



PARLIAMENT

REPUBLIC OF TRINIDAD AND TOBAGO

THIRD SESSION OF THE ELEVENTH PARLIAMENT (2017/2018)

**REPORT OF
THE SPECIAL SELECT COMMITTEE
ESTABLISHED TO CONSIDER AND REPORT ON THE
PROCESS FOLLOWED IN RELATION TO THE NOTIFICATIONS
PURSUANT TO SECTION 123 OF THE CONSTITUTION**

Ordered to be printed

TOGETHER WITH THE MINUTES OF PROCEEDINGS

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1. COMMITTEE MANDATE AND ESTABLISHMENT

- 1.1 At a sitting of the House of Representatives held on Friday February 02, 2018, a Special Select Committee was established by the House of Representatives (House) to consider and report on the process followed in relation to the Notifications pursuant to Section 123 of the Constitution which are now before the House.
- 1.2 The Committee was established in accordance with Standing Orders 95 and 96 of the House of Representatives, with a composition that reflects the “balance of parties in the House”.
- 1.3 As agreed to by the House, the mandate of the Committee is to:
 - a. obtain information, documentation and/or evidence relevant to and/or touching and concerning the method, process, criterion and considerations utilized by the Police Service Commission and/or the Firm employed by the Police Service Commission in the selection of candidates for the position of Commissioner of Police and Deputy Commissioner of Police to enable the House of Representatives to consider the Notifications submitted to it by His Excellency, the President pursuant to Section 123 of the Constitution; and
 - b. report by March 31, 2018.
- 1.4 The following Members were appointed to serve on the Special Select Committee:

• Mr. Fitzgerald Hinds	Member
• Mr. Randall Mitchell	Member
• Ms Nicole Olivierre	Member
• Mr. Terrence Deyalsingh	Member
• Mr. Ganga Singh	Member
• Dr. Roodal Moonilal	Member
- 1.5 At its first meeting held on Friday February 16, 2018, your Committee elected Mr. Fitzgerald Hinds to be its Chairman in accordance with Standing Order 96(4) of the House of Representatives and Standing Order 86(3) of the Senate.
- 1.6 On Wednesday March 28, 2018, the Committee presented an interim Report to the House which detailed the work completed to that date. The Report requested a four week extension, which was granted.

- 1.7 The Committee held Nine (9) meetings, over the period February 16, 2018 to April 26, 2018.

POWERS OF THE COMMITTEE

- 1.8 By Standing Order 111 of the House of Representatives the Committee has the power, inter alia:
- a. to send for persons, papers and records;
 - b. to sit notwithstanding any adjournment of the House;
 - c. to adjourn from place to place;
 - d. to report from time to time;
 - e. to appoint specialist advisers either to supply information which is not otherwise readily available, or to elucidate matters of complexity within the Committee's order of reference;
 - f. to communicate with any other Committee on matters of common interest; and
 - g. to meet concurrently with any other Committee for the purpose of deliberating, taking evidence or considering draft reports.

Secretariat Support

The following officers were assigned to assist the Committee:

- Mrs. Jacqui Sampson-Meiguel Secretary
- Ms. Keiba Jacobs Assistant Secretary
- Ms. Kimberly Mitchell Assistant Secretary
- Mrs. Delrene Liverpool-Young Legal Officer I
- Ms. Candice Ramkissoo Legal Research Officer
- Ms. Krystle Gittens Graduate Research Assistant

Independent Human Resource Technical Advisor

- Ms. Catherine Hughes HRM Consultant

ACRONYMS AND ABBREVIATIONS

Abbreviation	Term
PSC	Police Service Commission
COP	Commissioner of Police
DCOP	Deputy Commissioner of Police
PCA	Police Complaints Authority
The Firm	KPMG
RPF	Request for Proposal
TOR	Terms of Reference
The Order	L.N. 218 of 2015

LIST OF APPENDICES

Abbreviation	Term
Appendix I	The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2015
Appendix II	Flow Chart based on process outlined in the Order
Appendix III	Judgment of Mr. Justice Peter A. Rajkumar in Harridath Maharaj v The AG
Appendix IV	Motion to Establish a Special Select Committee
Appendix V	Correspondence Sent and Received
File I	Correspondence Sent by the Committee

File II	Correspondence Received by the Committee (including all documentation utilized in the selection process)
Appendix VI	Job description for COP and DCOP
Appendix VII	Minutes of the meetings during which the public hearings were held
Appendix VIII	Verbatim of the meetings during which the public hearings were held

2. INTRODUCTION

Background

- 2.1 The responsibility for the appointment of a Commissioner of Police lies exclusively with the Police Service Commission (PSC). According to Section 123 (1) of the Constitution of the Republic of Trinidad and Tobago, the PSC is empowered to appoint the Commissioner and Deputy Commissioners of Police (through a selective process determined by Parliament).¹
- 2.2 The PSC is an independent body established under Section 122 (1) and was developed to manage the monitoring, appointments, disciplinary, and appeal functions of the Police Service. The PSC consists of a Chairman and four (4) other members, appointed by the President after consultation with the Prime Minister and Leader of the Opposition.
- 2.3 Section 123 (1) lists the power of the PSC including the power to appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police.
- 2.4 Section 123 (2) provides that the PSC shall nominate persons for appointment to the offices specified in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament.
- 2.5 The relevant existing Orders are:
 - i. The Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2015; and
 - ii. The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2015 (See **Appendix I**).

¹ Role, Responsibility And Composition Of The Police Service Commission,
<http://www.scd.org.tt/index.php/en/the-service-commissions/171-police-service-commission-polsec/141-police-service-commission> Accessed April 18, 2018

Previous Assessment Exercises for the Appointment of Commissioner and Deputy Commissioner of Police

- 2.6 The Committee discovered that there were previous assessment exercises for the appointment of a Commissioner and Deputy Commissioner of Police, including:

Period	Assessors	Cost (\$TT)	COP Nomination	DCOP Nomination
2007/2008	Penn State	\$2,276,927.06	Mr. Stephen Williams	N/A
2008/2009	NIPDEC	\$4,734,355.10	Mr. Dwayne Gibbs	Mr. Jack Ewatski

Motion to Establish a Special Select Committee

- 2.7 At a sitting of the House of Representatives held on February 02, 2018, the debate on the Motion to *"Approve the Notification of the President of the nomination by the PSC of Mr. Deodat Dulalchan to the office of Commissioner of Police²"* was *"adjourned to a later date to enable a Special Select Committee to obtain further information that may be necessary³"* to assist the House with its debate". **(See Appendix III)**
- 2.8 The House subsequently established the Committee with the mandate as set out in paragraph 1.3 (a) above.

