



SERVICE COMMISSIONS DEPARTMENT

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LS September, 2017

The Honourable Maxie Cuffie,
Minister of Public Administration and Communications
NALIS Building – Level 7
Corner Hart and Abercromby Streets
PORT OF SPAIN

Dear Minister Cuffie,

Fourth Report of the Joint Select Committee on an Inquiry into Prison Security and the Status of the Investigation into the Port-Of-Spain Prison Break of July 24, 2015

I refer to the letter of 7th July, 2017 from the Clerk of the House, Office of the Parliament and to forward, as requested by the Committee, the comments of the Public Service Commission which are appended to this letter.

A synopsis of the reasons for the delay in the process is Appended for your information.

Respectfully,

Director of Personnel Administration

cc: Mrs. Jacqueline Sampson-Meiguel, Clerk of the House
Mrs. Joan Mendez, Permanent Secretary, Ministry of Public Administration and Communications

SYNOPSIS - REASONS FOR THE DELAY

On August 4, 2015 the Commissioner of Prisons informed the Director of Personnel Administration (DPA) of an incident and advised that as a result Messrs. Lovell, Duntin and Pierre were suspended from duty with effect from the 3rd August, 2015 and the 4th August, 2015.

On 24.08.15 the Commissioner of Prisons (COP) informed the DPA that by letter dated 3rd August, 2015, Mr. Dennis Pulchan, Superintendent of Prisons acting as Assistant Commissioner of Prisons was appointed as investigating officer. The COP further advised that on 01.09.15, Mr. Pulchan wrote requesting an extension of time for the submission of his Report.

On 15.09.15 the Commission granted Mr. Pulchan an extension of thirty (30) days for the submission of his report and directed that his report must be submitted to the Service Commissions Department by 2nd October, 2015. At the same meeting the Commission decided that the officers be informed that it had noted the allegations of misconduct which had been made against them and had proposed to interdict them from duty on one-half (½) salary in accordance with the provisions of Regulation 89 of the Public Service Commission Regulations, pending the outcome of the allegations of misconduct against them. The Commission had invited them to submit within fourteen (14) days of their receipt of notification of its decision any representations they wished to make in the matter.

The Minister is hereby informed that the delays in the matter were as a result of representations by the Defendants' Attorney and the Prosecution:-

- 17. 11.15 - A request from Defendants' Attorney for an extension of time on which to reply to the Commission's proposal to interdict the officers from duty.
- 22.12.15 - Defendants 'Attorney submitted a pre-action protocol letter wherein he requested the Commission to reconsider its decision
- On 01.02.16, the Commission responded to Attorney-at-Law and advised that after reviewing the sequence of events that transpired it was determined that the correct disciplinary protocols were adhered to by the Commissioner of Prisons and the Commission through the Director of Personnel Administration.
- On 14.03.16 Defendants' Attorney submitted a further pre-action protocol letter.

- On 16.8.16 the Commission was informed that on 15th June, 2016 and 29th June, 2016, Messrs. Lovell and Duntin filed High Court Actions. Further on 18.08.16 the Commission noted that the High Court Actions were determined wherein the Court ordered that the Notice of Applications filed by the officers be dismissed.
- 06.12.16 the Commission noted that a Member of the Disciplinary Tribunal indicated that he was acquainted with the Defendants and could not participate in hearing the disciplinary matter. As a result, The Commission appointed another tribunal.
- On 16.02.17 Tribunal commenced and is to apply case management guidelines.
- On 16.02.17 and 27.03.17 the Prosecutor requested an adjournment
- 24.05.17 the Prosecutor requested two (2) additional charges be added to the disciplinary charges preferred against Mr. Lovell.
- 25.5.17 Prosecutor requested an adjournment.
- Due to concerns of the Defence and Prosecution, their preliminary submissions were submitted by the Tribunal for the consideration of the PSC.

FOURTH REPORT OF THE JOINT SELECT COMMITTEE ON AN INQUIRY INTO PRISON SECURITY AND THE STATUS OF THE INVESTIGATION INTO THE PORT-OF-SPAIN PRISON BREAK OF JULY 24, 2015

2.26 of the Report - the Committee commented that the disciplinary investigation process of the PSC is woefully defective and tortuous. It needs immediate rectification

The original Regulations date back to the 1960s. The Commission has an amended body of Regulations which addresses short comings in an effort to improve the disciplinary process.

