to the Legal Counsel assigned responsibility for assessing the content to determine whether the matter falls within the remit of the PCA.

**Where counsel is of the view that the Authority should “initiate” an investigation**

Legal Counsel generates a memorandum recommending/justifying the initiation of an investigation pursuant to section 26 of the PCA Act and submits same to a Team Lead (Legal) or to the Senior Legal Officer for consideration

Where the Team Lead (Legal) or Senior Legal Officer endorses the recommendation, same is forwarded to the Authority (Director/Deputy Director) for decision

The Director/Deputy Director sanctions same by affixing a signature and the word “approved” to the memorandum of the Team Lead (Legal)/Senior Legal Officer

The Legal Counsel, Compliance and Complaints Unit generates a complaint number and forwards the physical and electronic file to the Investigations unit for action

Steps c (i) and d of the “walk in” complaint procedure are followed

**Where counsel is of the view that the Authority should not “initiate” an investigation**

Legal Counsel generates a memorandum classifying the article as “general information” and submits same to a Team Lead (Legal) or to the Senior Legal Officer for consideration

A memorandum recommending/justifying such initiation generated and submitted to either the Director/Deputy Director for consideration and decision

**Where the Director/ Deputy Director does not endorse the recommendation**

All material is returned to LCCCU for filing and storage and no action is taken on the file

**Where the Team Lead (Legal)/Senior Legal Officer agrees that the content is general information**

All material is returned to the Administrative Assistant to the LCCCU for filing and storage

**Where the Director/ Deputy Director endorses the recommendation**

The Director/Deputy Director sanctions same by affixing a signature and the word “approved” to the memorandum of the Team Lead (Legal)/Senior Legal Officer

# THE LEGAL COUNSEL, COMPLIANCE AND COMPLAINTS UNIT

## OVERVIEW OF THE LCCCU

The Legal Counsel, Compliance and Complaints Unit (LCCCU) plays an essential role in the complaint process of the Police Complaints Authority (PCA). The LCCCU is involved in all aspects of the complaint process, starting from the initial receipt of the complaint and continuing to the final stages where recommendations are made at the conclusion of undertaking inquiries, gathering evidence, auditing, investigating or monitoring of investigations conducted by any other person or authority.

The LCCCU provides legal support to Complaints Officers by assisting in the initial classification and assessment of reports. In this regard, when a report is made to the PCA the determination as to whether it is a matter that the PCA is authorized by law to investigate (i.e. whether it falls within the remit of the PCA as stipulated under the Police Complaints Authority Act, Chap. 15:05 (the "PCA Act")) is done primarily by the LCCCU, or where necessary, in conjunction with the Director and Deputy Director.

The PCA acquired electronic software geared specifically towards a civilian oversight organization and the same is utilized by the LCCCU in assessing reports and the internal transfer of files. When the report has been assessed as within the remit of the PCA it is converted into a complaint and forwarded to the Investigations Department.

The LCCCU categorizes substantive complaints based, inter alia, on the

Police Service Regulations, Criminal Law principles, prevalence of the offence and/or defaulting act in the Trinidad and Tobago Police Service (TTPS), the public interest and concern, the geographical area in which the offence(s) and/or defaulting act(s) occurred, victimology, extent of damage/loss/injury and other criteria.

During the course of undertaking inquiries/gathering evidence/ investigating/monitoring/auditing, certain evidence may be required (for example, medical reports and Magistrate Court extracts) and, the LCCCU prepare official correspondence to the relevant institution requesting the pertinent information. The LCCCU also functions as an advisory body to the Investigations Department.

The LCCCU also monitors the progress of complaints that are within the remit of the PCA but are the subject matter of judicial proceedings as, section 37 of the Police Complaints Authority Act prevents the PCA from investigating complaints that are the subject matter of judicial proceedings. Once judicial proceedings are concluded, the LCCCU obtains all the court related documents and advises on the next step, if any, to be taken with to the complaint.

The LCCCU further assists with the record-keeping and collection of statistical data of complaints including the complainant's name, information regarding defaulting officer(s) and a brief summary of the nature of the complaint. The record-keeping is necessary for the computation of data when required and allows for checks to be made in

relation to the type and frequency of complaints made against the named officer or division.

The LCCCU is also directly involved in the procurement process and the drafting and vetting of contracts for entities providing a service to the PCA.

The LCCCU ensures that proper corporate social responsibility is maintained. In so doing the LCCCU sent remit letters to complainants advising whether their complaints were within or outside the remit of the PCA's investigative authority. Letters were also sent to complainants giving feedback on the progress of their complaints.

## STAFFING

Over the past year, the LCCCU's staff complement increased by one (1) as a Complaints Officer was hired for the PCA's Tobago office. The complement now stands at twelve (12) staff members which includes seven (7) Attorneys-at-Law, four (4) complaints officers and one (1) Administrative Assistant

## TRAINING

The PCA has always encouraged continued staff training and, in this regard, the following training workshops/programmes were attended by members of the LCCCU during the period under review:

- **A four (4) day workshop entitled "Alternative Dispute Resolution" hosted by the Stitt Feld Handy Group.**  
This workshop was attended by three members of the LCCCU who

acquired knowledge on how to use principled negotiation and how to mediate disputes. The workshop provided insight into the alternative dispute resolution spectrum, the approaches to negotiation, the seven elements of principled negotiation, behaviours that are difficult to deal with, interactive listening, mediation and the process of mediation. The workshop also helped develop the practical skills and techniques needed to effectively resolve disputes.

- **Righting wrongs: Ombudsmen, Justice and Public Service**  
In June 2014 a member of the LCCCU participated in this one week study programme in the United Kingdom. The programme was designed for Ombudsmen and senior staff from similar complaint-handling organisations and agencies. The programme provided a valuable opportunity for the PCA to improve its capacity to manage investigations, produce effective reports, communicate with the public and other key stakeholders and deal with the media. It also allowed the PCA to make regional and international comparisons and identify areas for developing and improving its system.
- **Award for customer services professionals online training programme**  
A complaints officer participated in an online training programme conducted by the Arthur Lok Jack Graduate School in collaboration with Customer 1<sup>st</sup> International. From this workshop the complaints officer was better able to understand and apply the basic concepts and language of customer service, select appropriate communication methods for specific customer service situations and identify her own strengths and areas for development of skills in customer service.

# THE INVESTIGATIONS DEPARTMENT

## AN INTRODUCTION

A fundamental provision of the Police Complaints Authority Act, Chapter 15:05, is for the Police Complaints Authority (PCA) to conduct investigations of complaints of serious police misconduct, police corruption, and criminal offences involving police officers. The PCA can commence an investigation either on its own initiative or on the basis of complaints made to the Authority.

The Investigations Department of the PCA only receives matters that fall within the PCA's statutory "remit" (as assessed by the Legal Counsel, Complaints and Compliance Unit (LCCCU) and as explained in the flow chart on Page 25 of this Report.)

## COMPLAINTS

Complaints can be made by any member of the public, a police officer, a public body or authority, or the appropriate unit or a disciplinary tribunal of the Trinidad and Tobago Police Service. A complaint may have several allegations against one or more officers.

# STATISTICAL REPORT FOR THE PERIOD 1<sup>ST</sup> OCTOBER 2013 TO 30<sup>TH</sup> SEPTEMBER 2014

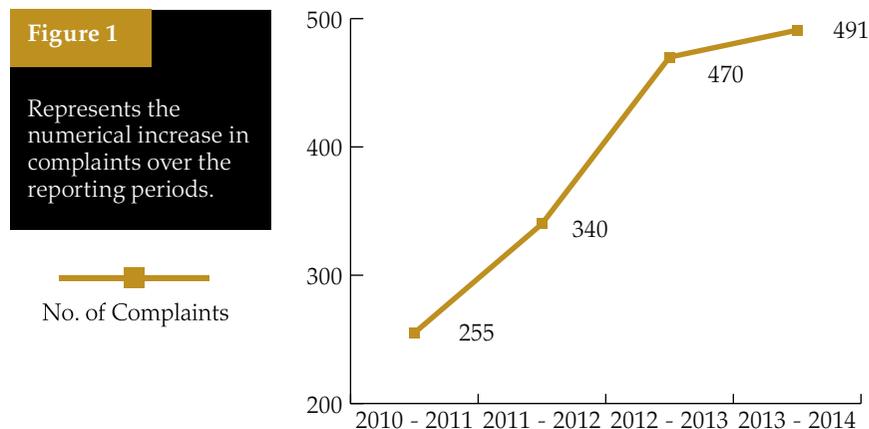
The Investigations Department received **491** complaints for the period October 1, 2013 to September 30, 2014. Comparisons for the preceding reporting periods are as follows:-

- December 29, 2010 to September 30, 2011 - 255 complaints were received.
- October 1, 2011 to September 30, 2012 - 340 complaints were received; and
- October 1, 2012 to September 30, 2013 - 470 complaints were received;

This information is represented in **Table 1** which shows a comparison of complaints received over the reporting periods December 29, 2010-September 30, 2014 and the respective percentage increases.

**Figure 1:** illustrates the numerical increase in complaints received over the reporting periods Dec 29, 2010 - September 30, 2014.

<b>Table 1</b> A comparison of complaints received over the reporting periods - December 29, 2010- September 30, 2014 and the percentage increases			
Reporting Periods	Number Of Complaints	Increased Number Over Previous Year	Percentage Increase Over Previous Year
2010 - 2011	255	0	0%
2011 - 2012	340	85	33%
2012 - 2013	470	130	38%
2013 - 2014	491	21	4%



During the period under review the Investigations Department further developed and structured its processes to achieve improved efficiency and performance. Several strategies were implemented including:-

- The development of a business process to include classification guidelines supported by a new categorization system for complaints;
- The utilization of a computerized case management system;
- The creation of a special team to focus on cases from previous years which were not completed; and
- Deployment of staff and resources to enable the opening and effective operation of the Tobago office.

## PROCESSES EMPLOYED IN THE PERIOD UNDER REVIEW

Prior to October 1, 2013 complaints were grouped under six (6) categories, with each category encompassing a number of offences. From October 1, 2013 an improved system of complaints was created with a rating system of one (1) to five (5) with 1 being the least serious complaint and 5 being the most serious. This classification which is described below allowed human resources to be allocated more effectively.

The Investigations Department and the Legal Counsel, Compliance and Complaints Unit began using a specialized case management system that enhanced the capacity for electronic data capture, monitoring and assignment of all reports made to the PCA. Prior to this, these departments relied on a manual system for case management.

## COMPLAINTS CLASSIFICATION AND RATING GUIDELINES FOR CRIMINAL OFFENCES, POLICE CORRUPTION AND SERIOUS POLICE MISCONDUCT BY / OR INVOLVING A POLICE OFFICER:

### 1. Purpose:

The Authority classifies complaints by the level of seriousness and/or urgency in order to:-

- Allocate resources more effectively;
- Optimize data collection and record-keeping to provide useful information and comparable data; and
- Identify significant trends through proactive approach;

### 2. Definition of a Complaint:

In accordance with Section 4 of the Police Complaints Authority Act, a complaint includes an allegation of:-

- Police corruption;
- Serious police misconduct;
- The commission of a criminal offence by a police officer; or
- The commission of a criminal offence by any other person but involving a police officer;

### 3. Classification of a Complaint:

The Authority classifies a complaint on a scale of 1-5 with:-

- The least serious complaint placed in Classification 1 and;
- The most serious complaint placed in Classification 5;
- Where there is more than one alleged infraction in a complaint, the most serious allegation is utilized in the overall classification of the complaint;

#### Automatic Classification 5:

A complaint can automatically be classified as 5 in two ways:-

- Based on the serious nature of the complaint as defined below; or
- Based on the urgent nature of the complaint as defined below, notwithstanding the level of seriousness of the complaint;

#### 3.1.1 Automatic Classification 5: Serious Nature of Complaint

A Complaint as defined below is automatically classified as 5, namely:-

- Fatal Shooting;
- Non-Fatal Shooting;
- Road Traffic Accident involving Police Officers resulting in serious injury and/or death;
- Death in Police Custody (including instances of hanging etc.);
- Murder/ Attempted Murder;
- Sexual Offences/Domestic Violence Allegation (with violence);
- Any Incident with a Fatality;

#### 3.1.2 Automatic Classification 5: Urgent Nature of Complaint

- A complaint in which the Statutory Limitation Period demands urgency;
- A complaint which is identified as Urgent by the Authority;
- A complaint of high national, regional or international importance;

#### 3.1.3 Definition of Police Corruption – By Section 4 of the Police Complaints Authority Act-

“Police Corruption” means an act done with an intent that is illegal, dishonest or fraudulent or failing to act in order to receive an advantage or reward, whether financial or otherwise, personally or for another person, group or organisation, or exercising a legitimate discretion for improper reasons, or employing illegal means to achieve approved goals;

#### 3.1.4 Automatic Classification 4:

- Police Corruption;
- Police Officers involved in an indictable offence e.g. under the Dangerous Drug Act;

#### 3.2 Definition of Serious Police Misconduct- Under Section 4 of the Police Complaints Authority Act-

“Serious Police Misconduct” means the commission of a disciplinary offence under the Police Service Regulations which the Authority considers to be so serious as to bring the Police Service into disrepute.

The **491** complaints received by the Investigations Department fell into the classifications described above and are depicted in **Table 2** below.

<b>Table 2</b> Classification of complaints received by the Investigations Department - October 1, 2013- September 30, 2014.		
Classification	No. of Complaints	Cumulative No. of Complaints
Class 1	3	3
Class 2	92	95
Class 3	124	219
Class 4	155	375
Class 5	117	491

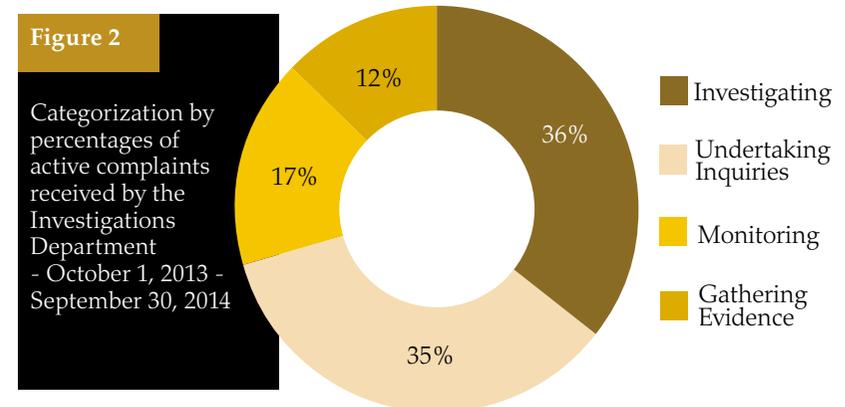
### CATEGORIZATION OF COMPLAINTS

In keeping with our functions under Section 20 (1) of the Police Complaints Authority Act, the **491** complaints received by the Investigation Department were placed into the following categories:

- Investigating;
- Undertaking inquiries;
- Monitoring; and
- Gathering evidence.