² 20180202, Unrevised House Debate - Friday February 2, 2018 - 1:30 p.m.
<http://www.ttparliament.org/hansards/hh20180202.pdf> Accessed April 19, 2018

³ 20180202, Unrevised House Debate - Friday February 2, 2018 - 1:30 p.m.
<http://www.ttparliament.org/hansards/hh20180202.pdf> Accessed April 19, 2018

3. AN INQUIRY INTO THE PROCESS FOLLOWED IN RELATION TO THE NOTIFICATIONS PURSUANT TO SECTION 123 OF THE CONSTITUTION

Conduct of the Inquiry

3.1 During the period February 23, 2018 to April 17, 2018, the Committee conducted public hearings with the following **(See Table 1 below for details)**:

- The Former Chairman of the PSC;
- Members of the PSC;
- The Director of Personnel Administration (Ag.);
- Officials of the Service Commissions Department;
- Officials of KPMG; and
- Officials of the Police Complaints Authority.

Table 1
Persons who appeared and provided oral evidence

Name of Official	Portfolio	Organization
2nd Meeting – Friday February 23, 2018		
Dr. Maria Therese-Gomes	Former Chairman	PSC
Mr. Dinanath Ramkissoon	Member	PSC
Commodore Anthony Stafford Franklin	Member	PSC
Mr. Martin Anthony George	Member	PSC
Ms. Prabhawatie Maraj	Director of Personnel Administration (Ag.)	Service Commissions Department
Mrs. Marcia Pile O’Brady	Deputy Director of Personnel Administration	Service Commissions Department
Ms. Natasha Seecharan	Legal Adviser	Service Commissions Department
Ms. Kavita Jodhan	Senior State Counsel	Service Commissions Department

3rd Meeting – Friday March 6, 2018		
Dr. Maria Therese-Gomes	Former Chairman	
Mr. Dinanath Ramkissoo	Member	PSC
Commodore Anthony Stafford Franklin	Member	PSC
Mr. Martin Anthony George	Member	PSC
Ms. Prabhawatie Maraj	Director of Personnel Administration (Ag.)	Service Commissions Department
Mrs. Marcia Pile O’Brady	Deputy Director of Personnel Administration	Service Commissions Department
Ms. Natasha Seecharan	Legal Adviser	Service Commissions Department
Ms. Kavita Jodhan	Senior State Counsel	Service Commissions Department
Mr. Dushyant Sookram	Managing Partner, KPMG	KPMG
Ms. Abigail De Freitas	Partner, KPMG – Advisory Services Department	KPMG
5th Meeting – Monday April 9, 2018		
Mr. David West	Director	PCA
Mrs. Michelle Solomon-Baksh	Deputy Director	PCA
6th Meeting – Tuesday April 17, 2018		
Dr. Maria Therese-Gomes	Former Chairman	PSC

Ms. Bliss Seepersad	Chairman	PSC
Mr. Dinanath Ramkissoo	Member	PSC
Ms. Prabhawatie Maraj	Director of Personnel Administration (Ag.)	Service Commissions Department
Ms. Margaret Morales	Deputy Director of Personnel Administration (Ag.)	Service Commissions Department
Ms. Natasha Seecharan	Legal Adviser	Service Commissions Department
Ms. Kavita Jodhan	Senior State Counsel	Service Commissions Department
Ms. Allyson Coryat	Executive Director, Human Resource Management (Ag.)	Service Commissions Department
Mr. Dushyant Sookram	Managing Partner	KPMG
Ms. Abigail De Freitas	Partner, Advisory Services Department	KPMG

- 3.2 The Minutes of the meetings during which the public hearings were held are attached at **Appendix VIII** and the Verbatim Notes at **Appendix IX**.
- 3.3 Oral and written submissions received from the entities appearing before the Committee provided the frame of reference for the questions posed at hearings.
- 3.4 Correspondence sent to the entities by the Committee, inclusive of all information requested, is contained at **File I of Appendix V**
- 3.5 The Committee received the following written submissions in response to its calls for information set out in File I of Appendix V. (**See File II of Appendix V**):
- i. By letter dated **February 20, 2018** from the Director of Personnel Administration (Ag.):

- a. documentation regarding the firm contracted (paragraph 3 of LN 218/2015) – **(TAB 1)**
 - i. name of the Firm;
 - ii. mandate given to the Firm by the Commission; and
 - iii. terms of the contract entered into between the Firm and the Commission
 - b. benchmark/guidelines used by the Firm in relation to the best practice security vetting and recent professional vetting; **(TAB 2)**
 - c. results of the Firm’s assessment process as mandated and contracted by the Commission; **(TAB 6)**
 - d. the Firm’s report on the assessment of the entire process; **(TAB 3)**
 - e. list of all applicants received by the Firm; **(TAB 4)**
 - f. assessor’s scores on the applicants; **(TAB 7)**
 - g. assessor’s feedback on the applicants; **(TAB 7)**
 - h. security and professional vetting report on the applicants; **(TAB 5)**
 - i. information used by the Commission in accordance with Section 3(d) of LN 218/2015 to arrive at the Order of Merit List;
 - j. Order of Merit list established by the Commission; **(TAB 8)**
 - k. grades awarded to each applicant on the Order of Merit List.
- ii. By letter dated **February 22, 2018** from the Director of Personnel Administration (Ag.), responses to the following: **(TAB 9)**
 - a. whether there exists a list of grades awarded to each applicant on the Order of Merit List;
 - b. if yes, who has custody of the list and who ought to have custody of the list; and
 - c. who has possession of records that will indicate the information used by the Commission in accordance with Section 3(d) of Legal Notice 218/2015 to arrive at the Order of Merit List?
- iii. By letter dated **March 1, 2018** from the Director of Personnel Administration (Ag.):
 - a. Legal Advice from Senior Counsel dated 22nd January, 2018 “*Re: Recruitment and selection of offices of Commissioner of Police and Deputy Commissioner of Police*”; **(TAB 10)** and
 - b. Legal Advice from Senior Counsel dated 20th July, 2016 “ *Re: Ex Parte: The Police Service Commission – Appointment of Commissioner of Police and Deputy Commissioner of Police.*” **(TAB 11)**

- iv. By letter dated **March 9, 2018** from the Director of Personnel Administration (Ag.), responses to the following: **(TAB 12)**
- a. Details related to the mathematical formula utilised by the Police Service Commission (PSC) to grade candidates for the purpose of the establishment of the Order of Merit List, namely –
 - i. The precise equation/formula used to arrive at the grades;
 - ii. The origin of this formula; and
 - iii. The rationale for the use of this formula.
 - b. The specific Legal Opinion of Senior Counsel that conveyed advice, upon which the Commission acted, that the PSC had a responsibility or a duty to play a direct role in the assessment stage of the recruitment process; and
 - c. The standard operating procedures followed by the PSC in treating with recommendations of the Police Complaints Authority to institute disciplinary proceedings against an office holder.
- v. By letter dated **March 26, 2018** from the Director of Personnel Administration (Ag.), responses to the following **(TAB 13)**:
- a. What specific deficiencies were identified by the Police Service Commission (*hereinafter referred to as "the Commission"*) in the security and professional vetting process undertaken by KPMG, which resulted in the Commission conducting further security and professional vetting of candidates?
 - b. The list of agencies from which information was sought/received by the Commission pursuant to its decision to obtain further security and professional vetting of candidates.
 - c. Did the Commission conduct further security and professional vetting on all candidates?
 - d. If no, kindly identify:
 - i. The candidates who were subjected to further security and professional vetting; and
 - ii. Please advise why these specific candidates were identified as requiring further security and professional vetting.
 - e. Did polygraph testing form part of KPMG's Assessment Centre activities?