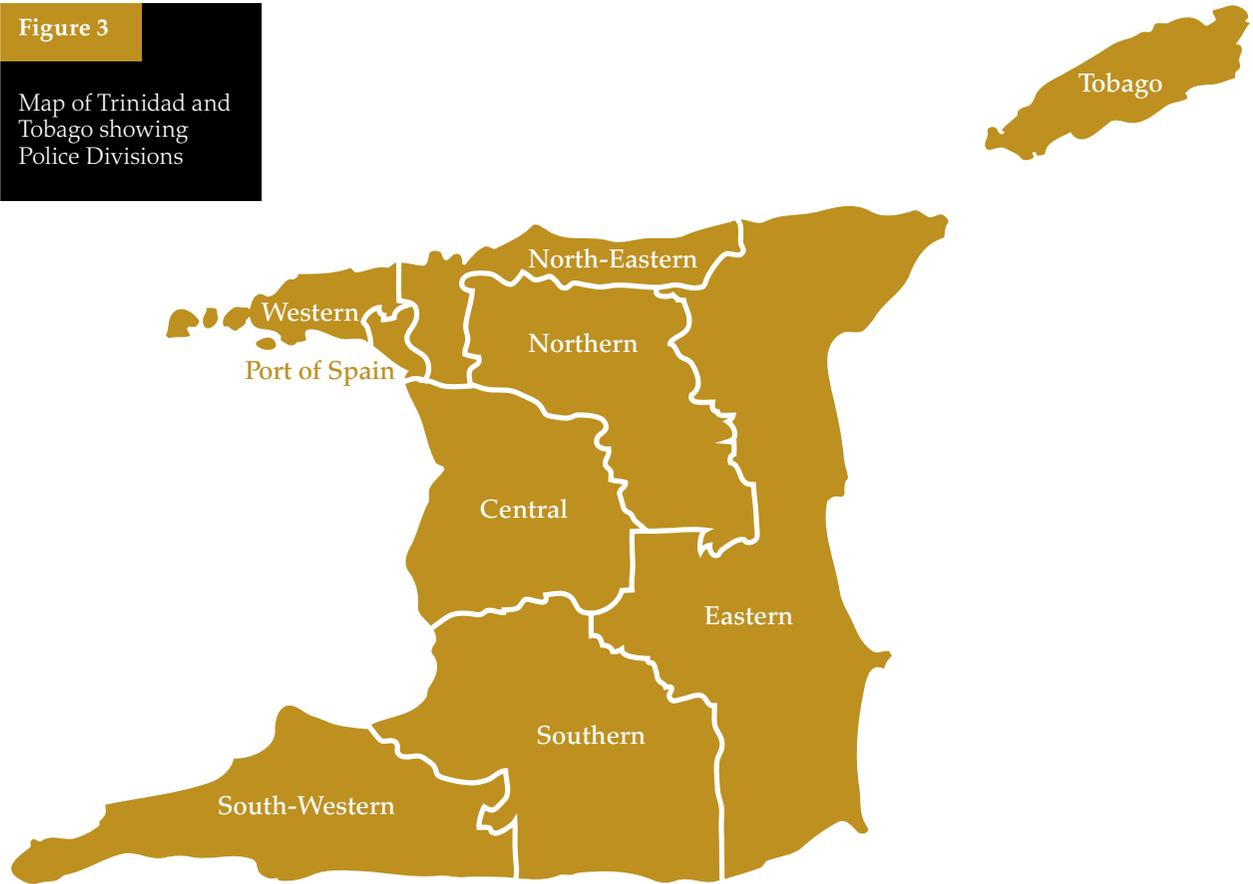
Of these, four hundred and ninety one (**491**) complaints forty-five (**45**) have been completed and the remaining four hundred and forty-six (**446**) are under active investigation. **Table 3** and **Figure 2** below illustrate the categorization of these **446** matters.

<b>Table 3</b> Categorization of active complaints received by the Investigations Department – October 1, 2013 – September 30, 2014		
Categorization	Number	Percentage
Investigating	159	36%
Undertaking Inquiries	156	35%
Monitoring	75	17%
Gathering Evidence	56	12%
<b>Total</b>	<b>446</b>	<b>100%</b>



# TRINIDAD AND TOBAGO POLICE DIVISIONS

**Figure 3**  
Map of Trinidad and Tobago showing Police Divisions



It is possible that one complaint can affect more than one division or specialist section. When this happens the complaint is recorded against both the division and specialist section noted in the complaint.

For example, if a complaint is made against police officers attached to the Port of Spain Division, who are working in conjunction with police officers attached to the Guard and Emergency Branch (GEB), the complaint is recorded against both the Division and the Branch as they are separate entities.

During the period under review there were twenty-nine (29) such instances. This accounts for the 519 complaints in Table 4 as compared to the 491 complaints in Table 2. Tables 4 to 16 illustrate this distribution.

**Table 4** Number and percentages of complaints by police divisions and specialist sections for the period October 1, 2013-September 30, 2014.

Police Divisions	No of Complaints	Complaint percentage
Port of Spain	44	8%
Western	39	8%
North-Eastern	46	9%
Northern	103	20%
Eastern	54	10%
Central	44	8%
Southern	57	11%
South-Western	20	4%
Tobago	33	6%
Specialist sections	70	14%
Unknown	9	2%
<b>Total</b>	<b>519</b>	<b>100%</b>

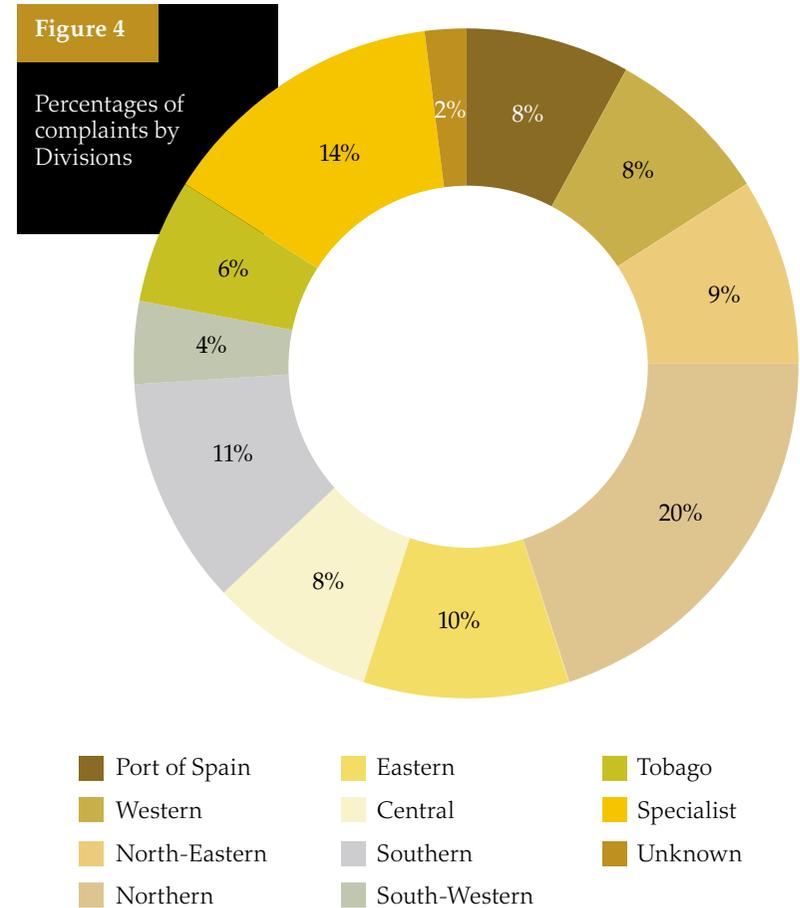
**Table 5** Number of complaints against specialist sections for the period October 1, 2013- September 30, 2014.

Specialist Sections	No of Complaints
Fraud Squad	3
Homicide Bureau	5
Guard & Emergency Branch	2
Inter-Agency Task Force	1
Port of Spain task Force	1
Southern Division Task Force	4
North-Eastern Division Task Force	9
Eastern Division Task Force	3
Central Division Task Force	6
Northern Division Task Force	1
Western Division Task Force	1
POS Divisional Head Quarters	1
Tobago Division Task Force	8
Tobago CID	7
POS Operations Unit	1
E-999	1
Rapid Response Unit	2
Traffic Branch	1
Highway patrol	2
POS CID	1
Stolen Vehicle Squad	2
Court & Process	1
Anti-Kidnapping Unit	1
<b>Other units within the ambit of the Act</b>	
San Fernando City Police	1
Port of Spain City Police	2
Chaguanas Borough Corporation Police	1
Arima Borough Police	1
Transit Police	1
<b>Total</b>	<b>70</b>

<b>Table 6</b> Classification of Complaints by Police Division and Specialist Section for the period October 1st, 2013 to September 30th 2014						
Class	1	2	3	4	5	Total
<b>DIVISIONS</b>						
Port of Spain	0	9	13	12	10	<b>44</b>
Western	0	10	12	7	10	<b>39</b>
North-Eastern	0	7	12	15	12	<b>46</b>
Northern	1	25	24	26	27	<b>103</b>
Eastern	0	13	9	20	12	<b>54</b>
Central	1	5	10	16	12	<b>44</b>
Southern	1	3	19	17	17	<b>57</b>
South-Western	0	1	4	7	8	<b>20</b>
Tobago	0	7	13	11	2	<b>33</b>
Specialist Sections	0	12	15	18	25	<b>70</b>
Unknown	0	2	2	1	4	<b>9</b>
<b>Total</b>	<b>3</b>	<b>94</b>	<b>133</b>	<b>150</b>	<b>139</b>	<b>519</b>

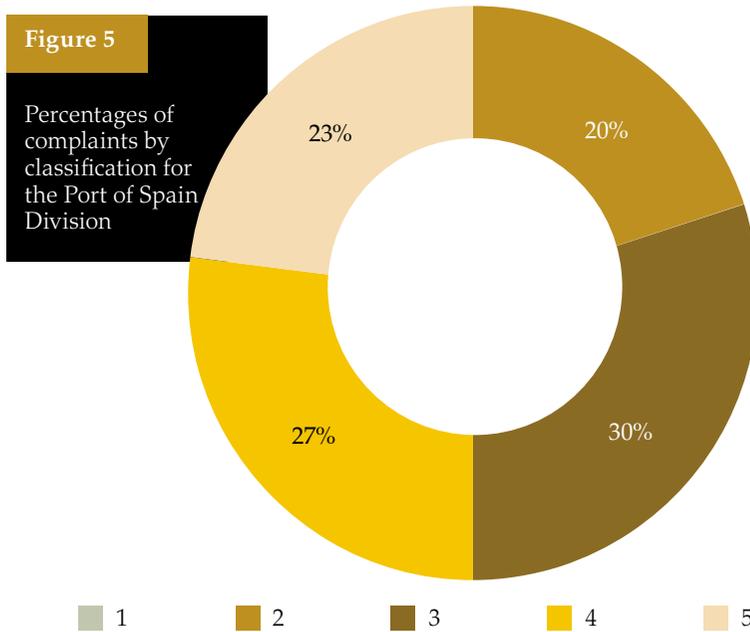
Reference to “Unknown” is made when insufficient information was received to identify the relevant specialist sections.

**Figures 4- 15:** show the classification of complaints by percentages of individual divisions and specialist sections for the period October1, 2013 to September 30, 2014.



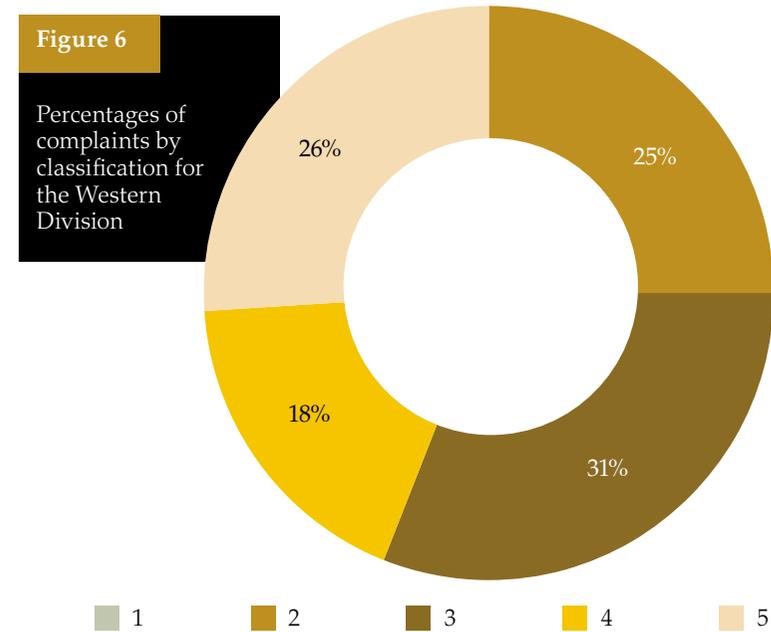
## PORT OF SPAIN DIVISION

Table 7		No. of complaints by classification for the Port of Spain Division				
CLASS	1	2	3	4	5	
NUMBER	0	9	13	12	10	



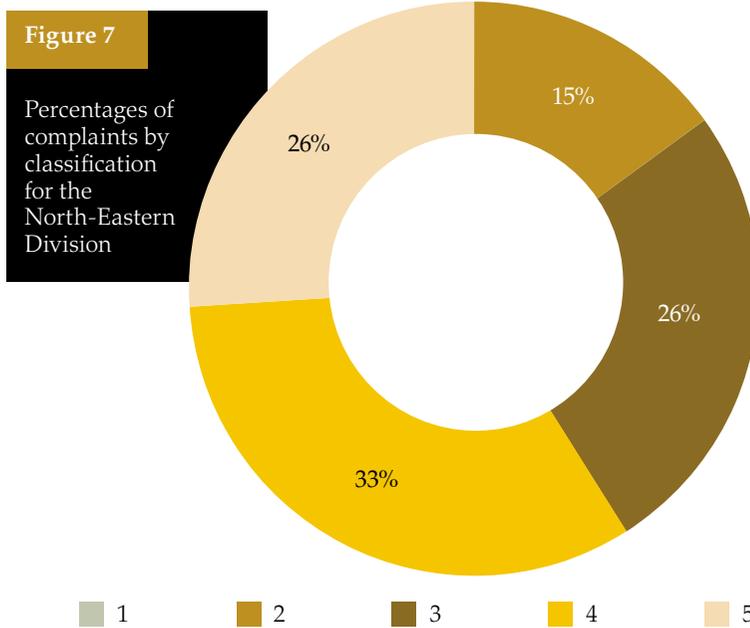
## WESTERN DIVISION

Table 8		No. of complaints by classification for the Port of Spain Division				
CLASS	1	2	3	4	5	
NUMBER	0	10	12	7	10	



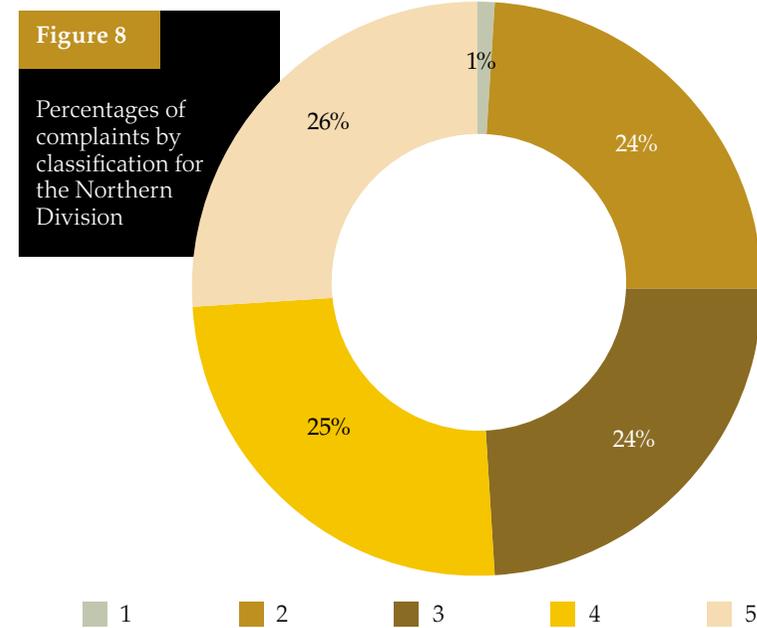
## NORTH-EASTERN DIVISION

Table 9		No. of complaints by classification for the North-Eastern Division				
CLASS	1	2	3	4	5	
NUMBER	0	7	12	15	12	



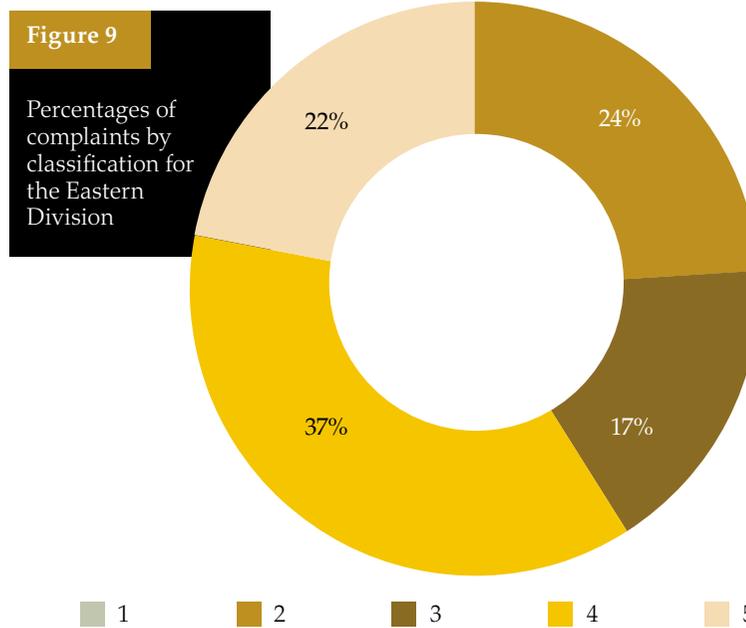
## NORTHERN DIVISION

Table 10		No. of complaints by classification for the Northern Division				
CLASS	1	2	3	4	5	
NUMBER	1	25	24	26	27	



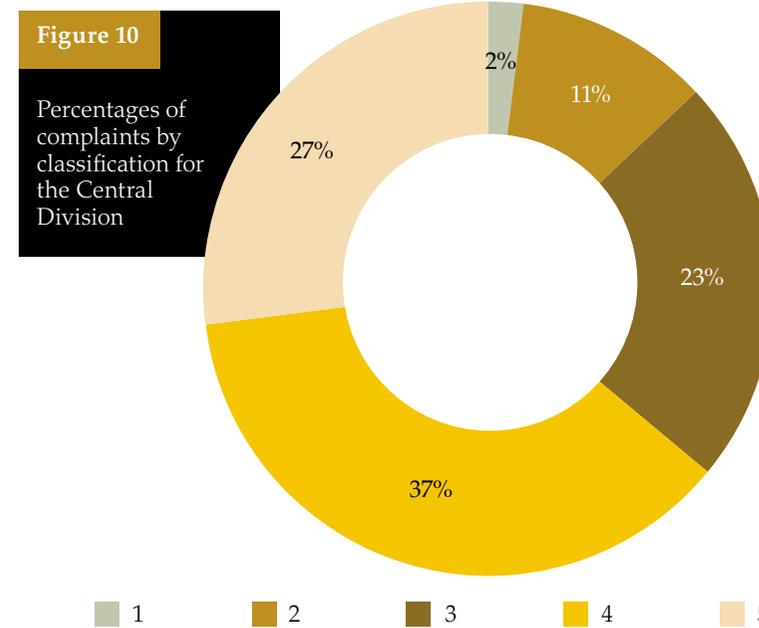
## EASTERN DIVISION

Table 11		No. of complaints by classification for the Eastern Division				
CLASS	1	2	3	4	5	
NUMBER	0	13	9	20	12	



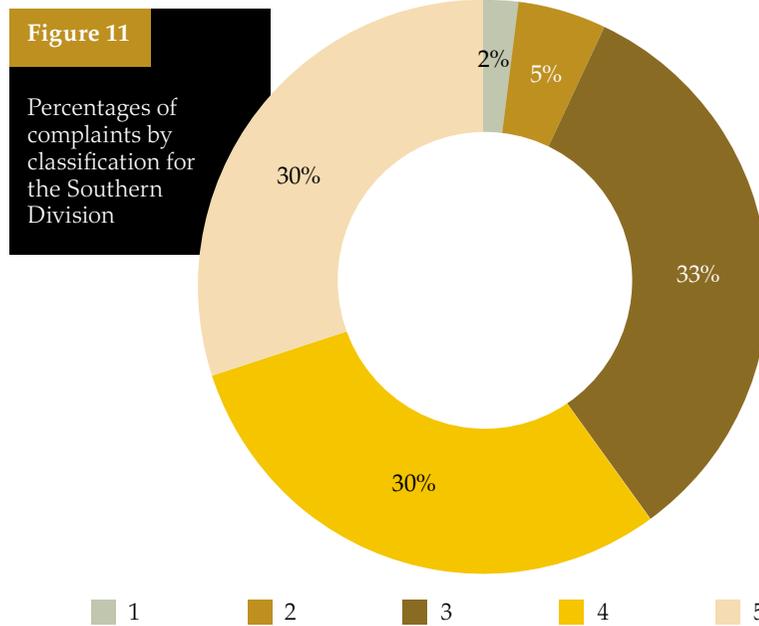
## CENTRAL DIVISION

Table 12		No. of complaints by classification for the Central Division				
CLASS	1	2	3	4	5	
NUMBER	1	5	10	16	12	



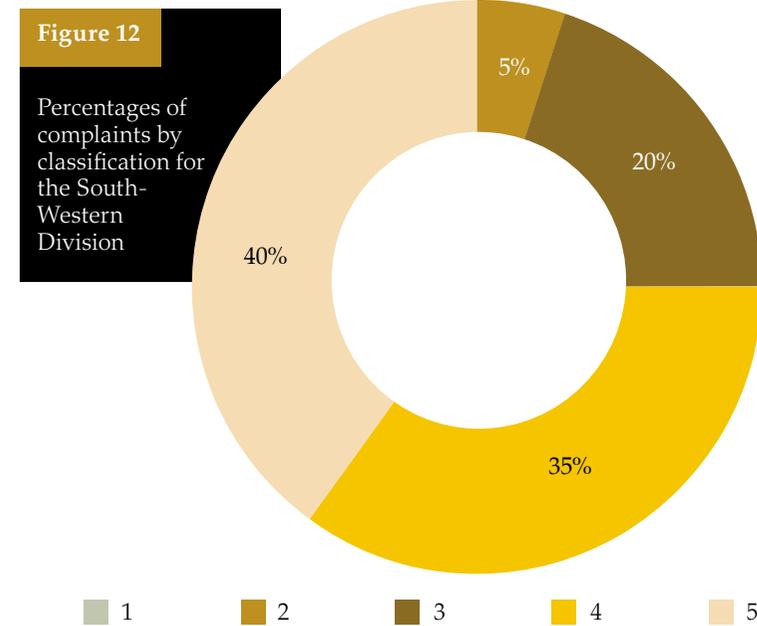
## SOUTHERN DIVISION

Table 13 No. of complaints by classification for the Southern Division					
CLASS	1	2	3	4	5
NUMBER	1	3	19	17	17



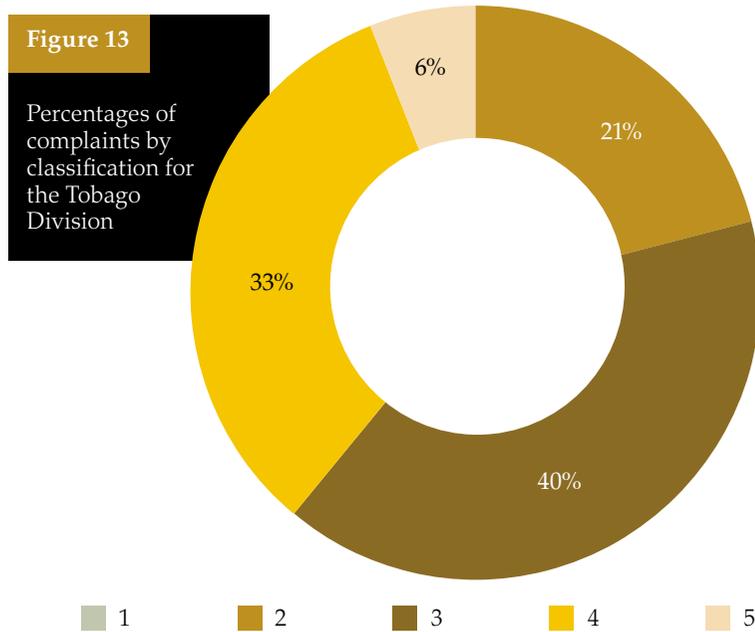
## SOUTH-WESTERN DIVISION

Table 14 No. of complaints by classification for the South-Western Division					
CLASS	1	2	3	4	5
NUMBER	0	1	4	7	8



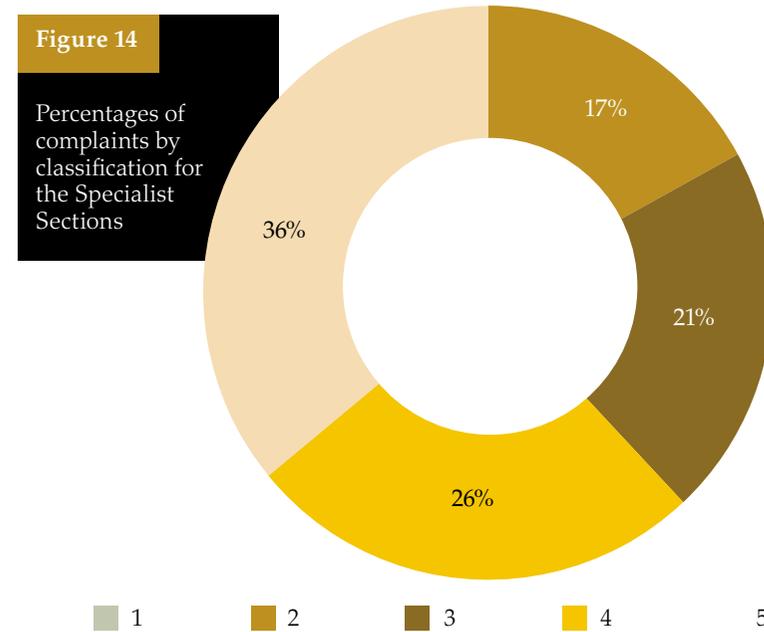
## TOBAGO DIVISION

Table 15		No. of complaints by classification for the Tobago Division				
CLASS	1	2	3	4	5	
NUMBER	0	7	13	11	2	



## SPECIALIST SECTIONS

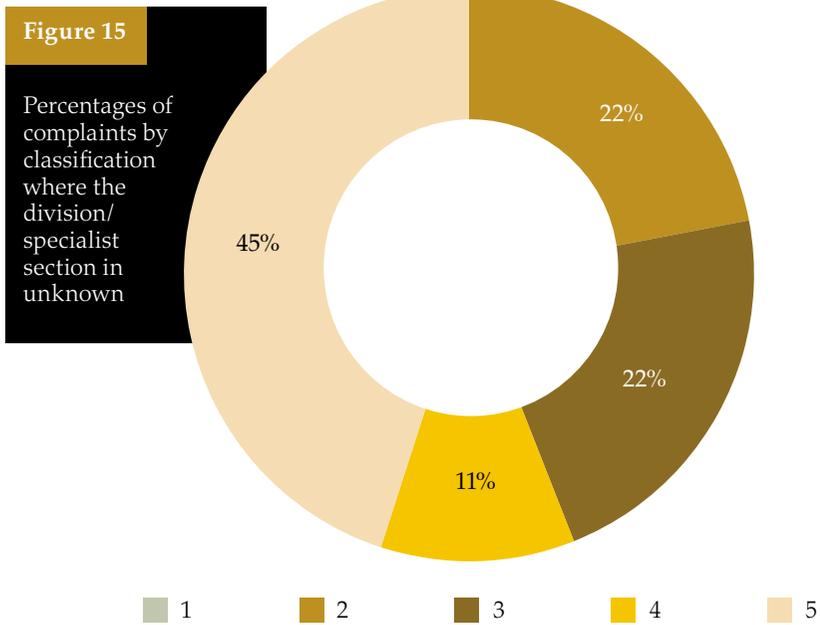
Table 16		No. of complaints by classification for the Specialist Section				
CLASS	1	2	3	4	5	
NUMBER	0	12	15	18	25	



# UNKNOWN

**Table 17** No. of complaints by classification where the division/ specialist section is unknown

CLASS	1	2	3	4	5
NUMBER	0	2	2	1	4



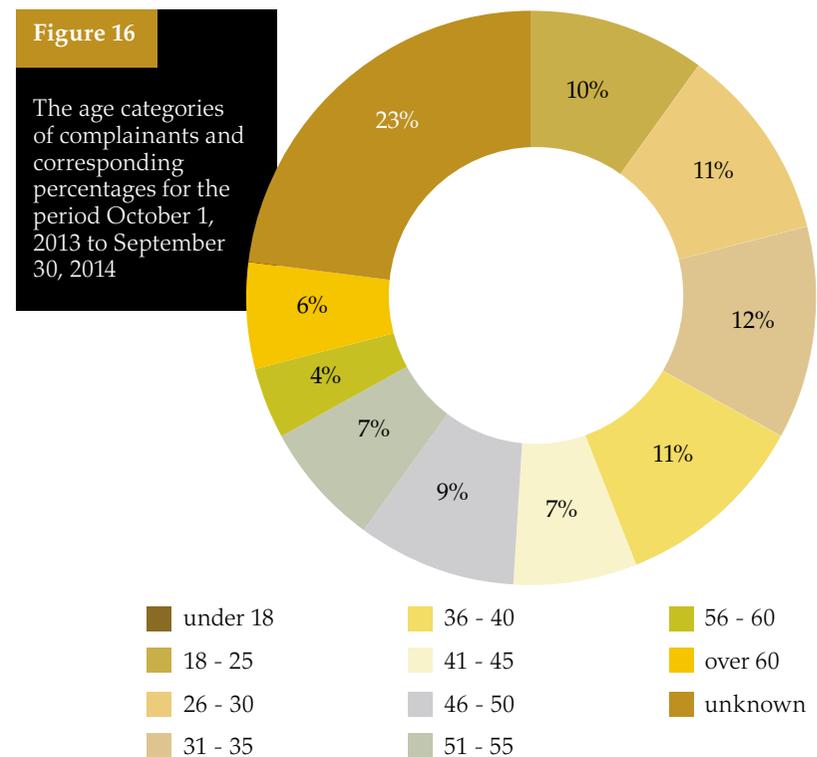
# ANALYSIS OF DEMOGRAPHICS

## AGE

Of the four hundred and ninety-one (**491**) complaints received in the period under review, seventy-three (**73**) were PCA initiated in which the ages of complainants were unknown. Of the remaining four hundred and eighteen (**418**) complaints the ages of the complainants were known in seventy-seven per cent (**77%**); whilst the remaining twenty-three per cent (**23%**) represented those complaints received via email or mailed-in (and referred to as “Unknown”) in **Table 18** below.

Table 18 Number and percentages of complainants by age for the period October 1, 2013 to September 30, 2014		
Age category	Number	Percentages
Under 18	0	0%
18 – 25	41	10%
26 – 30	44	11%
31 – 35	52	12%
36 – 40	46	11%
41 – 45	30	7%
46 – 50	39	9%
51 – 55	31	7%
56 – 60	15	4%
Over 60	26	6%
Unknown	94	23%
<b>Total</b>	<b>418</b>	<b>100%</b>

Apart from the “Unknown” category, the largest number of complaints was recorded in the 31-35yr age group. Within this group there were fifty-two (**52**) complaints, which represented **12%** of the total number of complaints recorded.



## GENDER

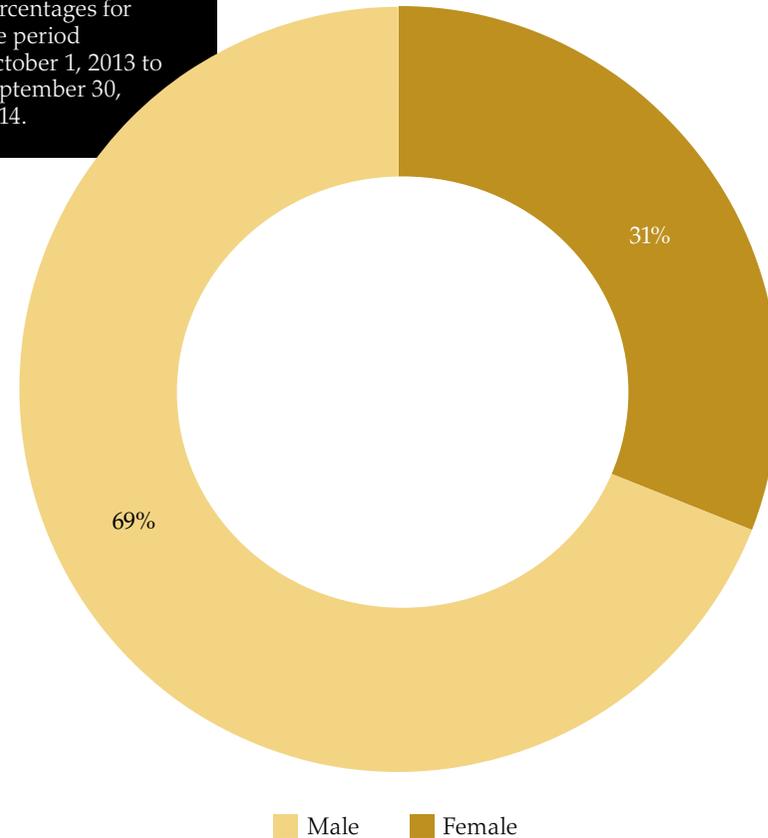
Of the four hundred and ninety-one (491) complaints received in the period under review, seventy-three (73) were PCA initiated in which the gender of complainants were unknown.