- f. The name of the Attorney at Law who provided legal advice to the Commission on the issue of "*The Recruitment and Selection of Offices of the Commissioner of Police and Deputy Commissioner of Police*," dated **January 22, 2018** and submitted to this Committee via letter dated **March 1, 2018** and whether this Attorney has attained the designation of Senior Counsel.
- vi. Statement by the Police Complaints Authority re Material provided to the SSC, by letter dated **April 19, 2018** from the Director of the PCA. **(TAB 14)**
- vii. By letter dated **April 23, 2018** from KPMG, the following **(TAB 15)**:
 - a. the documented policy utilized for addressing issues of potential bias during the assessment stages of the recruitment process; and
 - b. outline of the content and other documentation relevant to the training of assessors for the purpose for their participation in the assessment stages of the recruitment process.
- viii. By letter dated **April 24, 2018** from PSC, the following **(TAB 16)**:
 - a. Legal Advice from the Department's Senior State Counsel dated 2nd January, 2018 **(Re: Letter dated 27th December, 2017 from the Police Complaint Authority (PCA) based on a letter of complaint by ... dated 19th September, 2011)**
 - b. Appendix A **(Re: High Court Action No. S-1301 of 2005 Paula Barrimond and the Public Service Commission)**
 - c. Appendix B **(Re: High Court Action No. 1001 of 2004 Anthony Leach and the Public Service Commission)**
- ix. By letter dated **April 26, 2018** the Director of Personnel Administration (Ag.), responses to the following **(TAB 17)**:
 - a. the names of the assessors/commissioners who participated in the role-fit activity;
 - b. how the scores were determined; and
 - c. the minimum score across each of the exercises.
- x. Unsolicited Submissions **(TAB 18)**

Preliminary Points That Arose During the Deliberations of the Special Select Committee

Preliminary Point	Details
A. Legal Notice 218 of 2015 (L.N. 218)	▪ L.N. 218 was made by the President on December 14, 2015 under Section 123(2) of the Constitution and was subject to the Negative Resolution of Parliament. Section 123 (2) states that <i>"The Police Service Commission shall nominate persons for appointment to the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament"</i>. ▪ The subject of L.N. 218 is the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2015 (the Order), which establishes the selection process for appointment of persons to the offices of Commissioner of Police and Deputy Commissioner of Police. ▪ According to Paragraph 3 of the Order as it stands now, the selection process must be carried out in the following manner: ○ The PSC shall contract a local Firm to conduct a recruitment process and to ensure that the candidates are subject to the best practice security and recent professional vetting ○ Once this assessment process has concluded, The Firm must submit to the PSC certain documents including the results of the process, a report of its assessment of the process, and information regarding the candidates such as their application, resume, assessor's scores and feedback, medical examination report and security and professional vetting report. ○ Upon receipt of these documents submitted by The Firm, the PSC must take into account all the information provided on the candidates and thereafter establish an Order of Merit List. ○ After the Order of Merit list is established, the PSC must then submit a list of the names of the persons nominated for appointment to the President in accordance with the procedure set out in Section 123 of the Constitution.

	▪ To assist the Committee with the contents of the Order as it stands now, a PowerPoint Presentation was prepared and presented at the Committee's First Meeting held on Friday February 16, 2018.
B. Whether the PSC was Properly Constituted.	▪ At the First Meeting of the Committee, Members raised the widely discussed issue of the validity of the current composition of the PSC. ▪ The issues to be considered were: ✓ Was the PSC properly constituted when it made its recommendations for the Commissioner and Deputy Commissioner? ✓ If the PSC was not properly constituted, what legal consequence arise (if any)? ▪ By legal opinion dated February 20, 2018, the Legal Unit of the Office of the Parliament advised that the PSC did not have the required number of Members as mandated by Section 122 of the Constitution, that number being five (5) inclusive of a Chairman. Notwithstanding this, the PSC can in fact conduct the business of the Commission, with fewer than five (5) Members, given that the PSC is quorate with three (3) Members by virtue of Section 129 (2) of the Constitution. Therefore, until a fifth member is appointed the PSC may lawfully conduct its business once it is quorate.
C. The reasons given for the request by the DPA (Ag.) that certain information be treated as strictly confidential .	▪ By letter to the Committee dated February 20, 2018 the DPA (Ag.) requested that the following information be kept as confidential while in the possession of the Committee and further, during its public hearings: ○ The results of the Firm's assessment process as mandated and contracted by the Commission; ○ The assessor's scores on the applicants; ○ The assessor's feedback on the applicants; and ○ The Order of Merit List. ▪ The reasons cited for this request were that the disclosure of such private and personal information regarding the applicants may raise serious breach of confidentiality issues and further, that the disclosure of the Order of Merit List may be contrary to L.N. 218. ▪ The Committee agreed that the details relating to candidates and particularly, the Order of Merit List was to be treated as confidential. The Committee further agreed that as far as possible candidates for the post of Commissioner or Deputy Commissioner of Police were not to be referred to by name

	and adopted a code to be utilized when referring to such candidates.
D. The judgment of Mr. Justice Peter A. Rajkumar in <i>Harridath Maharaj v The AG</i>	▪ In <i>Harridath Maharaj v AG</i> the claimant sought a determination of the following questions: ○ Whether the Original Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order 2015 infringed the constitutional jurisdiction of PSC; ○ Whether the Original 2015 Order was illegal and unconstitutional in so far as it mandated that the PSC 'shall' act in accordance with the Central (Tenders) Board Act, Chap. 71:91 (the "CTB Act"); ○ Whether the Original 2015 Order was an unjustifiable and unlawful fetter and interference with the independence, jurisdiction, power, role and function of the PSC; ○ Whether the Original 2015 Order was ultra vires the CTB Act on the point of the PSC not being a part of the "government" under the Act; and ○ Whether the Original 2015 Order was ultra vires the CTB Act, in that Section 20A (1) (c) is only applicable to "the supply of articles or for the undertaking of works or services in connection therewith". ▪ With Justice Rajkumar delivering the judgment, the following was concluded: ○ The amendment to the Constitution in 2006 did not remove the Police Service Commission's independence or autonomy in relation to appointments to the offices of Commissioner of Police and Deputy Commissioner of Police. ○ The Original 2015 Order, providing as it did for a role for the Minister in triggering the recruitment process is ultra vires the Constitution and that provision must be struck out. ○ The Original 2015 Order, providing as it did, that the PSC shall act in accordance with Section 20A (1)(c) of the CTB Act is ultra vires the Constitution and that provision must be struck out. ○ To the extent that the Original 2015 Order failed to recognise or give effect to the Police Service Commission's independence and autonomy in relation to appointments to the offices of Commissioner of Police and Deputy Commissioner of Police, it is an unlawful fetter upon and interference with the independence, jurisdiction, and functions of the PSC. To the extent that those aspects of the Original 2015 Order are ultra vires the Constitution they must be struck out [and were so struck out].