Analysis of complaints by gender of the remaining four hundred and eighteen (418) complaints illustrated that there were more than twice the number of men making complaints, compared to women. Two hundred and eighty-nine (289) complaints were made by male complainants, while female complainants made one hundred and twenty-nine (129) complaints. This is illustrated in **Table 19** and in **Figure 17** by number and percentages.

Table 19 Complainants by gender, number and percentages for the period October 1, 2013 to September 30, 2014.		
Gender	Number	Percentages
Male	289	69%
Female	129	31%
<b>Total</b>	<b>418</b>	<b>100%</b>

Figure 17

Complainants by gender and percentages for the period October 1, 2013 to September 30, 2014.



There are several offences which can be categorized as criminal in nature, serious police misconduct or police corruption. Further, several offences which are both criminal and disciplinary in nature, may be generated from a single complaint. Data provided in **Tables 20** and **21** identify the total number of offences.

The total number of fatal police shootings, twenty-nine (**29**), reflected in **Table 20**, pertains to complaints reported to the PCA, or in which the PCA undertook a monitoring role. It does not reflect the total number of fatal shootings involving the Trinidad and Tobago Police Service for the period under review.

<b>Table 20</b> Total number of complaints categorized as criminal offences for the period October 1, 2013 to September 30, 2014	
Criminal Offences	Total
Fatal Shooting	29
Non-fatal Shooting	17
Death in Police Custody	3
Causing Death by Dangerous Driving	2
Murder	2
Assault	119
Assault occ. Actual Bodily Harm	16
Illegal Quarrying	1
Common Assault	29
Harassment	34

<b>Table 20 Cont'd</b> Total number of complaints categorized as criminal offences for the period October 1, 2013 to September 30, 2014	
Criminal Offences	Total
Threat	10
Killing or Wounding Animals	2
Kidnapping	1
Rape	1
Indecent Assault	3
Grievous Sexual Assault	1
Sex with a Female 14-16	3
Sexual Harassment	1
Cruelty to Children	1
Larceny and Related Offences	42
Malicious Damage	19
Trespass and Unlawful Entry	1
Unlawful Arrest and Detention	2
Perverting Course of Justice	9
Misbehaviour in Public Office	23
Dangerous Driving	1
Impersonation of Police	1
Failure to acc. for Gov't Property	1
Malicious Prosecution	3
Discharge firearm 40m of road	1
<b>Total</b>	<b>378</b>

<b>Table 21</b> Total number of complaints categorized as disciplinary offences for the period October 1, 2013 to September 30, 2014	
Disciplinary Offences	Total
Neglect of Duty	127
Discreditable Conduct	304
Unlawful/ Unnecessary Exercise of Authority	169
Falsehood/ Prevarication	7
Corrupt Practice	51
Using Property of Service Without Consent	2
Breach of Confidence	1
Failure to acc. for Gov't Property	1
Accessory to a Disciplinary Offence	2
Oppressive Conduct	1
<b>Total</b>	<b>665</b>

# STATUS OF COMPLAINTS OCTOBER 1, 2013- SEPTEMBER 30, 2014

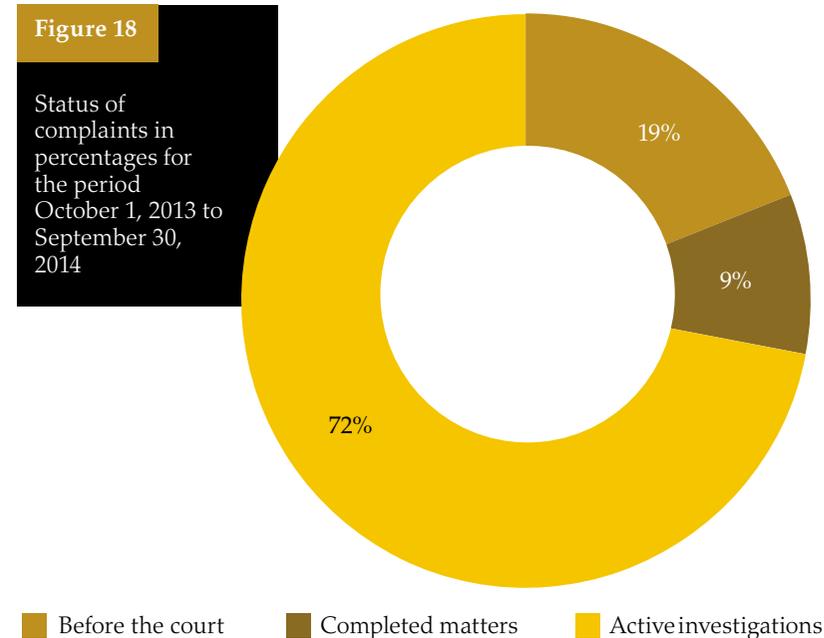
As stated previously, during the period under review, the Investigations Department received **491** complaints.

However, under section 37 of the Police Complaints Authority Act, ("the Act") *"where the subject matter of a complaint or an investigation is the subject matter of judicial proceedings, the Authority shall not commence or continue an investigation pending the final outcome of those proceedings."*

Ninety-two (**92**) of the said four hundred and ninety-one (**491**) complaints were the subject matter of judicial proceedings and fell within section 37 of the Act. Of the remaining three hundred and ninety-nine complaints (**399**), the Department completed investigations into forty-five (**45**) and three hundred and fifty-four (**354**) are being actively investigated.

**Table 22** and **Figure 18** show the above in numbers and percentages.

Table 22 Status of complaints in numbers for the period October 1, 2013 to September 30, 2014	
Status of complaints	Number of complaints
Before the Court	92
Completed matters	45
Active Investigations	354
<b>Total</b>	<b>491</b>



During the period under review, the Investigations Department completed one hundred and eighty-eight (**188**) matters. Of these, forty-five (**45**) were from the period under review. Fifty-eight (**58**) were from the reporting period October 1, 2012 to September 30, 2013, thirty-eight (**38**) were from the reporting period October 1, 2011 to September 30, 2012 and forty-seven (**47**) were from the reporting period December 29, 2010 to September 30, 2011. This is shown in **Table 23**.

<b>Table 23</b> Breakdown of completed matters during the period October 1, 2013 to September 30, 2014.	
Investigations from December 29, 2010 to September 30, 2014	Number of Investigations completed during the period Oct 1, 2013 – Sept 30, 2014
Completed investigations from the reporting period Dec 29, 2010 – Sept 30, 2011	47
Completed investigations from the reporting period Oct 1, 2011 – Sept 30, 2012	38
Completed investigations from the reporting period Oct 1, 2012 – Sept 30, 2013	58
Completed investigations from the reporting period Oct 1, 2013 – Sept 30, 2014	45
<b>Total</b>	<b>188</b>

# STATUS OF COMPLAINTS DECEMBER 29, 2010 - SEPTEMBER 30, 2014

Since the establishment of the PCA on December 29, 2010, the Investigations Department received a total of one thousand five hundred and fifty-six (1,556) complaints for investigation.

Of the **1556** complaints, **958** are actively being investigated; **223** are before the courts of law and **375** have been completed. This data is illustrated in **Table 24**.

<b>Table 24</b> Status of complaints from December 29, 2010 to September 30, 2014.	
Status of complaints	No. of Complaints during the period December 29, 2010 – September 30,
Active investigations	958
Before courts of law	223
Completed investigations	375
<b>Total</b>	<b>1556</b>

**Table 25** shows complaints initiated by the PCA between December 29, 2010 and September 30, 2014. During the period under review, the PCA initiated more complaints than in previous years.

<b>Table 25</b> Complaints initiated by the PCA from the period December 29, 2010 to September 30, 2014.	
Initiation of complaints	No. of complaints
PCA initiated Complaints Dec 29, 2010 – Sept 30, 2011	3
PCA initiated Complaints Oct 1, 2011 – Sept 30, 2012	38
PCA initiated Complaints Oct 1, 2012 – Sept 30, 2013	43
PCA initiated Complaints Oct 1, 2013 – Sept 30, 2014	73
<b>Total</b>	<b>157</b>



Deputy Director Master Ralph Doyle (third from left) as a presenter and panellist at CACOLE Conference's 2014 panel discussion entitled "International Perspectives on Oversight" which took place from May 5-7, 2014 in Victoria, British Columbia, Canada

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## CANADIAN ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (CACOLE)

## NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (NACOLE)

### CANADIAN ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (CACOLE)

During the period under review the Authority's (then) Director (Ms. Gillian Lucky) and its Deputy Director were invited by the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and the National Association for Civilian Oversight of Law Enforcement (NACOLE) to make contributions to their Annual Conference and quarterly publication, respectively.

CACOLE's website advises, inter alia, that:-

"The Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) is a national non-profit organization of individuals and agencies involved in the oversight of police officers in Canada. CACOLE is dedicated to advancing the concept,

principles and application of civilian oversight of law enforcement throughout Canada and abroad.

CACOLE, established in 1997, is an incorporated non-profit organization under the *Canada Corporations Act*. The national organization is governed by a set of By Laws and is managed by an elected, volunteer Board of Directors representing oversight agencies in each province, as well as First Nations and the Federal Government. The part-time Executive Director is the only paid position.

CACOLE members represent diverse organisations."

CACOLE hosted its 2014 Annual Conference "Civilian Oversight: Building Confidence and Trust" in May 2014 and reported in its official Communiqué as follows:-

“The 2014 Canadian Association for Civilian Oversight of Law Enforcement Conference was held at the Grand Pacific Hotel in Victoria, British Columbia from May 5 – 7 2014. The host of the event was Stan T. Lowe, Commissioner, Office of the Police Complaints Commissioner of British Columbia and President of CACOLE. The sold out conference was attended by delegates from across Canada, the U.S., Hong Kong and Trinidad and Tobago.”

## “INTERNATIONAL PERSPECTIVES ON OVERSIGHT

CACOLE was delighted to have representatives from the U.S., Trinidad and Tobago and Hong Kong on the panel organized by David C. Gavsie, Associate Chair of the Ontario Civilian Police Commission. Brian Buchner, Special Investigator from the LA Board of Police Commissioners and President of NACOLE, Master Ralph Doyle, Deputy Director of the Trinidad and Tobago Police Complaints Authority and Daniel Mui, Deputy Secretary General of the Independent Police Complaints Council, Hong Kong, all provided interesting perspectives on oversight in their respective jurisdictions”

The presentation of the Authority’s Deputy Director is reproduced hereunder:-

## CIVILIAN OVERSIGHT OF POLICE OFFICERS IN TRINIDAD AND TOBAGO

### CHALLENGES AND SOLUTIONS

**A presentation by Master Ralph Doyle – Deputy Director of the Police Complaints Authority of Trinidad and Tobago.**

### INTRODUCTION

Mr. President and Officers of CACOLE, Mr. Moderator, Fellow Panellists, Delegates, Specially invited guests, permit me to begin my presentation with a brief introduction to my country – Trinidad and Tobago – the beautiful twin island State in the West Indies located about 10° North of the Equator (and, about 8 miles east of Venezuela at the closest point).

We are a Republic within the Commonwealth, becoming independent (from Britain) in 1962 and amending our Constitution to Republican status in 1976. Interestingly, our capital Port of Spain is twinned with Canada’s “Garden City” – St. Catherine’s in the Niagara region, and, for another Canadian connection, Trinidad and Tobago gained its first Olympic Gold Medal at the Games of the XXI Olympiad held in Montreal in 1976 when Hasley Crawford won the Men’s 100 metres final.

## BACKGROUND

Fast forward to January 01, 2007 when the Police Complaints Authority Act No. 8 of 2006 (“the Act of 2006”/ “the Act”) was proclaimed, repealing the Police Complaints Authority Act, 1993 (“the former Act”) which had provided for **any** complaints against police officers to be sent by the (former) Police Complaints Authority to the Trinidad and Tobago Police Service (“TTPS”) for investigation. The Act of 2006 distinctively established the (current) Police Complaints Authority (“The PCA”/ “the Authority”) as an **independent** corporate body mandated, inter alia, to investigate criminal offences involving police officers, police corruption and serious police misconduct and, to gather evidence that may be admissible in the prosecution of a person who is not a police officer for a criminal offence in relation to the Police Service – all of the foregoing **without the involvement of the police.**

## INVESTIGATIONS

The Authority is empowered to conduct investigations on its own initiative or on receipt of complaints from a member of the public, a **police officer**, a public body or authority or the appropriate unit or disciplinary tribunal of the Police Service.

## APPOINTMENTS

The PCA is comprised of a Director and Deputy Director appointed by the President of Trinidad and Tobago on the joint advice of the Prime Minister and the Leader of the Opposition. The Act states that a person appointed as Director and Deputy Director shall have at least ten years experience as an Attorney-at-Law. Further, **no person who is or was a police officer** may be appointed as Director or Deputy

Director. The Authority’s first Director and Deputy Director were appointed on December 29<sup>th</sup>, 2010.

## FUNCTIONS

The Authority’s statutory functions are:

- a) To investigate criminal offences involving police officers, police corruption and serious police misconduct;
- b) To undertake inquiries into, or audits of, any aspect of police activities for the purpose of ascertaining whether there is police corruption or serious police misconduct or circumstances that may be conducive to both;
- c) To monitor an investigation conducted by any person or authority in relation to any matter mentioned in paragraph (a) and to undertake audits of those investigations;
- d) To advise the Police Service and other public authorities on ways in which police corruption and serious police misconduct may be eliminated;
- e) To gather evidence that may be admissible in the prosecution of a person who is not a police officer for a criminal offence in relation to the Police Service and to furnish that evidence to the Director of Public Prosecutions, or where an authority outside the State is concerned, the Attorney General;
- f) To gather evidence that may be used in the investigation of serious police misconduct and furnish such evidence to the Commissioner of Police or the Police Service Commission for appropriate action;
- g) To gather evidence that can be used in the prosecution of a police officer involved in a criminal offence and furnish such evidence to the Director of Public Prosecutions; or

- h) To perform any other functions that may be conferred on it by any other written law.

## POWERS

In the performance of its functions the Authority's powers include the powers of a Commission of Enquiry and, the power to require any person to produce books, records, accounts, reports, or data, stored electronically or otherwise, to provide any information or to answer any question which the Authority considers necessary in connection with its investigations and, to have any facts, matters or documents relating to a complaint verified or otherwise ascertained by oral examination of the person making the complaint. The Authority may also enter and inspect any premises occupied or used by a public body or authority and inspect and take copies of any documents in the premises. Subject to obtaining a search warrant from a Court, the Authority may also enter private premises in furtherance of an investigation. The powers and functions of the Authority may be exercised by-

- a) The Director or Deputy Director personally;
- b) Any person **not being a police officer** appointed by the Authority to conduct an investigation; or
- c) Any other person acting under and in accordance with the general or special instructions of either the Director or Deputy Director.

## (POLICE) DEPARTMENT/DIVISION (?)

The Authority has been in operation for a little over three (3) years, however, despite the powers and functions referred to above, there are

some fundamental challenges or issues which the Authority faces, starting with the misconception that the Authority is a department/division of the Trinidad and Tobago Police Service and that police officers investigate complaints within the Authority's remit. That misconception has been brought to the Authority's attention by persons who wish to make complaints but express concerns about the "police investigating the police" or, on occasions when persons enquire about the progress of complaints having been lodged with "the Authority" but which are actually complaints made to the Complaints Division of the Trinidad and Tobago Police Service ("TTPS"). Now, the Complaints Division of the TTPS was indeed created under the **former** Police Complaints Authority Act but, despite the repeal of that Act persons who make complaints to the TTPS about police officers still receive copies of their complaints officially stamped "POLICE COMPLAINTS DIVISION". The misconception may also be a result of the mandate and operations of the **former** Police Complaints Authority which sent **all** complaints about police officers to the Complaints Division of the TTPS for investigation **by the police**.

## PUBLIC EDUCATION

In dealing with the issue, the Authority embarked on a nationwide public education initiative where, in meetings with the public, it has been emphasized that the Police Complaints Authority is not a division or department of the Trinidad and Tobago Police Service and that under the Act of 2006 **no police officer** may investigate any complaints within the Authority's remit. Bearing in mind that the Act provides for complaints to be made to the Authority **by police officers**, the assurance has been given by the Authority that there should be no fear of victimization as the Authority is not answerable to the Trinidad and Tobago Police Service in the performance of its functions and the

exercise of its statutory powers. In fact, under Section 19 of the Act, the Authority is not subject to the direction or control of **any other person** in the performance of its functions and the exercise of its powers (Emphasis mine). Increasingly, the public (and police officers) are being made aware of the role, responsibilities and remit of the PCA in meetings, by information on the PCA's website [www.pca.org.tt](http://www.pca.org.tt) and, by the distribution in communities of informative literature on the Authority's purpose and operations.