	▪ According to correspondence from the DPA (Ag.) dated March 9, 2018, the following parts of the judgment were followed specifically: ○ <u>Para. 93</u>: <i>"The Commission must, in order to a) retain its constitutionally recognised and mandated independence, and b) retain its constitutionally recognised and mandated power to appoint a Commissioner and Deputy Commissioner, be free to use a firm of its own choosing, or even free not to utilise such a firm if it so chooses."</i>; ○ <u>Para. 102 (i)</u>: <i>"The amendment to the Constitution in 2006 did not remove the Police Service Commission's independence or autonomy in relation to appointments to the offices of Commissioner of Police and Deputy Commissioner of Police."</i>; and ○ <u>Para 103</u>: <i>"Following upon the striking out of those portions of the 2015 Order as declared to be ultra vires the Constitution and unconstitutional as identified below, in relation to paragraph 3(d) of the 2015 Order, the words "AS MANDATED AND CONTRACTED BY THE COMMISSION" may be implied after the words "assessment process" as this would be consistent with the remaining, constitutional, portions of the Order and the Constitution, as set out hereunder. The reading of the above words into the provision:- c. would recognise that, should the Commission contract a firm, as it is free to do, or not to do, as it chooses, it may provide, by its contract with that Firm, the extent of the material it wishes to be supplied to it by that firm. Any such firm can only be a tool of the Commission, and cannot exercise any independent discretion to the exclusion of the Commission, except as expressly authorised, mandated, and contracted by the Commission. Paragraph 3(d) of the 2015 Order could therefore be read, consistently with the Constitution, as follows:-</i> <i>The Firm shall submit to the Commission:-</i> (ii) <i>the results of its assessment process AS MANDATED AND CONTRACTED BY THE COMMISSION".</i>
E. Whether the direct involvement of the PSC in the Assessment Process	▪ The PSC stated that their involvement in the assessment process was based on legal opinion obtained, particularly: ○ Legal Opinion dated July 20, 2016 entitled "Ex Parte: The Police Service Commission – The Appointment of Commissioner and Deputy Commissioner Process" which was obtained by the Committee via correspondence dated March 3, 2018; and

was contrary to L.N. 218.	○ Legal Advice by Senior Counsel obtained orally.
F. Whether the PSC ought to have considered the Recommendation of the PCA to institute disciplinary action against a particular Candidate.	▪ By written submission dated March 01, 2018 from the DPA (Ag.), the Committee obtained the Legal Opinion dated January 22, 2018 entitled "Re: Recruitment and Selection of Offices of Commissioner of Police and Deputy Commissioner of Police", which was used by the PSC to inform their decision on this matter. In the document, Senior Counsel opined that recommendations from the PCA <i>"does not debar or disqualify"</i> candidates from the selection process however, it was noted that <i>"the information in the possession of the Commission (like all information on the candidates which the Commission is required to take into account by Clause 3(e) of the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order may, if the Commission decides, impact on the Order of Merit List"</i>.
G. The use of one Job Competency Model for both Offices of COP and DCOP.	▪ The process of contracting The Firm included: ○ A tendering process which was embarked upon by the PSC by way of a Request for Proposals (RFP) dated October, 2016. The RFP stated that <i>"the Chairman of the Police Service Commission (the Commission) is inviting local firms to submit proposals for the provision of services for the recruitment process for the offices of Commissioner of Police and Deputy Commissioner of Police for the Trinidad and Tobago Police Service"</i> and it contained a scope of services, general conditions, terms of reference, job specifications for the positions of COP and DCOP to be used by the Firm in their advertisement of the respective positions, a form of tender etc. The Firm that was awarded the tender was contracted by the Director of Personnel Administration (DPA) on behalf of the PSC. ○ The Firm's package of Proposals which are also annexed to the contract consisted of: i. A financial proposal dated March 16, 2017 which contained set of costs regarding the assessment process for both offices of COP and DCOP; ii. A technical proposal dated March 16, 2017 which contained the approach of The Firm, timelines, The Firm's experience and credentials, resumes etc.

	i. A proposal dated April 18, 2017 which was stated to be addendum to the technical proposal and which contained the overall approach to be taken by The Firm and a methodology and work plan which included the tasks and deliverables such as developing <i>"a Job Competency Framework with assessment evaluation criteria and related weights based on the requirements of the position as specified in Legal Notice 219 and the job competency model. The job competency framework will be discussed and submitted to the Police Service Commission for review and approval"</i> - o The Contract between The Firm and the DPA for the sum of Three Million, Two Hundred and Fourteen Thousand, Seven Hundred and Eight Dollars (\$3,214,708.00). The Contract comprises the following documents: i. The Request for Proposals (Appendix A to the Contract) which contains the Terms of Reference attached as an appendix; ii. The Firm's Proposals (Appendix B to the Contract); and iii. The Letter of Award (Appendix C to the Contract). ▪ The Selection Process Assessment Report done by The Firm dated December 21, 2017 outlined the Leadership Competency Framework. The Leadership Competency Framework as designed by The Firm was specifically utilized to: <i>"1. Provide tools for the uniform assessment of the preliminary screening processes, combined with the eligibility requirements as provided in Legal Notice 219</i> <i>2. Evaluate each assessment activity against the competency being assessed</i> <i>3. Ensure that the job competency model and the required competencies outlined therein are being fully evaluated by the assessment centre activities</i> <i>4. Aid in consistent evaluation of the elements of the competency model throughout the assessment process"</i>
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4. SUMMARY OF THE STAGES OF THE RECRUITMENT AND SELECTION PROCESS AND THE COMMITTEE'S OBSERVATIONS ON THE METHOD, PROCESS AND CRITERIA FOLLOWED BY THE PSC.

- 4.1 **The Committee considers that the PSC participated in the assessment stage of the recruitment process, being of the view that they should own the process.**
- 4.2 The following table summarises the process for selection of a Commissioner and Deputy Commissioner of Police (pursuant to L.N. 218/2015) and key observations made by the Committee.

STAGE	DETAILS OF THE PROCESS
Preliminary Stage - Application	Fifty-four (54) applications were received by The Firm. Fifty (50) were deemed eligible and four (4) were deemed ineligible since they did not satisfy the basic qualification requirements outlined in Legal Notice 219 of 2015. Of the fifty (50) eligible applications, twenty (20) candidates applied for both the positions of Commissioner of Police (COP) and Deputy Commissioner of Police (DCOP). Twenty-six (26) candidates applied for the position of DCOP only and four (4) candidates applied for the position of COP only.
Preliminary Stage - Screening	Application forms and résumés were reviewed for suitability based on approved competency model by The Firm. The list of the applicants, their eligibility status and assessment against the preliminary screening criteria were submitted to the PSC for review.