## CONFIDENTIALITY

I turn now to the matter of confidentiality with respect to the operations of the PCA.

Section 21(4) of the Act of 2006 provides as follows:-

“Notwithstanding any written law to the contrary, information and evidence obtained by the Authority in the performance of its function under this Act is confidential”.

And, by Section 47 (h)(iii) of the Act-

“A person who-without lawful justification or excuse – discloses confidential information – commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for five years”.

## FREEDOM OF INFORMATION

The (above) statutory obligation of confidentiality faces the challenge of applications to the PCA under the Freedom of Information Act

Chap.22:02 (“FOIA”) which gives members of the public a general right (with exceptions) of access to information in the possession of public authorities. The Police Complaints Authority is not a body exempt from the legal requirements to accede to requests made under the FOIA despite the aforesaid statutory obligation of confidentiality and the statutory powers of the PCA which include the performance of its functions **as if it were a Commission of Enquiry established for the purpose of the Commission of Enquiries Act** – Commissions of Enquiry being exempt under the FOIA.

## RISKS

The risks of disclosure of confidential information and the attendant possibilities of compromising or prejudicing the very serious and sensitive matters under investigation or, of harm to complainants have resulted in the PCA seeking to be exempt from the provisions of the FOIA.

## PROTECTION

The protection of complainants, witnesses and informants also challenges the operations of the PCA as the Authority needs to be designated as an “approved authority” under the Justice Programme Act. The Authority has made representations in this regard, and in the interim, has adopted certain measures.

## POWERS, AUTHORITIES, PRIVILEGES ETC.

Now, the raison d'être of the Police Complaints Authority Act is the investigation of criminal offences involving police officers or the

monitoring or auditing of police activities and other related matters by an independent body. A corollary of this is that the investigating body should be vested with the necessary powers and immunities. In several jurisdictions, (like) civilian oversight bodies carry out their investigative functions with the requisite powers, privileges and immunities. Thus, in Jamaica, by the Independent Commission of Investigations Act 2010, the Commissioner and the Investigative Staff of the Independent Commission of Investigations (INDECOM) in the exercise of their statutory duty have the like powers, authorities and privileges, as are given by law to a police constable.

In Barbados, (per that country’s Police Complaints Authority Act), the (Barbados) Police Complaints Authority, its investigative staff and any other duly authorized person in the exercise of their duties have the same powers and privileges as are given by law to a police officer. Further afield, in the United Kingdom, the Police Reform Act 2002 provides that where designated staff members of the Independent Police Complaints Commission are not already possessed of the powers and privileges of a police constable throughout England and Wales and the adjacent United Kingdom Waters they shall for the purposes of the carrying out of investigations and for all purposes connected therewith have such powers and privileges throughout England and Wales and those waters.

In Trinidad and Tobago, under the Police Service Act, No. 7 of 2006 –

“Every police officer shall have all such rights, powers, authorities, privileges and immunities, and is liable to all such duties and responsibilities, as any constable duly authorised now has or is subject or liable to, or may have or be subject or liable to under any written or unwritten law”.

However, the civilian investigations officers of the PCA **who have been duly authorised to conduct investigations** are stymied in effectively carrying out their functions as they do not have the “authorities, privileges and immunities” of police officers.

The foregoing is particularly evident in those cases where the discharge of a police officer’s firearm has resulted in the death of a civilian. The PCA’s investigations officers cannot legally handle the firearm or send same to the relevant authority for testing, as Section 6(2) of the Firearms Act Chap:16:01 provides that –

“Notwithstanding any law to the contrary, a person may not have in his possession any prohibited weapon unless he is, and is, acting in the capacity of –

- a) a police officer;
- b) a member of the Defence Force;
- c) Director, Trinidad and Tobago Forensic Science Centre;
- d) any scientific officer designated by the Director, Trinidad and Tobago Forensic Science Centre;
- e) a Customs officer; or
- f) a prison officer.

Under the Firearms Act a prohibited weapon is defined, inter alia, as – “any artillery or automatic firearm”.

The Authority’s Director, Deputy Director or duly authorised officers are not included in Section 6(2) of the Firearms Act supra. In those circumstances, the Authority’s investigators risk prosecution should they remove a firearm for testing or retrieve or receive any article for which the requisite immunity or privilege is not enjoyed. Legislative amendment is necessary.

## INTERCEPTION OF COMMUNICATIONS ACT CH:15:08

Under Section 6(1) of the Interception of Communications Act, Ch.15:08 (“the Act”) – a person who intentionally intercepts a communication in the course of its transmission by means of a telecommunications network commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars (\$500,000.00) and imprisonment for seven years. However, an “authorised officer” shall not be liable for the interception of communications in certain circumstances, and, under Section 5(1) of the Act the term “authorised officer” means the Chief of Defence Staff, the Commissioner of Police or the Director of the Strategic Services Agency. There are matters within the PCA’s remit, including police corruption and allegations of phone harassment wherein the Authority needs speedy technological access to telecommunications, records and/or materials but, the Authority’s Director, Deputy Director or duly authorised officers cannot access same independently as they do not enjoy the statutory exemption from liability under the Act.

This is very unsatisfactory especially when one considers other **local** legislation in which Immigration Officers, Customs Officers and Motor Vehicle Officers (who are all civilians) are clothed with the requisite powers and immunities of the police to assist them in fulfilling their respective statutory obligations. Accordingly, it is essential that amendments be made to the Interception of Communications Act to include the Director and Deputy Director of the Police Complaints Authority as “authorised” officers.

## MONITORING/AUDITING FUNCTIONS

In addressing the above constraints on operations, the Authority utilises its statutory functions of monitoring or auditing investigations into criminal offences involving police officers, police corruption and serious police misconduct. In this connection, the Authority and its officers have been commended by the Director of Public Prosecutions for the level of professionalism exhibited in carrying out their functions. A recent editorial has also congratulated the Authority “for not dragging its feet in the investigation of the tragic shooting death” of a young man “at the hands of police officers”

## CONCLUSION

The Authority submits that its continuous public education initiatives and the performance of its monitoring and auditing functions assist in building confidence and trust in the institution but, it is necessary for the following legislative amendments to be made:-

- An amendment to the PCA Act to include the provision of the powers, privileges, authorities and immunities of the police to the Authority and its Investigators.
- An amendment to the Interception of Communications Act, Chap.15:08 to enable the Authority and any person it authorizes to access information from any telecommunications network.
- An amendment to the Justice Protection Act, Ch:5:33 to include the PCA as an “approved authority” so that the necessary protection for witnesses can be accessed.
- An amendment of the Freedom of Information Act Chap.22:02 to include the PCA as an exempt body . This will be consistent with:-

- a) S.21(4) of the PCA Act, which places the Authority under an obligation to keep all information confidential;
- b) S.22(1) of the PCA Act which gives the PCA the powers of a commission of enquiry established under the Commissions of Enquiry Act “as if it were a commission of enquiry for the purpose of that Act” as, Commissions of Enquiry are exempted from the provisions of the Freedom of Information Act Chap.22:02.

The Authority has recommended the above amendments to the relevant authorities.

## ACKNOWLEDGEMENT

“On behalf of the Police Complaints Authority I wish to express sincere thanks to the President, Officers and Members of CACOLE for your invitation to participate in this panel on International Perspectives on Oversight.”

## APPOINTMENT

Following the conference, in September 2014, the Authority’s Deputy Director was appointed to represent the Police Complaints Authority on the Advisory Council of CACOLE.

## NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (NACOLE)

NACOLE’s website states, inter alia,-

“The National Association for Civilian Oversight of Law Enforcement (NACOLE) is a non-profit organization that brings together individuals and agencies working to establish or improve oversight of police officers in the United States. NACOLE welcomes people and organizations committed to fair and professional law enforcement that is responsive to community needs. NACOLE, established in 1995, is incorporated under the laws of the State of Maryland. The organization has an elected board of directors, which is composed of individuals in the field of citizen oversight of the police. The board manages the organization pursuant to a set of by-laws. NACOLE is dedicated to promoting greater police accountability through the establishment or improvement of citizen oversight agencies by:

- organizing an annual training conference to increase the knowledge and skills of staff members and volunteers who work in oversight.
- providing technical assistance and advice to jurisdictions that are considering the creation or revitalization of oversight bodies.
- identifying best practices as they emerge from the experiences of members.
- encouraging networking, communication and information-sharing to counter the isolation inherent in the profession.
- furnishing information to government officials and community representatives that will support their advocacy of oversight in their states, counties, cities and towns.”

The Authority's (then) Director contributed an article entitled "Civilian Oversight: Meeting the Expectation" to NACOLE's official publication NACOLE Review Summer 2014 edition. The article is reproduced hereunder:-



### **"CIVILIAN OVERSIGHT: MEETING THE EXPECTATION**

By Gillian C.I. Lucky the Director of the Police Complaints Authority in Trinidad

The merit of civilian oversight of law enforcement is self-evident and there is a growing momentum worldwide to establish independent bodies to investigate and/or review allegations of police impropriety, particularly in

instances of fatalities, corrupt activity, and excessive use of force. It is a step in the right direction to see that interest in establishing independent civilian oversight bodies is being shown by governments and administrations around the globe, to ensure that those who are given powers to exercise control over the life, limb and liberty of citizens are subject to maximum scrutiny. Provided the civilian oversight bodies established are committed to the highest standards of transparency and accountability, then the growth of such organizations is absolutely justifiable in any society that has a proper respect for the rights and freedom of individuals.

However, there is great societal expectation that civilian oversight bodies will positively transform the police service in the jurisdiction(s) in which

they operate, enabling the oversight body to gain public trust and confidence. Strictly speaking, that is an objective that is best achieved by those who hold the management positions within the law enforcement body. Unless those who hold key positions in the police service are prepared to take seriously the findings and recommendations made by civilian oversight bodies, and implement measures to improve the service, poor police performance will result in an automatic indictment for ineffectiveness laid against the oversight body.

*Civilian Oversight of Policing: Governance, Democracy and Human Rights*, a book edited by Andrew John Goldsmith and Colleen Lewis (Hart Publishing, 2000), states "Realism as well as contextual sensitivity are crucial to define progress. Aiming high in terms of improvement sought but remaining realistic given constraints applicable in the local setting, is one way to move forward. If ultimately an improvement is achieved which is less than might ideally have been realized, but is nonetheless a significant positive step forward towards reducing police abuses, this ought to be an acceptable performance indicator when assessing progress in these areas" (p. 13). It appears that the authors are suggesting that consideration be given to the "deterrent factor" as "an acceptable performance indicator." Civilian oversight's role in deterring police misconduct is an important factor under such circumstances.

In those jurisdictions in which civilian oversight is a relatively new concept or the respective oversight bodies are just getting off the ground, without the compromise of the core functions of such bodies, some emphasis should be placed on specific strategies that can be used to send the powerful message to the police that it is not simply "business as usual." Civilian oversight bodies which are merely given a review function, even if coupled with the power to make recommendations for improved policing services, are performing at a significant disadvantage

because such organizations cannot mandate the transformation of the police service which they oversee. The public needs to appreciate the limitations placed on such oversight bodies which, despite fulfilling their mandate, may still be viewed as “ineffective” because their recommendations have not been taken on board or properly implemented. Unfortunately, the dilemma faced by such institutions is that if an explanation of their limited powers is explained to and understood by the public, there is a real risk that they will be deemed “toothless bulldogs” undeserving of state funding.

While some may argue that the success of a civilian oversight body is best determined by crunching the numbers and analyzing the results of the cases determined by the organization, such an approach without regard to whether the organization and its work (however limited) has directly or indirectly forced the police to “buckup,” means that civilian oversight bodies that lack sufficient resources to deal with mounting piles of reports of police abuses will automatically be deemed failures. The suggestion is not to turn a blind eye to an increasing workload that has the potential to stretch the organization beyond its capacity; but, while the matter of implementing measures to reduce the backlog of cases is being addressed, the oversight body must do all it can within its power to use whatever resources are available to keep the pressure on law enforcement officials to act in accordance with their oaths of office. This can be achieved by a sustained public education campaign about the powers and functions of the oversight body and

**“...another deterrent for real or potential errant police officers is the knowledge that their leaders and seniors are in favour of civilian oversight...”**

informing the public about matters relevant to the proper exercise of

police powers. By doing this, the civilian oversight body can never be accused of dropping the ball.

Yet another deterrent for real or potential errant police officers is the knowledge that their leaders and seniors are in favour of civilian oversight and are prepared to give full cooperation to civilian oversight bodies in their jurisdiction. When the top of an organization signals its willingness to fall in line, it makes it easier for the rank and file to follow. The work of civilian oversight is meant to result in positively transforming the police service and ridding it of rogue and negative elements. But public expectation of civilian oversight bodies must be realistic and performance indicators must be relative to societal constraints and support from law enforcement leaders.

If the existence of a civilian oversight body serves as a deterrent for errant officers, forcing them to “think twice” before embarking on any act of police impropriety, and ensures that police officers are aware that they are accountable to an independent body and that their actions will be subject to intense public scrutiny, that is sufficient justification for the continued support of such an organization. The primary objective, therefore, of any civilian oversight body should not be to undertake the Herculean task of performing its function beyond Olympic proportions but rather, at the very least, to prove itself a worthy competitor determined to make spectators take note of its commendable contribution to determining police misconduct.

However, there is always room for improvement, and oversight bodies must continue to set the bar higher as knowledge and experience is gained. Additionally, oversight bodies must meet and exceed public expectations in order to survive and thrive, with on-going outreach to educate the public about oversight powers and limitations.”

## WITH EXPERIENCE COMES WISDOM...

# LESSONS LEARNED FROM OUR COUNTERPARTS IN COMPLAINT HANDLING

During the week June 2, 2014 to June 6, 2014, Public Administration International hosted a study programme, “Righting Wrongs: Ombudsmen, Justice and Public Service”, which was attended by a Police Complaints Authority (PCA) delegation comprising its Deputy Director and Senior Legal Officer.

As its title suggests, the programme was geared primarily towards the Office of the Ombudsman but was also extended to senior staff from similar complaint handling bodies.

The programme’s seminar style delivery together with the approach of experience sharing and visits to the Office of the Ombudsman, the Independent Police Complaints Commission (IPCC) and other complaint handling bodies in England, facilitated an understanding of the similarities in the core functions of an independent law enforcement oversight body, such as the PCA and enabled the PCA delegation to extract and consider for applicability in its own organisation, good/best practice(s) in complaint handling, management of investigations and matters related thereto.

### GENESIS OF THE OMBUDSMAN SCHEME

Internationally, the Office of the Ombudsman originated in Sweden in 1809 with a rapid spread of the concept occurring in the 1950s. However, after much resistance to the concept from Members of Parliament (MPs) in the United Kingdom who feared that they would lose their case handling role, the Parliamentary Commissioner Act 1967 established the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) which has since been renamed the Parliamentary and Health Service Ombudsman (PHSO). Essentially, the PHSO is a unification of the statutory roles of the Parliamentary Ombudsman and the Health Service Commissioner whose powers are outlined in the Health Service Commissioners Act 1993.

Today in the UK, the Ombudsman Service is multifaceted with pockets of entities servicing the needs of complainants or aggrieved citizens including the Parliamentary and Health Service Ombudsman (PHSO), the local government ombudsman, the Financial Services Ombudsman, the Assessor’s Office and the Adjudicator’s Office.

The appropriate and suitable service to which a complaint or grievance is to be directed depends largely on the nature of the matter.

## BRIEF OVERVIEW OF OMBUDSMAN OFFICES (UK) AND OTHER COMPLAINT HANDLING BODIES

### PHSO and the sharing of lessons learned

The PHSO investigates complaints of unfair treatment or poor service from government departments, other public organisations and the National Health Service in England with the objective of putting things right where possible, sharing lessons to improve public services and identifying areas for systemic change.

*This facilitates an organisation in identifying the root cause of problems and implementing permanent solutions which can positively impact the service offered to the public.*

### The Independent Assessor and the review of service complaints against the Financial Services Ombudsman (FOS)

The FOS handles complaints of consumers against financial firms and while the decision of the FOS is final, a service complaint can be lodged with the Independent Assessor.