	The PSC selected a list of twenty (20) candidates based on a passing grade of 60% in the Preliminary Stage Screening to undergo assessment for the two (2) positions ⁴ .
OBSERVATIONS	
1. According to the Managing Partner, The Firm, <i>"The leadership competency model was agreed to at the inception of the engagement by the Firm, KPMG, and the members of the Police Service Commission."</i>⁵ In The Firm's Request for Proposal (RFP) it was stated that The Firm <i>"...will develop a job competency framework with assessment evaluation criteria and related weights based on the requirements of the position as specified in LN 219 and the job competency model. The job competency model will be discussed with and submitted to the Police Service Commission for review and approval."</i>⁶ (See Job descriptions for the posts of COP and DCOP at Appendix VI) 2. The Committee noted however that in the 'Selection Process Assessment Report', reference was made to a 'Leadership Competency Framework' and a 'Leadership Competency Model'. During oral submissions on April 17, 2018, the Managing Partner at The Firm indicated that the job competency framework referred to in The Firm's Proposal was the same as the Leadership Competency Framework⁷. It was further indicated that the model emerged as a result of an analysis of the job specifications of both the COP and the DCOP.⁸ 3. Further, the Former Chairman of the PSC told the Committee that <i>"There are unique set(s) of behaviours, but the Deputy can act at any point in time for the Commissioner."</i>⁹ 4. The Managing Partner at The Firm further clarified that <i>"...we basically designed the skills that would be required for a person to function...at a highly effective level at both the Commissioner and Deputy Commissioner level. And that is how the skills came; those are the skills that are required to function at a highly effective level and then</i>	

⁴ Unrevised Verbatim Notes of 2nd meeting held on 2018.02.23. Page 54

⁵ Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Page 23.

⁶ Bundle 1 – Selection of the Commissioner of Police. KPMG's Request for Proposal. Pg. 9.

⁷ Unrevised Verbatim Notes of 6th meeting held on April 17, 2018. Page 33.

⁸ Ibid. Pages 51-52.

⁹ Unrevised Verbatim Notes of 6th meeting held on April 17, 2018. Page 47.

we basically assessed the candidates on these skills...these skills were designed to test the people who will be successful in the role. It was not geared towards who applied for what position, and again it goes back to whole talent pool strategy where we basically get the pool of talent and find the best person for the job.

What would really differentiate them would be things like vision, whether you could motivate people, whether you could inspire confidence in the TTPS. These are the things that will really differentiate now between a Deputy Commissioner and a Commissioner. Not a 10 years or a 15 years, you will have to meet that criteria anyhow. In fact, all the 12 candidates at the stage two level met the criteria...for being a Commissioner of Police¹⁰."

5. During oral submissions on March 06, 2018, the Managing Partner at The Firm stated –

"The screening process really entailed the initiation of the leadership competency model and the applicants were assessed based on that leadership competency model¹¹."

STAGE	DETAILS OF THE PROCESS
Stage 1 – Assessment Centre Process	Twenty (20) persons were selected by the PSC based on a passing grade of 60% in the Preliminary Stage Screening to participate in Stage 1 of the Assessment Firm's Process. Stage 1 comprised the following components: a) Psychometric Evaluations (10%) – The evaluation comprised tests of cognitive ability and personality tests. Candidates were also administered two (2) tests electronically: the Management Skills and Styles Assessment (MANSSA) which comprised three hundred and ninety-one (391) multiple choice questions and the Work Integrity Test (WINT), which comprised fifty-nine (59) multiple choice questions.

¹⁰ Unrevised Verbatim Notes of 6th meeting held on April 17, 2018. Page 52.

¹¹ Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Page 23.

	b) Panel Interview (50%) – Candidates were interviewed by a five (5) member panel comprising The Firm’s personnel and one (1) representative from the PSC. Candidates were asked a standard list of questions to ensure fairness of the process, as well as complimentary questions to allow them to expand on individually provided information from the Application Form, CV and key elements highlighted during the psychometric evaluation. c) Written Case study (10%) – Candidates were offered three (3) scenarios from which one (1) had to be selected. The scenarios were developed based on real-world events that national law enforcement leaders can and have previously faced. Each scenario was designed to evaluate candidates’ understanding and ability to manage national security and law enforcement events. Candidates had to prepare suitable responses for the activity by identifying the major challenge outlined in the scenario and develop a framework and plan for his/her approach to undertaking/resolving the challenge. d) Stakeholder and Media Role Play (15%) – Candidates were assessed by a seven (7) member panel comprising KPMG personnel and one (1) representative from the PSC¹². Candidates were offered three (3) scenarios from which one (1) had to be selected. The scenarios focused on issues that are current or may arise in the public domain such as allegations of police corruption, police misbehaviour and organizational restructure. Candidates then had to prepare suitable responses for the activity and present the response at a forum that simulated a press conference and answer questions asked by media and stakeholders present. e) Role Fit COP/DCOP (15%) - This was described as the “<i>panel’s professional judgment of the candidate’s probability of success in the designated role. It is based on past experience of performing executive recruitment</i> and on stated key characteristics and traits required for the role e.g. change leader, culture fit, personality fit, strength of character, bravery, resilience, integrity, energy and ability to execute. It encompassed the discussions post interview with all panelists and role players throughout the course of the Assessment Centre. During these discussions the panelists discussed and agreed the role for which the candidate would be best suited.”¹³ One assessment process was undertaken for both positions of COP and DCOP.
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¹² Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Page 30

¹³ Role Fit. Pg. 26 of Assessment Firm, Bundle 2, Selection of the Deputy Commissioner of Police.

	At the end of Stage 1 of the Assessment Firm's activities, the Firm's results for all twenty (20) candidates with scores and summary descriptions of the candidates' performance throughout the various activities of Stage 1 were presented to the PSC for review. The PSC then selected the twelve (12) best-fit candidates based on a passing grade of 60% to proceed to Stage 2¹⁴. Commissioners Franklin and Ramkissoon participated in the panel interview and the stakeholder and media role play session of Stage One of the assessment process
OBSERVATIONS	

JOB COMPETENCY MODEL

6. The Committee was informed that One (1) competency model, the Leadership Competency Framework/Model was used for the two separate positions of COP and DCOP because in the opinion of the PSC "*the job descriptions (are) not night and day because a Deputy can act as a Commissioner at any point*" and the only difference between the two is the length of years of experience required.

7. The Committee took note of the fact that the PSC formed the view that the two (2) positions of COP and DCOP were of one (1) job group and that there was no sufficient difference between the two, which led to the use of one (1) single competency model for both. During oral submissions held on March 06, 2018 Commodore Franklin stated - ¹⁵

¹⁴ Unrevised Verbatim Notes of 2nd meeting held on 2018.02.23. Page 12

¹⁵ Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Pages 29-30.

"The leadership of the TTPS at the positions of Commissioner and Deputy Commissioner form a job group, as Mr. Sookram mentioned, that you cannot really distinguish between them in terms of their responsibilities. Therefore, they should have the same skill sets, and that was an important understanding. That is an important understanding that set up how we got to the competency model that we had used. I also invite you to consider that unlike the corporate environment, there are no specializations between the Deputy Commissioner and the Commissioner.

Whereas in the corporate world you would have a VP HR, VP IT and finance and so on, at the leadership level of the police service, there are no specializations. They all must be competent in police management, police leadership, dealing with people and so on.

So we considered that a job group - the Commissioner and the Deputy Commissioners. Thus, we ended up using a single competency model, and of the four competency models around, whether it is job or functional or organizational, we chose a leadership competency model, and this was designed by KPMG. The Commission is satisfied that that leadership competency model is best practice."

8. During oral submissions on March 06, 2018, the Managing Partner at The Firm indicated -

"So, if you look at the job descriptions between the DCOP and the COP, it is not night and day. It is integral to the support of the leadership of the police service. It is a competency model to test skills that are required to function effectively at that level. One, the DCOP was merely to support the COP, so it was not vastly different, so the competencies required from both positions were equally important."¹⁶

9. The Committee holds the view that it is inconceivable that the role of COP and DCOP require identical behaviours. Consequently, members believe that it is the combination of behavioural indicators that should have formed the foundation for a robust assessment process which was essential for this particular recruitment exercise. In response to a question at the final hearing on April 17, 2018 as to whether a job analysis was undertaken for each job, Mr. Sookram stated:

"we basically designed the skills that would be required for a person to function ...at a highly effective level at both the Commissioner and Deputy Commissioner level. And that is how the skills came; those are the skills that are required to function at a highly effective level and then we basically assessed the candidates on these

¹⁶ Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Pages 24-25

skills. ... these skills were designed to test the people who will be successful in the role. It was not geared towards who applied for what position, and again it goes back to whole talent pool strategy where we basically get the pool of talent and find the best person for the job.

What would really differentiate them would be things like vision, whether you could motivate people, whether you could inspire confidence in the TTPS. These are the things that will really differentiate now between a Deputy Commissioner and a Commissioner. Not a 10 years or a 15 years, you will have to meet that criteria anyhow. In fact, all the 12 candidates at the stage two level met the criteria of being—that would satisfy the criteria for being a Commissioner of Police.¹⁷

10. Some Committee members are convinced that without a definition of the precise competencies required for each role it would have been virtually impossible to devise a fair and transparent assessment process for each position.

11. The Committee therefore observed with some concern that the competencies required for the post of COP as opposed to the post DCOP were not clearly distinguished.

12. The Committee considers that the approach of using one (1) competency model for two positions could work if consideration is given **before the start of a recruitment process** as to the minimum rating required for each of the roles across each of the exercises and competencies being assessed.

13. From the written evidence provided by the Director of Personnel Administration (Ag.), the Committee was informed that:

"according to the Minutes of a meeting recorded by the Project Manager on 10th November, 2017, the decision of the Commission was as follows:

"It was discussed and agreed that persons scoring 60% (60/100) and higher would be selected as the "best fit" candidates for the background and security checks, and medical testing. This was calculated and yielded a list of twelve (12) persons who will go forward¹⁸

¹⁷ Unrevised Verbatim Notes of 6th meeting held on April 17,, 2018. Page 42

¹⁸ Letter from the DPA (Ag.) Re Call for Papers and Record – Request for additional information dated April 26, 2018

14. From the oral and written evidence provided, the Committee was unclear whether such a distinction was made regarding pass marks for *each* role **before the start of a recruitment process**. This would have presented a risk to the integrity of the process and the subsequent suitability of candidates selected for each position.

15. It is noteworthy that from the documentation provided, the following deliverables were agreed upon in the Scope of Services in the Terms of Reference (hereinafter referred to as TOR¹⁹) in relation to both roles:

- i. A Job Competency Model;
- ii. Guidelines for the assessment process established; and
- iii. Competency framework for assessment of candidates established.

Although assessment guidelines consistent with one leadership competency model were submitted, at the end of deliberations some Committee Members were also unable to determine whether there were well-defined guidelines on the methodology for assessment.

ROLE CLARITY OF PSC MEMBERS

16. It was clear from the oral and written evidence that the PSC decided it was proper to directly participate in the assessment process based on their interpretation of the judgment by the Court in the case of Harridath Maharaj v the Attorney General and on the written along with oral advice obtained from and meetings with Senior Counsel.

17. During oral submissions on February 23, 2018, Commodore Franklin indicated "*both myself and Mr. Ramkissoon were involved in that stage of the assessment. We were involved in the training...for that first stage. I participated everyday...of that first stage.*"²⁰ **(File II Appendix V, TAB 17)**

18. The Committee took note of the fact that the PSC indicated that before the commencement of the recruitment process but after the judgment of Justice Rajkumar it met on three or four occasions with Senior Counsel and

¹⁹ Appendix I "Terms of Reference" of the Request for Proposal dated October, 2016

²⁰ Unrevised Verbatim Notes of 2nd meeting held on February 23, 2018. Page 66.

relied on text messages received and oral statements made to it by Senior Counsel regarding its decision to play a direct role in the assessment stages of the recruitment process.

19. Further, in oral submissions on March 06, 2018, Commissioner Martin George, in explaining the PSC's decision to directly participate in the assessment process, told the Committee that the PSC attempted to comply with the Judge's mandate to 'own' the process.²¹

20. The Committee accepts that in accordance with best practice for executive recruitment, assessment centres frequently involve the client in the *design* of the processes and from the evidence received, the Committee acknowledges that the PSC was involved in the design of the process which is consistent with best practice. However, neither the RFP nor the TOR expressly contemplated the direct involvement by members the PSC as assessors in the assessment process. The fact that the PSC engaged in the technical assessment stages of the recruitment process raised serious concerns for the Committee members.

21. In light of the fact that the process is guided by law, the Committee held the view that best practice demanded that the specific role of the PSC at the assessment stage should have been stipulated in writing at the outset of the process. Moreover, consideration should also have been given as to how this would impact their (the PSC's) role and assessment of candidates in later stages of the process.

22. Moreover, it would also be critical that representatives of the PSC who were involved in any assessment exercises were adequately trained in core assessment and interviewing techniques and skills and given the opportunity to practice said skills before going live on this particular executive level assessment. The Committee was advised that The Firm provided the PSC Commissioners and other assessors with twelve (12) hours of training in order to prepare them to participate in the assessment process.

23. The Committee could not conclude as to the legal correctness or incorrectness of the PSC's participation. However, the Committee observed that there is nothing in the judgment of Justice Rajkumar and the Senior Counsel's written opinion on the judgment that supports the contention that the PSC was required to directly participate in the assessment stages. It is as well to be noted that the judgment and opinion spoke only to owning the process from a Constitutional perspective. Furthermore, during oral submissions on March 06, 2018, Commissioner Martin George expressed the view that if the Commission did not directly participate in the assessment stages, they would not have been in breach of the law or the Constitution.

²¹ Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Pages 39-39.

24. While the PSC decided that their way of '*owning the process*' was to directly participate in the assessment process, the Committee was satisfied that '*owning the process*' may not extend to active participation. There is a view that if the PSC had opted to have its Members design and even attend to observe the assessment processes, as opposed to directly participating, that it would have been more in accord with the dictates of the Order. Alternatively there is a view that the PSC cannot be restricted from so participating.