Although the Independent Assessor is appointed by the Board of the FOS (“the Board”), the said office holder is not part of that Service and is neither accountable to the Chief Executive nor the Chief Ombudsman.

The Independent Assessor can only entertain service complaints made against the FOS and **not challenges to the Ombudsman’s exercise of judgment in relation to the evidence**. Therefore, matters such as whether the FOS provided a reasonable service in

conducting the investigation into a complaint, adhered to the proper process and kept abreast of all documents relative to the matter, all fall within the purview of the Independent Assessor.

Having reviewed a complaint, the Independent Assessor can make recommendations which, if not accepted by the Chief Ombudsman, can be elevated to the Board. Where the Board does not comply it is under an obligation to state its reasons for non-compliance in the Annual Directors’ report.

*The inclusion of a review process may contribute to transparency within an organisation and can also inspire public trust and confidence.*

### The Adjudicator’s Office and the policy for handling unacceptable actions

The Adjudicator has jurisdiction to address complaints of mistakes, unreasonable delays, bad or misleading advice, inappropriate behaviour of staff and the improper exercise of discretion arising out of complaints made to the HM Revenue and Customs, the Valuation Office Agency and the Insolvency Service.

The Adjudicator has the responsibility to determine whether complaints submitted to the said offices were handled appropriately including the furnishing of reasonable decisions.

Where the Adjudicator has found that a complaint was not handled appropriately and/or the organisation failed to provide a reasonable decision, recommendations and solutions to improve service are made.

However, the feature of focus in respect of the Adjudicator's Office is its "Unacceptable Actions Policy" to manage situations of unreasonable behaviour of complainants towards staff.

*Unacceptable actions are given a meaning within the context of the organisation and a prescribed way of dealing with a given situation is outlined for all members of staff. In this way the organisation's responses are managed and the opportunity for instinctive, inappropriate responses by staff are reduced.*

### **The Local Government Ombudsman and recommendations on good practice**

The Local Government Ombudsman deals primarily with complaints about councils and certain authorities and organisations, including the education admissions appeal panels and adult social care providers.

Of interest is the practice of publishing its decisions whilst 'anonymizing' confidential information and its special subject reports whereby the Local Government Ombudsman's experience of handling complaints in particular subject areas are highlighted with recommendations on good practice.

*This provides a reservoir of knowledge which other complaint handling organisations can consider.*

### **The Independent Police Complaints Commission (IPCC) and the "Learning the Lessons" publication**

The IPCC was established by the Police Reform Act and became operational in April 2004. It is not an Ombudsman Office but is a

complaint receiving body performing functions similar to the PCA. The IPCC, like the PCA, is an independent body charged with the responsibility of oversight of the Police Force.

*Of note is the IPCC's focus on organizational learning gleaned through the conduct of investigations. The critical aspect of this approach is that it is fed back to the Police to assist them in the conduct of their investigations.*

## **SYNOPSIS OF OMBUDSMAN OFFICES AND OTHER COMPLAINT HANDLING BODIES**

Having had the opportunity to visit several Ombudsman Offices and other complaint handling bodies in England and interact with members thereof, it is evident that the greatest distinction lies in the remit of each organization/ body. However, as distinct as they are, each body appears to endorse and engage in the exercise of sharing lessons learned- an approach which has wide applicability to complaint handling bodies though, in some instances, such lessons may offer the most value to the organisations falling within the body's specific purview.

Additionally, each body appears to place significant value on the complainant/ customer. This manifests itself in the form of avenues for redress in certain circumstances, in the focus on early resolution of complaints and in the development of policies to deal appropriately with complainants in a manner which is consistent with the boundaries set by the organization whilst ensuring preservation of its image and reputation. Furthermore, there is a concerted effort towards sharing what is considered to be good practice in the field which, where followed, can allow for consistency in the way matters are disposed.

## OTHER RELEVANT MATTERS FOR CONSIDERATION

In addition to the foregoing, the study programme's course director posed, inter alia, the following thought-provoking questions which, though styled for an Ombudsman's Office, may have applicability to other complaint handling bodies:

1. How does the Ombudsman measure success in reaching those who need the service?
2. Is there any independent review stage in the Ombudsman's procedure for dealing with complaints and decisions and conduct of staff?
3. Do you ever embark upon peer reviews with like bodies?
4. Is there a policy for dealing (understood by all staff) with vexatious, serial and unreasonably persistent complainants?

## APPLICABILITY OF OMBUDSMAN OFFICE (UK) POLICIES AND APPROACHES

The question is whether similar approaches and policies can be transplanted into the PCA context. Though not 'on all fours' with the Ombudsman Service in the UK, due to distinctions in remit, complaint-making culture, age and stage of development of the jurisdiction and organisation, the following merit consideration by the PCA:-

- The development of a frame work which allows for the early resolution of complaints (possibly, at the point of first contact);
- The establishment of a policy/ procedure for dealing with unreasonable behaviour from complainants;
- The creation of benchmarks/ guidelines against which complaints regarding the organisation's service can be measured and assessed;
- The development of a mechanism through which customer/ complainant satisfaction can be gauged including surveys; and
- The publication of 'anonymized' reports / lessons learned in a manner which does not conflict with the PCA's statutory obligations with respect to confidentiality.

The foregoing may prove effective in engendering greater trust and confidence in the organization through the implementation of policies, procedures and practices which facilitate both transparency and accountability and are centered on remedying chronic issues.

## RECOMMENDATIONS

By virtue of section 21(1)(d) of the Police Complaints Authority Act, Chapter 15:05, one of the core functions of the Police Complaints Authority (PCA) is to “advise the Police Service and other public authorities on ways in which police corruption and serious police misconduct may be eliminated”.

In keeping with the above-mentioned function, the PCA made recommendations to the office of the Commissioner of Police during each financial reporting period including the current reporting period.

The following table reflects each recommendation made by the PCA to the office of the Commissioner of Police and provides the present status of same.

## STATUS OF RECOMMENDATIONS MADE TO THE OFFICE OF THE COMMISSIONER OF POLICE

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>The installation of Closed Circuit Television (CCTV) cameras in all police stations positioned at strategic points within each station, especially and including, the Charge Room and the holding cells.</p> <p>The use of these devices acts as a deterrent for misconduct on the part of police officers and also assists in determining the facts in matters where the footage would be relevant to a particular complaint. These CCTV cameras would also enable officers to keep vigilant watch on persons kept in their custody and assist in preventing persons from attempting suicide.</p>	<p>PCA Annual Report 2011-2012</p>	<p>While verbally the Acting Commissioner of Police indicated his agreement with the recommendation for the installation of the CCTV cameras in the areas specified by the PCA, to date, the PCA has not been informed that same has been implemented.</p>
<p>The above recommendation was strengthened with a further recommendation that CCTV recordings of the activities which transpire within a station should also be digitally stored on a remote server. Offsite storage would limit the potential for evidence to be destroyed.</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA is unaware as to whether this recommendation has been implemented.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>The establishment of a special unit within the TTPS to investigate fatal police killings.</p> <p>At this stage, due to the lack of resources and the statutory powers and privileges of police officers, it was agreed that in matters involving fatal killings by police, the PCA will perform the functions of monitoring and auditing the TTPS' investigations. The PCA holds the view that there should be a highly qualified team entrusted with the specific task of investigating these matters as opposed to these investigations being conducted by officers from the particular jurisdiction in which the incident occurred. This team will liaise with the PCA on a regular and consistent basis during the investigation.</p>	<p>PCA Annual Report 2011-2012</p>	<p>The Professional Standards Bureau (PSB) was established with effect from July 15, 2011 via Departmental Order dated January 4, 2012.</p> <p>While on the face of the said Order the objectives of the PSB do not appear to be limited to the investigation of fatal shootings of civilians by police officers, the PCA is aware, through the receipt of reports, that the PSB also deals with fatal shootings.</p>
<p>A thorough review of the current Departmental Order that deals with the TTPS' Use of Force Policy.</p>	<p>PCA Annual Report 2011-2012</p>	<p>The PCA wrote to the Acting Commissioner of Police on September 13, 2013 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
		<p>By telephonic conversation on 5.8.14 the former Director of the PCA was informed that the draft of the new TTPS Use of Force Policy has not been completed. The COP will forward a copy of the draft policy to the PCA as soon as it becomes available.</p>
<p>The training and re-training of police officers in the use of weapons and the law that relates to the use of force.</p> <p>Members of the TTPS should be made aware of the most recent laws on the subject, as well as international best practices.</p>	<p>PCA Annual Report 2011-2012</p>	<p>Update obtained by the former Director via telephone conversation on 5.8.14 - This training will require the new Use of Force Policy which remains outstanding.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>Neglect of duty is a disciplinary offence under Regulation 150 (d) of the Police Service Regulations. Where such neglect is so serious as to bring the TTPS into disrepute it triggers the serious police misconduct facet of the PCA's remit. A common source of complaint is the alleged refusal by officers to receive the reports of civilians. Without pronouncing on the merits of individual allegations, it is recommended that signage be prominently displayed in stations reiterating the need for officers to issue reports receipts to civilians in compliance with the Trinidad and Tobago Police Service Departmental Order No. 179 which amended Standing Orders Nos. 17 and 38 of the Standing Orders of the Trinidad and Tobago Police Service. This would operate as proof that the civilian was not turned away and also reinforce in the minds of officers, the obligation to issue receipts of reports. In this vein, all stations should be equipped with sufficient receipt books for officers to comply with the foregoing.</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter.</p> <p>Complainants continue to indicate that they were not issued receipts at certain stations because the station is awaiting receipt books.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>The need to employ more stringent measures to ensure that officers do proper recording of entries into the Station Diary as required under Standing Order No. 17. 6 and 17 (7) (d) (i) of the Standing Orders of the Trinidad and Tobago Police Service. Though Standing Order 13 No. 3 of the Standing Orders of the Trinidad and Tobago Police Service covers “visits” to examine registers by officers of a certain rank, in order to ensure that records are not doctored or updated in anticipation of such “visits”, it is recommended that there be periodic unscheduled examination of the records to ensure compliance with the said Standing Orders.</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter. The PCA is unaware as to whether this recommendation has been implemented.</p>
<p>By virtue of the fact that police officers have the primary duty of law enforcement, they should be provided with a legal awareness training kit containing legal literacy material pertinent to the duties of all officers. Such educational tools will ensure that all police officers are aware of the law, the implications of failure to treat with persons in compliance with the law, the ingredients of various criminal offences and other such matters. More importantly, it is recommended that the TTPS embark on a process of continuous education and training so that officers understand the applicability of the law especially the use of force policy.</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter. The PCA is unaware as to whether this recommendation has been implemented.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>The establishment of documented protocols for police officers to ensure preservation of scenes particularly in relation to matters involving police shootings (fatal and non-fatal) is recommended. In this connection, officers involved in the fatal shooting of a civilian should not be allowed to remain on the scene when crime scene investigators are performing their duties of collecting evidence</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter. The recommendation has not been implemented by the TTPS.</p>
<p>Pursuant to Standing Order 10 No. 63 of the Standing Orders of the Trinidad and Tobago Police Service, the Second Division Officer in charge of Process Offices and Stations has the responsibility for maintaining records in relation to warrants. Although a provision is made for the recording of the particulars of warrants, there is no stipulation that copies of warrants must be retained. Copies of warrants will be useful in validating the records kept and eliminate opportunities for manipulation of records where a complaint of entry without a warrant is made.</p>	<p>PCA Annual Report 2012-2013</p>	<p>The PCA wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>Consideration be given to training and sensitization of officers in dealing with differently abled persons. Furthermore, provisions for the safer handling of differently abled persons should be made including the making of all reasonable adjustments to accommodate the supplementary needs of such persons, for example, any additional access requirements; the provision of interpretive support for blind, deaf or otherwise vulnerable persons who may have difficulty understanding procedures or completing documentation; and facilitation of communication with people who appear to be deaf, or if there is doubt about their ability to hear, by the use of a suitably qualified interpreter.</p>	<p>Letter from the Director of the PCA to the Acting Commissioner of Police dated September 13, 2013.</p>	<p>The PCA also wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter. The PCA is unaware as to whether this recommendation has been implemented.</p>
<p>There is an absence of disciplinary regulations applicable to SRPs. This category of officers is not covered under the Police Service Act, Chapter 15:01 or the attendant regulations made thereunder. While this issue of legislative lacuna is not one which can be directly addressed by the TTPS, the PCA thought it prudent to bring it to the attention of the Acting Commissioner of Police.</p>	<p>Via telephonic conversation and letter from the Director of the PCA to the Acting Commissioner of Police dated June 6, 2014.</p>	<p>The PCA is unaware of any change with respect to the absence of the relevant disciplinary regulations.</p>

RECOMMENDATION	DATE OF RECOMMENDATION	STATUS OF RECOMMENDATION
<p>A Police Standing Order or Departmental Order should be drafted and implemented to require officers involved in incidents in which civilians are either killed or injured by police officers and allegations of police impropriety are raised to immediately provide to the Officer in charge of the Division/Branch/Section to which he/she is attached, a detailed written report into the circumstances surrounding same.</p>	<p>Letter from the Director of the PCA to the Acting Commissioner of Police dated January 23, 2014</p>	<p>The PCA also wrote to the Acting Commissioner of Police on June 6, 2014 requesting he indicate the position of the TTPS with respect to the adoption and/or implementation of this recommendation. To date the PCA has received no response to its letter. The PCA is unaware as to whether this recommendation has been implemented.</p>
<p>All members of the TTPS are required to take and subscribe to an oath or affirmation of office and secrecy upon their first appointment as mandated under section 72 of the Police Service Act, Chapter 15:01. The PCA requested that all members of the TTPS be reminded of the said oath or affirmation of office and secrecy.</p>	<p>Letter from the Director of the PCA to the Acting Commissioner of Police dated April 14, 2014.</p>	<p>The PCA is unaware as to whether this recommendation has been implemented.</p>

## PROPOSED AMENDMENTS TO THE PCA ACT

“Oversight is becoming integrated into the fabric of our society and government; there is recognition that oversight is beneficial and here to stay. Community members are calling for independent oversight and a voice in policing. In increasing numbers, police chiefs, sheriffs and government officials are recognizing that oversight is not about bad cops, but about good government. More and more police officials are realizing that internal investigations are controversial and thankless. An oversight agency decreeing that a shooting or use of force was within acceptable policy guidelines has more credibility than an internal investigation making the same pronouncement. A negative ruling bolstered by an independent investigation helps to take the sting out of a contentious disciplinary action. Oversight in its many forms provides accountability and transparency for police issues that are otherwise inaccessible to the larger community.”<sup>2</sup>

While Attard wrote from an American perspective, her words ring true within the Trinidad and Tobago jurisdiction.

Under the Police Complaints Authority Act, No 17 of 1993, the then Police Complaints Authority received complaints on the conduct of police officers which were investigated by the Police Complaints Division, a division headed by a member of the Trinidad and Tobago Police Service and comprising police officers.

Born out of recognition of the untenability of a body investigating itself, the Police Complaints Authority (PCA) was established under the Police

Complaints Authority Act, Chapter 15:05, Act No. 8 of 2006 (“the PCA Act”).

The body created under the PCA Act is independent of the Trinidad and Tobago Police Service and, under section 48(2) of the said Act, is given the “...sole responsibility for dealing with...” matters of serious police misconduct, police corruption and criminal offences involving police officers.

While the 2006 Act has rectified the situation to some extent, what it fails to do is to equip the PCA with the powers, privileges, immunities and authorities to allow it to fully execute its mandate.

Additionally, having had the opportunity of working the legislation for approximately four (4) years, the PCA has identified the deficiencies in its own Act as well as the need for consequential amendments to other pieces of legislation which touch, concern and affect the PCA’s operations.

Hereunder is a list of proposed amendments to the Police Complaints Authority Act and necessary consequential amendments to other pieces of legislation which have been brought to the attention of relevant stakeholders and the Legislation Review Committee during the period under review.

Enactment of the proposed amendments will go a long way in increasing the public’s trust and confidence with respect to the independent investigation of offences involving police officers whether criminal or disciplinary in nature.