25. From written and oral evidence received, it appears that some assessors (inclusive of Commissioners) who were involved in the role-play exercises were also involved in other aspects of the assessment. In executive recruitment, it is highly recommended that all aspects of the assessment stage of such top level recruitment be devoid of subjectivity and one way of minimising this is by limiting the degree to which such subjectivity is allowed to creep along with the process. However this appears to have not been the case with this exercise. Additionally, the written submissions support the conclusion that certain assessors were involved in all aspects of the assessment, including role-play. These assessors were also part of Stage 2 of the assessment, including the final interview component of that stage. However, the Committee recognises that the PSC accepted the risk and believed that the training received and evaluation process itself, mitigated against any risk.

STAGE	DETAILS OF THE PROCESS
Stage 2 – Assessment Centre Process	Twelve (12) persons selected by the PSC participated in Stage 2 of the Assessment Firm's Process. Stage 2 comprised the following components: 1. PSC Panel Interview (60%) – This was a specially constituted interview panel, consisting primarily of members of the PSC and some KPMG personnel. The Panel comprised Commissioners Gomes, Ramkissoo and Franklin sitting along with KPMG's assessors. The interview comprised pre-set questions that were designed to test the candidates' depth of knowledge and recommendation on the areas of Financial, People, Public and Process. Candidates were asked a standard list of questions to ensure fairness of the process, as well as complimentary questions to allow Candidates to expand on the answers provided. 2. Role Fit COP/DCOP (40%) - Candidates were scored from 1 to 10 in the following fit evaluation categories developed based on the following characteristics and traits sought in a COP and DCOP:

	i. Leadership Traits – Transformative change leader, Inspirational, Strength of Character, Visionary ii. Values – Integrity, Ethical, Principled, Consistency iii. Character Traits – Energy and ability to execute, Resilient under pressure, Brave, passionate, Articulate and good communicator iv. Culture – Personality fit, Action-oriented to get things done, Does not make excuses for why couldn't do things, Inclusive, Consultative, Customer Oriented The twelve (12) Candidates were being assessed against one (1) competency model and considered for both positions. Of the twelve (12) Candidates, four (4) were deemed suitable for the position of COP only and seven (7) were deemed suitable for the position of DCOP only, while one (1) Candidate was deemed equally suitable for both positions.
OBSERVATIONS	
<u>Panel Interview and Role Fit</u> 26. The observations made at Stage 1 concerning role clarity remain the same for Stage 2. 27. Additionally, the Committee considered that the role fit component which formed 40% of the assessment of Stage 2 of the process appeared subjective in nature. <u>The Risk of Bias</u>	

28. During oral evidence, the Committee sought clarification on whether there was any concern that PSC members may have held biases going into the process, based on the knowledge of candidates gained through the administration of the PSC's oversight function or in any other way and if so how was this resolved.

29. In response, the former Chairman and PSC Members indicated that they held no predispositions going into the process, based on the knowledge of candidates gained through the administration of the PSC's oversight function.

30. Further Mr. Sookram explained:

"I can answer that, because that would have taken place at stage one and two of the assessment centre. At stage one, one member of the PSC disclosed a relationship of around 20 years ago of having worked with that particular candidate and there was no objection from the panel to recuse that person, having understood that it was 20 years ago. Secondly, one of the other members in the PSC who participated in the interviews and role play also had a working relationship with one of the candidates, and that was about 10 or 15 years ago. He disclosed it and there was no objection from the panel to ask him to recuse himself."

31. In response to the question as to whether bias may have crept into the process, the former Chairman of the PSC assured the Committee that:

"we were trained and we were very cognizant of exactly what you are talking about, and so all members collectively took decisions, and with the assistance of the firm, went into this process compartmentalizing the performance appraisal exercise that we do, because if we did not, then we would convolute everything. So clearly we did not go into the process as you suggested."

"It is possible, but it did not happen"

32. Additionally, KPMG informed the Committee that it utilized a documented policy to address issues of potential bias during the assessment stage. That documented policy was submitted in response to the Committee's request and can be found at **(File II Appendix V, TAB 15)**

CROSSING OF APPLICATION LANES

33. An examination of the application form revealed that candidates were asked to indicate whether they were applying for :

- Commissioner of Police
- Deputy Commissioner of Police
- Both

34. Fifty-four (54) applications were received by The Firm. Fifty (50) were deemed eligible and four (4) were deemed ineligible since they did not satisfy the basic qualification requirements outlined in Legal Notice 219 of 2015

35. Committee members were concerned that candidates were not made aware that they were being assessed for both jobs although they may not have applied for both. Indeed, the former Chairman of the PSC was of the view that there was no need to inform the candidates from the onset since the PSC did not consider there would be any HR problem with the procedure being followed, which in her view was best practice.

36. During oral submissions the former Chairman indicated that at the final [PSC] interview, the PSC considered it appropriate to then ask all 12 candidates whether they would like to be considered for the other post. She stated:

"That was the last question that was asked and every candidate was asked that question, every one of the 12 candidates. I am very, very confident in saying in that."

37. However, the Committee received two (2) unsolicited submissions from candidates who indicated that at no point during the process were they ever asked to indicate whether or not they would be willing to consider the other position for which they did not apply. The claim outlined in the two (2) unsolicited submissions was put to the PSC members at an oral hearing. The former Chairman and PSC Members maintained that at the final interview all 12 candidates were asked whether they would be interested in the other position for which they did not apply.

STAGE	DETAILS OF THE PROCESS
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Security and Professional Vetting	At this stage, best-fit candidates underwent further checks: - Financial - Security; - Reference; - Background; and - Medical examinations.
OBSERVATION	
38. Paragraph 3(b) of the Order states: <i>"(b) the Firm shall ensure that the candidates are subjected to the best practice security vetting and recent professional vetting"</i> 39. Pursuant to this requirement, KPMG was contracted and mandated by the PSC to undertake the following: • Reference checks; • Job performance checks; • Credit checks; • Financial checks; • Security checks; • University verification; • Existing/Closed Complaints against candidates; and • Executive medical. 40. Committee Members were of the view that best practice security vetting at a minimum, requires polygraph testing and the notification, by way of public advertisements, of the persons being considered for the top positions within the Police Service, consistent with the method applied by the Police Service in recruiting new entrants. The Committee is therefore of the view that "best practice security vetting" as required by the law may not have been satisfied. 41. From the oral and written evidence, the Committee noted that The Firm did its part in the security and professional vetting process to the extent it had the capacity to do so as evidenced by the statement made by the	

Managing Director at The Firm during oral submissions on March 06, 2018 *"Yes, the PSC engaged us to do eight specific background checks. And I want to go back, it is not woefully inadequate or insufficient. We were contracted and mandated by the PSC to do eight specific background checks, and that is what we did²²."*

42. Subsequent to this, the PSC did further security checks.

STAGE	DETAILS OF THE PROCESS
Report	Assessment Firm forwarded to the PSC, the results of its assessment process as mandated and a report on its assessment of the entire assessment process. KPMG submitted "Combined Assessment Centre Results", which appears to be a combination of the results of Stages 1 and 2, to the PSC. They reported that: "The combined total score represents a 50% contribution from each stage of the assessment centre for the top twelve best fit candidates. It is the PSC's intention to utilize these scores, the summary of the candidate's performance across all the assessment centre activities and the results of the various security and professional vetting checks to determine the Order of Merit list for the positions of Commissioner of Police and Deputy Commissioner of Police"
OBSERVATIONS	
43. Two tables containing the names of recommended candidates were submitted to the PSC. One table identified five (5) candidates <i>deemed suitable for the post of Commissioner of Police only</i> and the other identified eight (8) candidates <i>deemed suitable for the post of Deputy Commissioner of Police only</i>. There was one (1) candidate's name common to both tables.	

²² Unrevised Verbatim Notes of 3rd meeting held on March 06, 2018. Page. 78

STAGE	DETAILS OF PROCESS
Order of Merit	1. In accordance with Paragraph 3 (c) of L.N. 218 The Firm was required to be forwarded to the Commission: i. the results of its assessment process; ii. a report on its assessment of the entire assessment process; and iii. in respect of the candidates referred to in subparagraph (i), the following documents: A. application of the candidate; B. biography or résumé of the candidate; C. assessor's scores; D. assessor's feedback; E. medical examination report; and F. Security and Professional Vetting Report; 2. As indicated in Observations 18 to 28 above, the evidence revealed that the PSC itself played a direct role throughout the assessment phase: a. Two Commissioners namely Commissioners Franklin and Ramkissoo along with The Firm's assessors, participated in Stage 1 assessment process (the interview panel and the stakeholder and media role play); b. Three Commissioners namely Commissioners Gomes, Ramkissoo and Franklin together with two of The Firm's other assessors conducted the final interview 3. Therefore, the results of this process appeared to be "owned by the PSC". Nevertheless, The Firm forwarded to the PSC what it identified as "<i>its</i>" assessment report pursuant to Paragraph 3 (c) of L.N. 218. <u>The Establishment of the Order of Merit List</u> 4. Two (2) Order of Merit Lists were established by the Commission; One for the office of Commissioner of Police (COP) and the other for the office of Deputy Commissioner of Police (DCOP). 5. In formulating these Merit Lists, the PSC considered:

	a. L.N. 218 which stated at Paragraphs 3(d) and (e) as follows, <i>"(d) the Commission shall then take into account all information on the candidates and thereafter establish an Order of Merit List; and (e) the Commission shall select the highest graded candidate on the Order of Merit List and submit that candidate's name to the President in accordance with the procedure set out in section 123 of the Constitution."</i> b. The report of The Firm, containing a listing of persons deemed suitable for selection as COP/ DCOP based on the assessment in which the PSC participated. c. Additional information in relation to each candidate including: i. Command ability ii. Police service experience iii. Security vetting (<i>information requested and received specifically from the Police Complaints Authority</i>) iv. Risk i.e. (<i>"Whether the individual or selecting an individual in a particular position had posed a risk to the management of the police service."</i>) v. Integrity vi. Vision / future strategic planning and vii. The following suitability criteria: 1) Skills and Abilities; 2) Qualifications; 3) Training and Competence; 4) Work Performance; 5) Personal Qualities; 6) Potential for future development; 7) Contributing to team performance; and 8) Background. 6. The PSC then considered results and the report of the assessment and agreed, out of an abundance of caution, to conduct a second more detailed round of security vetting of candidates. 7. The PSC then wrote to the PCA and received information pertaining to two candidates.
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	8. The PSC received a recommendation from the PCA to consider disciplinary proceedings against a candidate. 9. Legal advice was sought and received from Senior Counsel regarding whether two candidates. 10. The Legal advice stated that the candidates were not debarred from participating in the process. <i>"However, the information in the possession of the Commission (like all information on the candidates which the Commission is required to take into account by Clause 3(e) of The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order) may, if the Commission so decides, impact on the Order of Merit List."</i> 11. The PSC considered the recommendation of the PCA, conducted an investigation into the matter, sought internal legal advice and decided to take no further action. 12. A Mathematical formula was utilized by the PSC to grade candidates for the purpose of establishing Order of Merit List. This formula is called the <i>Borda count</i>; 13. Order of Merit Lists were established for COP and DCOP.
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OBSERVATIONS

Mathematical Formula to aid in the Establishment of the Order of Merit Lists

44. A mathematical formula called the Borda Count method to create scores for each candidate was utilized to determine the Order of Merit lists. The former Chairman stated that after six (6) weeks of deliberation the Borda Count option was utilized to determine the Order of Merit lists.
45. In relation to the mathematical formula, according to the PSC, the following was done:
1. *"You have each Commissioner rank their choices for the top 5 candidates in positions numbered 1 to 5 in a column coming down, starting with your highest ranked candidate at 1 and working down to your lowest at 5."*
 2. *You collate the 4 lists from the 4 members of the Commission in a table comprising 5 rows and 4 columns.*

3. *You then assign weights to each row having a weight of 5 and the last row having a weight of 1*
4. *You then tally the weighting for each candidate across the columns and do that for each row.*
5. *Your candidate with the highest weighted score, then represents the one who would be listed at #1 and so on in descending Order.*
6. *This then becomes the Commission's own Independent short-list, as a result of its own mature deliberation."*

46. The Committee finds that the PSC appeared to have acted arbitrarily as the formula used to arrive at the Order of Merit Lists leaves the PSC open to the accusation that the objective results from the assessment process were given less weighting than the opinions and preferences of the commission.

47. Further, there is no evidence that this formula was discussed in detail and arrived at in advance of the commencement of the recruitment process. Typically, there should be agreement from the outset as to how decisions will be made in the event of unforeseen situations, identical scoring or other tricky issues. Use can be made of Human Resource professionals to guide these discussions based on their expertise, neutrality and practical experience. The committee believes that independent decision making as to how to handle a matter does not mean that advice cannot be sought.

48. Some members of the Committee are very concerned that the troubling issues surrounding the mathematical formula expose the PSC, its processes and the results of its process to suggestions of lack of transparency and potential bias.

5. CONCLUSIONS

1. The Committee believes that the direct involvement of members of the PSC in the assessment stage of the process was not what was contemplated in the Order made pursuant to the Constitution.
2. Additionally, having regard to the observations and findings set out above, the Committee considers that in many respects the manner in which the entire process was conducted by the PSC was defective and unreliable and may expose the PSC to allegations of arbitrariness and lack of transparency.
3. The Committee recognises that there was not full consensus in relation to the conclusions set out above insofar as a minority of members believe that there was no fundamental breach of the law beginning with an open tender and ending with a strategy that allowed for a unanimous method of selection, and that the flaws in the process were not fundamental so as to render it unfair and arbitrary.

6. RECOMMENDATION

1. The Committee recommends that the Order made pursuant to Section 123 (2) of the Constitution should be subject to urgent review with the view to the establishment of well-defined guidelines for the selection of a COP and DCOP.

Respectfully Submitted,

Sgd
Mr. Fitzgerald Hinds, MP
Chairman

Sgd
Dr. Roodal Moonilal, MP
Member

Sgd
Mr. Terrence Deyalsingh, MP
Member

Sgd
Ms. Nicole Olivierre, MP
Member

Mr. Ganga Singh, MP
Member

.Sgd
Mr. Randall Mitchell, MP
Member

APPENDICIES