<sup>2</sup> Barbara Attard, private oversight and accountability consultant with a 25-year career in oversight of law enforcement

# PROPOSED AMENDMENTS TO THE POLICE COMPLAINTS AUTHORITY ACT (PCA ACT) AND NECESSARY CONSEQUENTIAL AMENDMENTS TO OTHER PIECES OF LEGISLATION

## PROPOSED AMENDMENTS TO THE PCA ACT

### POWERS, PRIVILEGES, AUTHORITIES AND IMMUNITIES OF THE POLICE

- **The Authority and its duly authorised officers should be given the powers, privileges, authorities and immunities of the police.**

This has been done in the United Kingdom (UK), Jamaica and Barbados.

#### United Kingdom

In the UK, Section 19 (4), Part III, Schedule 3 of the Police Reform Act 2002 Chapter 30 stipulates that where designated staff members are not already possessed of the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters, they shall, *“for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.”*

#### Jamaica

In Jamaica, under section 20 of the Independent Commission of Investigations Act 2010, (“the ICI Act”) the Commissioner and investigative staff of the Independent Commission of Investigations are vested with like powers, authorities and privileges as are given to police constables. See Section 20 of the ICI Act hereunder.

*“For the purpose of giving effect to sections 4, 13 and 14, the Commissioner and the investigative staff of the Commission shall, in the exercise of their duty under this Act have the like powers, authorities and privileges as are given by law to a constable.”*

#### Barbados

In Barbados, the Authority, investigative staff and other persons authorized by the Police Complaints Authority are given the same powers and privileges granted to police officers as, Section 8(2) of the **Police Complaints Authority Act, Chapter 167 A (“the Act”)** states:-

*“The Authority, the investigative staff of the Authority and any other person authorised by the Authority shall, in the exercise of their duties under section 5(1)(c) have the same powers and privileges as are given by law to a police officer.”*

## CIVILIAN OFFICERS IN TRINIDAD AND TOBAGO ARE GIVEN THE POWERS OF THE POLICE

Additionally, like powers are already given to civilian officers locally under the Immigration Act Chapter 18:01(s.12 (2)), the Customs Act Chapter 78:01(s.3) and the Motor Vehicles and Road Traffic Act Chapter 48:50(s.5 (1)) as follows:-

### The Immigration Act

Section 12 of the Immigration Act provides:

“12. (1) For the purposes of this Act an immigration officer is a person appointed as such in manner authorised by law.  
 (2) Every immigration officer has the authority and powers of a constable to enforce any provision of this Act, the regulations or any order lawfully made under this Act or the regulations relating to the arrest, detention or deportation of any person.”

### The Customs Act

Section 3 of the Customs Act provides:

“3. For the purpose of carrying out the provisions of the Customs laws all officers shall have the same powers, authorities and

privileges as are given by law to members of the Police Service.”

### The Motor Vehicles and Road Traffic Act

Section 5(1) of the Motor Vehicles and Road Traffic Act provides:

“5. (1) In the exercise of powers and duties conferred on him by this Act and any Regulations made thereunder, every Transport Officer shall have the powers, authorities and privileges and shall be entitled to all the immunities given by any law from time to time in force to any member of the Police Service.”

## TERMS AND CONDITIONS OF THE DIRECTOR AND DEPUTY DIRECTOR OF THE PCA

- Consistent with Cabinet Minute No. 1860 (2<sup>nd</sup> Session)-2010/ 12/ 30, the Police Complaints Authority Act (PCA Act) should be amended with respect to the terms and conditions of the Director and Deputy Director of the PCA.

## SUPPLEMENTAL BODIES OF POLICE (FOR EXAMPLE RURAL AND ESTATE POLICE)

- Under the PCA Act the Authority does not have the jurisdiction to deal with matters involving rural and estate police. Accordingly, the definition of “police officer” under Section 3 of the Police Complaints Authority Act should be amended to include supplemental bodies of police namely rural and estate police.

## EXEMPTION FROM TAXATION AND DUTIES

- It is recommended that the Authority be exempt from taxation and duties on assets which it acquires for its own use- For precedent see Section 27 (1) of the National Library and Information System Act, Chapter 40:01.

Adapting the precedent to suit the PCA's circumstance it would read as follows:-

- (1) The Police Complaints Authority is exempt from all taxes, duties, fees, charges, assessments, levies and imposts on assets which it acquires for its own use.
- (2) Where—
  - (a) goods are imported by the Police Complaints Authority or on behalf of The Police Complaints Authority; and
  - (b) the commercial supply of goods or services to The Police Complaints Authority is in the opinion of the Board of Inland Revenue required for the purposes of the Police Complaints Authority, those goods and services shall not be subject to the Value Added Tax Act.

## CONSEQUENTIAL AMENDMENTS

The following consequential amendments to other pieces of legislation are proposed:-

- **The Interception of Communications Act, Chapter 15:08**

An amendment to section 6(1) of the Interception of Communications

Act, Chapter 15:08 to enable the Authority and any person it authorizes to access information from any telecommunications network;

- **The Justice Protection Act, Chapter 5:33**

An amendment to the Justice Protection Act, Chapter 5:33 so that protection for witnesses can be facilitated by an entity other than the Trinidad and Tobago Police Service.

- **The Freedom of Information Act, Chapter 22:02**

The exemption of the PCA under the Freedom of Information Act (FOIA), Chapter 22:02. This will be consistent with:-

- a) s.21 (4) of the PCA Act, which places the Authority under an obligation to keep information and evidence confidential; and
- b) s. 22 (1) of the PCA Act which gives the PCA the powers of a Commission of Enquiry established under the Commission of Enquiry Act "as if it were a commission of enquiry for the purpose of that Act", as **Commissions of Enquiry are exempted under Section 5(1) from the provisions of the Freedom of Information Act (FOIA).**

- **The Firearms Act, Chapter 16:01**

An amendment to Section 6(2) of the Firearms Act Chapter 16:01 to include the Director and Deputy Director of the PCA and persons duly authorised by the Authority to have in their possession "any prohibited weapon".

- **The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01**

An amendment to the Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01 (FIU Act) to include the PCA as a body to which the FIU can direct reports for investigation under section 15 of the FIU Act.

- **The Special Reserve Police Act, Chapter 15:01**

Special Reserve Police Officers (SRPs) are included in the definition of “police officers” subject to the PCA Act. However, the Police Service Regulations (which include discipline) made under the Police Service Act do not apply to SRPs. The lacuna must be addressed and, particularly so, in light of Section 22 (2) of the Special Reserve Police Act, Chapter 15:03 which makes provisions for regulations, inter alia, for discipline and guidance of SRPs.

LAWS OF TRINIDAD AND TOBAGO  
MINISTRY OF LEGAL AFFAIRS

# POLICE COMPLAINTS AUTHORITY ACT

CHAPTER 15:05

Act  
8 of 2006

## Current Authorised Pages

Pages (inclusive)	Authorised by L.R.O.
1-25 ..	1/2009

UPDATED TO DECEMBER 31ST 2007

L.R.O. 1/2009

**Note on Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

**Note on Section 53**

Section 53 amends section 23(6) of the Domestic Violence Act, Chap. 45:56.

See Act No. 8 of 2006.

**CHAPTER 15:05**

**POLICE COMPLAINTS AUTHORITY ACT**

ARRANGEMENT OF SECTIONS

**SECTION**

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**PRELIMINARY**

1. Short title.
2. Commencement.
3. Act inconsistent with Constitution.
4. Interpretation.

**PART II**

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5. Establishment of the Authority.
6. Membership of the Authority.
7. Qualification of Director and Deputy Director.
8. Disqualification of Director and Deputy Director.
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12. Revocation of appointment.
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*L.R.O. 1/2009*

ARRANGEMENT OF SECTIONS—*Continued*

**SECTION**

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46. Punishment of contempt.

**SECTION**

47. Offences.
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49. Liability for proceedings.
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51. Transitional.
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53. Amendment to written law.

**CHAPTER 15:05**

**POLICE COMPLAINTS AUTHORITY ACT**

8 of 2006. **An Act to establish an independent body to investigate criminal offences involving police officers, police corruption and serious police misconduct and for other related matters.**

\*[ASSENTED TO 13TH APRIL 2006]

Preamble. WHEREAS it is enacted *inter alia* by subsection (1) of section 13 of the Constitution that an Act to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

**PART I**

**PRELIMINARY**

Short title. **1.** This Act may be cited as the Police Complaints Authority Act.

Commencement. **2.** This Act came into operation on 1st January 2007.  
[329/2006].

Act inconsistent with Constitution. **3.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

\*See section 2 for the date of commencement.

**4.** In this Act—

Interpretation.

“Authority” means the Police Complaints Authority established under section 5;

“Commission” means the Police Service Commission established under section 122(1) of the Constitution;

“Commissioner” means the Commissioner of Police;

“complaint” includes an allegation of—

- (a) police corruption;
- (b) serious police misconduct;
- (c) the commission of a criminal offence by a police officer; or
- (d) the commission of a criminal offence by any other person but involving a police officer,

which is submitted to the Authority;

“financial institution” means a company which carries on or used to carry on all or any aspect of banking business or business of a financial nature as defined in the Financial Institutions Act; Ch. 79:09.

“Minister” means the Minister to whom responsibility for national security is assigned;

“police corruption” means an act done with an intent that is illegal, dishonest or fraudulent or failing to act in order to receive an advantage or reward whether financial or otherwise, personally or for another person, group or organisation, or exercising a legitimate discretion for improper reasons, or employing illegal means to achieve approved goals;

“police officer” means—

- (a) a member of the Police Service;
  - (b) a member of the Municipal Police Force, established under the Municipal Corporations Act, and
- Ch. 25:04.

- Ch. 15:03. (c) a member of the Special Reserve Police, established under the Special Reserve Police Act,  
at the material time;
- Ch. 15:01. “Police Service” means the Police Service established under section 4 of the Police Service Act;
- Sub. Leg. “serious police misconduct” means the commission of a disciplinary offence under the Police Service Regulations which the Authority considers to be so serious as to bring the Police Service into disrepute;
- “Service Commission” means a Service Commission established under the Constitution.

**PART II**

**THE POLICE COMPLAINTS AUTHORITY**

- Establishment of the Authority. **5.** (1) There is established a body to be known as the Police Complaints Authority.  
(2) The Authority shall be a corporate body.
- Membership of the Authority. **6.** (1) The Authority shall comprise a Director and a Deputy Director to be appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition.  
(2) In the event the Prime Minister and the Leader of the Opposition cannot agree on the joint advice, the President shall appoint the Director and the Deputy Director, after consultation with the Prime Minister and the Leader of the Opposition.
- Qualification of Director and Deputy Director. **7.** A person appointed by the President as Director or Deputy Director shall have at least ten years experience as an Attorney-at-law, and may be appointed from within the Commonwealth.
- Disqualification of Director and Deputy Director. **8.** No person is qualified to be appointed as Director or Deputy Director if that person—  
(a) is a member of—  
(i) the Senate;  
(ii) the House of Representatives;

- (iii) the Tobago House of Assembly;  
(iv) a Municipal Corporation; or  
(b) was at any time during the three years preceding appointment—  
(i) a member of the Senate;  
(ii) a member of the House of Representatives;  
(iii) a member of the Tobago House of Assembly;  
(iv) a member of a Municipal Corporation; or  
(v) a candidate for election to membership of the House of Representatives, the Tobago House of Assembly or a Municipal Corporation; or  
(c) is or was a police officer;  
(d) is an undischarged bankrupt;  
(e) has at any time had a record of a criminal conviction for any indictable or summary offence which carries a term of imprisonment of three or more months; or  
(f) has been dismissed from the Public Service.

**9.** (1) The appointment of a person as the Director or Deputy Director shall, subject to this Act, be for a period not less than three years, but not exceeding five years. Tenure of office.

(2) A person mentioned in subsection (1) is eligible for reappointment.

**10.** The first appointment of the Director and Deputy Director and every subsequent appointment shall be published by the Authority in the *Gazette*. Gazetting of membership.

**11.** Where the Director or Deputy Director is absent or unable to perform his duties, the President may, in accordance with sections 6 and 7 appoint another person to act in the place of the Director or Deputy Director. Acting appointment.

Revocation of appointment. **12.** The President, acting in his discretion, may revoke the appointment of a person as Director or Deputy Director where he is satisfied that the person—

- (a) has, without reasonable excuse, failed to carry out his prescribed duties for a continuous period of three months;
- (b) is unable to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misbehaviour; or
- (c) has become a person who would be disqualified for appointment pursuant to section 8.

Resignation. **13.** (1) The Director or Deputy Director may resign from his office, by instrument in writing addressed to the President.

(2) A resignation under this section takes effect from the date of receipt of the instrument of resignation by the President.

Remuneration. **14.** (1) The President shall determine the salary and allowances to be paid to the Director and Deputy Director.

(2) The salary and allowances of the Director and Deputy Director shall be a charge on the Consolidated Fund.

(3) The salary and allowances payable to the holder of an office to which subsection (1) applies and his other terms of service shall not be altered to his disadvantage after his appointment.

Location. **15.** (1) The Authority shall be located in the place provided for it by the Government and its address shall be immediately published in the *Gazette* and in two daily newspapers in circulation in Trinidad and Tobago and thereafter such publication shall be made annually.

(2) Where the address of the Authority is changed, the new address shall be published in accordance with subsection (1).

**16.** (1) The Authority shall be provided with adequate staff for the discharge of its functions. Staff.

(2) The Authority shall employ such members of staff as it requires for the performance of its functions on such terms and conditions as are agreed upon between the employee and the Authority.

(3) An officer in the Public Service may, with the approval of the Authority and the appropriate Service Commission, consent to be appointed on transfer to the service of the Authority upon terms and conditions no less favourable than those enjoyed by him in the Public Service.

(4) For the purpose of superannuation and pension rights, an officer shall, upon transfer, be treated as continuing in the Public Service.

(5) An officer in the Public Service may, with the approval of the Authority and the appropriate Service Commission, consent to be seconded to the service of the Authority.

(6) Part III of Chapter III of the Civil Service Regulations shall apply to an officer who is seconded to the Authority under subsection (5). Ch. 23:01.

**17.** The funds of the Authority shall consist of such monies as are appropriated to it by Parliament from time to time. Funding.

**18.** (1) The Authority shall keep an account of all its financial transactions in accordance with General Accounting Principles and Practices, and ensure that all payments out of the funds of the Authority are duly authorised. Auditing of accounts.

(2) The accounts of the Authority shall be audited annually by the Auditor General or by an auditor authorised by him for such purpose.

**19.** The Authority is not subject to the direction or control of any other person in the performance of its functions under section 21 and the exercise of its powers under section 22. Independence of the Authority.

Annual report. **20.** (1) The Authority shall, within three months of the end of each financial year, submit to the Minister in respect of the preceding financial year—

- (a) an annual report of its activities in the preceding financial year; and
- (b) a copy of the audited statement of accounts and such information relating to the operation of the Authority as the Minister may require.

(2) The Minister shall cause a copy of the annual report and audited statement to be laid in Parliament within three months of its receipt and if Parliament is not then in session, within twenty-eight days of the commencement of its next session.

(3) The Authority may on its own initiative or at the request of the Minister conduct an investigation and submit a special report to the Minister who shall cause it to be laid in Parliament in accordance with subsection (2).

### PART III

#### POWERS AND FUNCTIONS OF THE AUTHORITY

Functions of the Authority.

**21.** (1) The functions of the Authority are to—

- (a) investigate criminal offences involving police officers, police corruption and serious police misconduct;
- (b) undertake inquiries into, or audits of, any aspect of police activities for the purpose of ascertaining whether there is police corruption or serious police misconduct or circumstances that may be conducive to both;
- (c) monitor an investigation conducted by any person or authority in relation to any matter mentioned in paragraph (a) and to undertake audits of those investigations;
- (d) advise the Police Service and other public authorities on ways in which police corruption and serious police misconduct may be eliminated;

- (e) gather evidence that may be admissible in the prosecution of a person who is not a police officer for a criminal offence in relation to the Police Service and to furnish that evidence to the Director of Public Prosecutions, or where an authority outside the State is concerned, the Attorney General;
- (f) gather evidence that may be used in the investigation of serious police misconduct and furnish such evidence to the Commissioner or the Commission for appropriate action;
- (g) gather evidence that can be used in the prosecution of a police officer involved in a criminal offence and furnish such evidence to the Director of Public Prosecutions; or
- (h) perform any other functions that may be conferred on it by any other written law.

(2) Evidence referred to in subsection (1)(e) and (f) may be accompanied by any observation that the Authority thinks appropriate together with recommendations as to what action the Authority considers should be taken in relation to the evidence.

(3) If the Authority obtains any information in the course of an investigation under subsection (1) relating to the exercise of the function of a public body or authority, other than the Integrity Commission or Ombudsman, the Authority may furnish the information to the Minister responsible for the body or authority together with such recommendations relating to the exercise of the function of that body or authority as the Authority thinks appropriate.

(4) Notwithstanding any written law to the contrary, information and evidence obtained by the Authority in the performance of its function under this Act is confidential.

(5) Subsection (4) shall not apply if the information and evidence is required for proceedings under the Official Secrets Act, 1911, for perjury or contempt of the Authority.

Powers of the Authority.

Ch. 19:01.

**22.** (1) For the purpose of the performance of its functions and subject to this Act, the Authority has the powers of a commission of enquiry established under the Commissions of Enquiry Act as if it were a commission of enquiry for the purpose of that Act.

(2) Notwithstanding subsection (1), the Authority shall also have the power to require—

- (a) any person to produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public body or authority;
- (b) any person, within a specified time and in writing, to provide any information or to answer any question which the Authority considers necessary in connection with any investigation which the Authority is empowered to conduct under this Act; and
- (c) that any facts, matters or documents relating to a complaint, be verified or otherwise ascertained by oral examination of the person making the complaint.

(3) Notwithstanding subsection (1), where, in the course of an investigation, the Authority is satisfied that there is a need to expand its investigations, it may exercise the following powers:

- (a) require any person to furnish a statement in writing—
  - (i) enumerating all real or personal property belonging to or possessed by that person in Trinidad and Tobago or elsewhere, or held in trust for him, and specifying the date on which each property was acquired, the consideration paid and whether it was acquired by way of purchase, gift, inheritance or otherwise;

(ii) specifying any monies or other property acquired in Trinidad and Tobago or elsewhere or sent out of Trinidad and Tobago by him or on his behalf during a specified period;

- (b) require any person to furnish, notwithstanding any other law to the contrary, all information in his possession relating to the affairs of any person being investigated and to produce or furnish any document or copy of any document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information;
- (c) require the manager of any financial institution, in addition to furnishing information specified in paragraph (b), to furnish any information or certified copies of the accounts or the statement of accounts at the financial institution of the person being investigated.

(4) A person who fails or refuses to disclose any information or to produce any document under this section commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for five years.

**23.** In the performance of its functions, the Authority may, as it thinks appropriate—

- (a) work in co-operation or in consultation with; or
- (b) disseminate intelligence and information to,

any person or body, whether public or private.

**24.** The powers and functions of the Authority are exercisable by—

- (a) the Director or Deputy Director personally;
- (b) any person not being a police officer appointed by the Authority to conduct an investigation; or

Co-operation with any person or body.

Exercise of the functions of the Authority.

(c) any other person acting under and in accordance with the general or special instructions of either the Director or Deputy Director.

Power to appoint specialists.

**25.** The Authority may, on such terms and conditions as it thinks fit, engage any suitably qualified person to provide it with services and assistance in the exercise of its functions.

**PART IV**  
**INVESTIGATIONS**

Investigation on receipt of complaint.

**26.** The Authority may conduct an investigation on its own initiative or on the basis of a complaint made by a member of the public, a police officer, a public body or authority, or the appropriate unit or a disciplinary tribunal of the Police Service.

Limitation to make complaint.

**27.** (1) A complaint shall not be entertained under this Act unless it is made to the Authority not later than one year from the day on which the person making the complaint first had notice of the matter alleged in the complaint.

(2) The Authority may conduct an investigation pursuant to a complaint not made within the period prescribed in subsection (1) if it considers that there are special circumstances which make it proper to do so.

Making or continuing of complaint on behalf of complainant.

**28.** Where a person—

- (a) makes a complaint under this Act and dies;
- (b) makes a complaint and for any reason is unable to act for himself after making the complaint; or
- (c) could have made a complaint but died before doing so or is for any reason unable to act for himself,

the complaint may be made or continued by his personal representative, a member of his family or other individual suitable to represent him.

**29.** The Authority shall ensure that a permanent record of every complaint, the proceedings and the result of the investigation are maintained. Recording of complaint.

**30.** (1) The Authority may conduct a preliminary investigation to assist it to identify whether or not there is conduct to justify a more complete investigation under the Act, or refer it to the Director of Public Prosecutions, Commissioner or the Commission for further action. Preliminary investigation.

(2) The Authority may, in considering whether or not to conduct, continue or discontinue an investigation have regard to such matters as it thinks fit including whether or not in its view—

- (a) the subject matter of the investigation is trivial;
- (b) the conduct or matter concerned occurred at too remote a time to justify an investigation; or
- (c) the complaint is frivolous, vexatious or not made in good faith.

(3) Where the Authority has decided to refer a matter under subsection (1) or to discontinue a matter under subsection (2), the Authority shall, in writing, immediately inform the person who made the complaint of the decision taken and the reason for that decision.

**31.** (1) For the purpose of an investigation, the Authority may— Entry to public premises.

- (a) enter and inspect any premises occupied or used by a public body or authority in that capacity;
- (b) inspect any document or other thing in the premises; and
- (c) take copies of any document in the premises.

(2) A public body or authority shall make available to the Authority such facilities as are necessary to enable the powers conferred by this section to be exercised.

(3) Subsection (1) shall not apply where—

- (a) under any law an objection to production of the document or other thing may be upheld;

- (b) public interest may justify an objection to an inspection of the premises;
- (c) a public or local authority or public official acting in such capacity enjoys a privilege under any law; or
- (d) under any law, any duty of secrecy or other restriction on disclosure applies to a public authority or public official.

Entry to private premises.

**32.** (1) Where the Authority wishes to enter private premises in furtherance of an investigation it shall first get a search warrant from a Court.

(2) For the purpose of an investigation, the Authority may—

- (a) enter and inspect any premises occupied or used by a person;
- (b) inspect any document or other thing in the premises; and
- (c) take copies of any document in the premises.

(3) A person shall make available to the Authority such facilities as are necessary to enable the powers conferred by this section to be exercised.

Application to High Court.

**33.** The High Court may, on an application made by the Authority, make any order, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing this Act.

#### PART V HEARINGS

Hearings.

**34.** The Authority may hold hearings for the purpose of conducting an investigation.

Public and private hearings.

**35.** The Authority may hold its hearings in public or in private, or partly in public and partly in private as it considers appropriate.

**36.** (1) When conducting a hearing the Authority is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.

Evidence and procedure.

(2) The Authority is required to exercise its functions with as little formality and technicality as is possible.

(3) The Authority may require hearings to be conducted with as little emphasis on an adversarial approach as is possible and wherever possible, written submissions may be presented.

**37.** Where the subject matter of a complaint or an investigation is the subject matter of judicial proceedings, the Authority shall not commence or continue an investigation pending the final outcome of those proceedings.

Hearings in relation to judicial proceedings.

**38.** Where a person satisfies the Authority that he has a substantial or direct interest in the subject matter of a hearing, the Authority may authorise him to appear at the hearing or a specified part of the hearing.

Right of appearance of interested person.

**39.** (1) The Authority may allow a person giving evidence at a hearing to be represented by an Attorney-at-law.

Legal representation.

(2) The Authority may appoint an Attorney-at-law to assist it at a hearing.

**40.** (1) The Authority may summon a person to appear at a hearing at a time and place named in the summons—

Power to summon witnesses.

- (a) to give evidence; or
- (b) to produce such documents or other things as are referred to in the summons.

(2) The Authority may require a person appearing at a hearing to give evidence on oath or affirmation.

(3) A witness who has been summoned to attend before the Authority shall appear and report from day to day unless he is excused from attendance or until he is released from further attendance.

(4) No person shall be compelled for the purpose of an investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in judicial proceedings.

Examination and cross-examination of witness.

**41.** (1) A person authorised or required to appear at a hearing or his Attorney-at-law may, with the leave of the Authority, examine or cross-examine any witness on any matter that the Authority considers relevant.

(2) An Attorney-at-law appointed by the Authority to assist it may examine or cross-examine any witness on any matter that the Authority considers relevant.

(3) A witness examined or cross-examined under this section has the same protection and is subject to the same liabilities as a witness in judicial proceedings.

Legal assistance for witnesses.

**42.** (1) A witness who appears or is about to appear before the Authority may apply for legal assistance.

(2) The Authority may approve the grant of legal assistance to the applicant if it is satisfied that this is appropriate, having regard to—

- (a) any injustice to the witness if assistance is declined;
- (b) the significance of the evidence that the witness is giving or appears likely to give; and
- (c) any other relevant matter.

Financial assistance for witnesses.

**43.** (1) Subject to subsection (2), a witness who appears before the Authority may be paid such reasonable expenses as may be determined by the Authority.

(2) The Authority may pay such reasonable expenses to a witness if it is satisfied that this is appropriate, having regard to—

- (a) the prospect of hardship to the witness if assistance is declined; and
- (b) any other relevant matter.

**44.** (1) Upon the conclusion of an investigation, the Authority shall make an assessment and form an opinion as to whether or not the subject matter of a complaint—

Conclusion of investigation.

- (a) has or may have occurred;
- (b) is or may be occurring;
- (c) is or may be about to occur; or
- (d) is likely to occur.

(2) The Authority may, based on its assessment or opinion under subsection (1), recommend whether consideration should be given to prosecute any person for a criminal offence or invoke disciplinary proceedings against any person, and make recommendations for the taking of any other action that the Authority considers appropriate.

(3) The Authority shall, in writing, immediately inform the person who made the complaint and the police officer concerned of the action taken and the reasons for such action.

#### PART VI

#### MISCELLANEOUS PROVISIONS

**45.** (1) A person who—

Contempt of the Authority.

- (a) having been served with a summons to attend before the Authority as a witness, fails to attend;
- (b) is a witness and who departs from a hearing without the authority of the person holding the hearing;
- (c) having been served with a summons to produce any document or other thing in his custody or control, fails to do so;
- (d) being called or examined as a witness before the Authority, refuses to be sworn or to make an affirmation or refuses or otherwise fails to answer any question put to him;
- (e) misbehaves before the Authority;
- (f) interrupts the proceedings of the Authority;

- (g) obstructs or attempts to obstruct the Director, a Deputy Director or a person acting with the authority of the Authority in the exercise of any lawful function;
- (h) publishes or discloses, or permits or allows to be published or disclosed, any evidence given before the Authority or any of the contents of a document produced at a hearing which the Authority has ordered not to be published or disclosed; or
- (i) does any other thing that, if the Authority were a Court, would be contempt of Court,

commits a contempt of the Authority.

(2) Subsection (1)(h) does not apply to an officer of the Authority in the lawful performance of his functions.

Punishment of contempt.

**46.** (1) A contempt of the Authority may be dealt with in accordance with this section.

(2) The Director may present to the High Court, a certificate setting out the details which the Director considers constitute the contempt.

(3) Where an offence is certified under subsection (2), the Court may inquire into the matter and after hearing any witness who may be produced against or on behalf of the person charged for the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the Court could deal with him if he had committed the like offence in relation to the Court.

(4) Where a person is punished under this section, he is not relieved from complying with a summons issued by the Authority, and the Authority may enforce his attendance by a warrant.

(5) A person is not liable to be punished for contempt of the Authority if he establishes that there was a reasonable excuse for the act or omission concerned.

**47.** A person who— Offences.

- (a) obstructs an officer or member of staff of the Authority in the exercise of the functions or powers of the Authority;
- (b) procures false testimony of a witness;
- (c) knowingly gives false or misleading evidence at a hearing;
- (d) bribes a witness;
- (e) in any way causes a disadvantage to a person because that person appeared as a witness before the Authority;
- (f) impersonates an officer or member of staff of the Authority;
- (g) assaults an officer or member of staff of the Authority in the performance of his functions;
- (h) without lawful justification or excuse—
  - (i) hinders or resists the Authority or any other person in the discharge of functions under this Act;
  - (ii) fails to comply with any lawful requirement of the Authority or any other person under this Act; or
  - (iii) discloses confidential information;
- (i) knowingly misleads the Authority or an officer of the Authority by giving false information; or
- (j) knowingly makes or causes to be made, a false complaint,

commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for five years.

**48.** (1) Subject to subsection (2), nothing in this Act prevents or affects the exercise of the functions and powers of the Commission and the Commissioner under any law.

Effect of Act on the powers of the Commission and the Commissioner.

(2) Where the Commission or the Commissioner receives information or a complaint in relation to any of the

matters mentioned in section 21(1)(a), the Commission or the Commissioner shall immediately inform the Authority of the investigation in writing and the Authority shall have the sole responsibility for dealing with those matters.

Liability for proceedings.

**49.** (1) Subject to subsection (2), no matter or thing done by the Authority or any member of or any person acting under the authority of the Authority shall, if the matter or thing was done in good faith for the purpose of giving effect to the purpose of this Act or any other written law, subject the member or person so acting personally to any action, liability, claim or demand.

(2) In proceedings for defamation in relation to any hearing or other matter connected with the exercise of the functions of the Authority under this Act, there is a defence of absolute privilege for a publication to or by the Authority or an officer of the Authority as such officer.

Regulations.

**50.** The Minister may make Regulations to give effect to the purpose of this Act.

Transitional.

**51.** (1) Where before the date of commencement of this Act any complaint has been received or matter commenced by or under the authority of the Police Complaints Authority or the Police Service under the Police Complaints Authority Act, (repealed by this Act and hereinafter referred to as "the former Authority"), that complaint, matter or thing shall be dealt with and completed by the Authority as if it were received or commenced under this Act.

17 of 1993.

(2) Members of the Police Complaints Authority appointed under the former Authority shall continue in office in accordance with their respective instruments of appointment subject to the provisions of termination and removal under this Act.

(3) Any arrangement, contract, or document prepared, made or executed by or on behalf of the former Authority shall continue and is deemed to have been prepared, made or executed by the Authority pursuant to this Act.

(4) All rights, obligations and liabilities of the former Authority immediately before the date of commencement of this Act are, from that date, deemed to be the rights, obligations and liabilities of the Authority.

(5) In any written law and in any document, unless the context otherwise requires, any reference to the former Authority shall be construed as a reference to the Authority.

(6) Any monies standing to the account of the former Authority in any financial institution shall vest in and belong to the Authority from the date of commencement of this Act.

**52.** The Police Complaints Authority Act, 1993 is repealed. Repeal. 17 of 1993.

**\*53.** { *This section has been omitted as it applies to an amendment to another Act which has been included therein.*

\*See Note on page 2.



REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 12 of 2011**

[L.S.]

AN ACT to amend certain enactments to provide  
for the vesting of functions and powers in the  
Minister of Justice

*[Assented to 7th June, 2011]*

ENACTED by the Parliament of Trinidad and Tobago as Enactment  
follows:

1. This Act may be cited as the Short title  
Miscellaneous Provisions (Ministry of Justice) Act, 2011.

Chap. 5:31 amended

2. The Criminal Injuries Compensation Act is amended in section 3, by deleting the definition of “Minister” and substituting the following definition:

“ “Minister” means the Minister to whom responsibility for the Criminal Injuries Compensation Board is assigned and “Ministry” has the corresponding meaning;”.

Chap. 5:33 amended

3. The Justice Protection Act is amended in section 3, by deleting the definition of “Minister” and substituting the following definition:

“ “Minister” means the Minister to whom responsibility for the Justice Protection Programme is assigned;”.

Chap. 5:34 amended

4. The Deoxyribonucleic Acid (DNA) Act is amended in section 4, by deleting the definition of “Minister” and substituting the following definition:

“ “Minister” means the Minister to whom responsibility for DNA services under this Act is assigned;”.

Chap. 13:06 amended

5. The Community Service Orders Act is amended in section 2, by deleting the definition of “Minister” and substituting the following definition:

“ “Minister” means the Minister to whom responsibility for administering community service under this Act is assigned;”.

Chap. 15:05 amended

6. The Police Complaints Authority Act is amended in section 4, by deleting the definition of “Minister” and substituting the following definition:

“ “Minister” means the Minister to whom responsibility for the Police Complaints Authority is assigned;”.

Passed in the House of Representatives this 4th day of February, 2011.

*Clerk of the House*

Passed in the Senate this 31st day of May, 2011.

*Clerk of the Senate*







For additional copies of this report, please write to:

The Communications Unit  
The Police Complaints Authority  
Level 24, Tower D  
The International Waterfront Centre  
1A Wrightson Road  
Port of Spain