SUMMARY OF THE COMMITTEE'S RECOMMENDATIONS

The Public Service Commission treat as a priority the completion of the disciplinary proceedings arising out of the investigation of the events surrounding the Port-of-Spain prison break, given that this incident occurred on July 24, 2015; and

COMMENTS OF THE PUBLIC SERVICE COMMISSION

The Public Service Commission wishes to assure the Joint Select Committee of its commitment to treating as a priority the completion of the disciplinary proceedings arising out of the investigation of the events surrounding the Port-of-Spain prison break that occurred on 24th July, 2015. As the Committee would have been informed, the Commission had adopted a case management approach to the conduct of the Tribunal, however, several legal challenges from the Defence Attorneys and the Prosecution have delayed the proceedings. The **attached** document which outlines the sequence of events is submitted for the information of the Committee. In treating with any disciplinary matter, the Commission continues to be guided by the Public Service Commission Regulations, Chapter 1:01 of the Laws of Trinidad and Tobago.

**OUTLINE OF EVENTS IN THE MATTER INVOLVING MR. WILBERT LOVELL,
PRISONS SUPERVISOR; NO. 2137 PRISONS OFFICER II LANCELOT DUNTIN;
NO. 2578 PRISONS OFFICER I MERVIN PIERRE**

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
04.08.15	<ul style="list-style-type: none"> • Memorandum from Commissioner of Prisons informing of an incident which occurred on 24th July, 2015, involving the escape of inmates Allan Martin, Christopher Selby and Hassan Atwell from the Port of Spain Prison which resulted in the death of a Police Officer. • An internal enquiry into the matter revealed that Messrs. Lovell, Duntin and Pierre should be held culpable and as a result, Messrs. Lovell, Duntin and Pierre <u>were suspended from duty with effect from the 3rd August, 2015 and the 4th August, 2015,</u> in accordance with the powers delegated to him by the Public Service Commission (Delegation of Powers) Legal Notice 105 of 2006. • The Commissioner of Prisons recommended that the officers be interdicted from duty in accordance with the provisions of Regulation 89 of the Public Service Commission Regulations pending the outcome of the allegations of misconduct which were made against them. 	<p>Public Service Commission (Delegation of Powers) Legal Notice 105 of 2006.</p> <p>Regulation 89</p>
24.08.15	<ul style="list-style-type: none"> • The Commissioner of Prisons informed that by letter dated 3rd August, 2015, Mr. Dennis Pulchan, Superintendent of Prisons acting as Assistant Commissioner of Prisons was appointed as investigating officer to investigate the allegations of misconduct which were made against Messrs. Lovell, Duntin and Pierre. 	<p>Regulation 90</p>

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
	<ul style="list-style-type: none"> Mr. Pulchan acknowledged receipt of his letter on 3rd August, 2015, that is, the date on which he commenced his investigation. 	
01.09.15	Mr. Pulchan wrote requesting an extension of time for the submission of his Report.	Regulation 90(5)
15.09.15	<p>The Commission decided:</p> <ul style="list-style-type: none"> (i) Mr. Pulchan be granted an extension of thirty (30) days for the submission of his report and directed that his report be submitted to the Service Commissions Department by 2nd October, 2015; and (ii) Messrs. Lovell, Duntin and Pierre be informed that it had noted the allegations of misconduct which had been made against them and had proposed to interdict them from duty on one-half (½) salary in accordance with the provisions of Regulation 89 of the Public Service Commission Regulations, pending the outcome of the allegations of misconduct against them. The Commission had invited them to submit within fourteen (14) days of their receipt of notification of its decision any representations they wished to make in the matter. 	<p>16.10.15</p> <p>Regulation 89</p>
01.10.15	<ul style="list-style-type: none"> Mr. Pulchan submitted his Report to the Director of Personnel Administration. 	Regulation 90 (5)
02.10.15	<ul style="list-style-type: none"> Investigating Officer's Report referred to the Legal unit for advice as to whether there was sufficient evidence for the preferment of any disciplinary charges against the officers. 	Regulation 90 (6)

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
17.11.15	<ul style="list-style-type: none"> • Mr. Farid Scoon, Attorney-at-Law acting on behalf of Messrs. Lovell and Duntin requested an extension of time on which to reply to the Commission's proposal to interdict the officers from duty. 	
22.12.15	<ul style="list-style-type: none"> • Mr. Farid Scoon, Attorney-at-Law submitted a pre-action protocol letter wherein he requested the Commission to reconsider: <ul style="list-style-type: none"> (i) The decision of the Commission communicated to them by letter dated the 16th October, 2015, proposing to interdict them on one-half salary; and (ii) The decision by the Commissioner of Prisons communicated to them by letter dated 3rd August, 2015 to suspend them from duty. 	
27.01.16	<ul style="list-style-type: none"> • The Legal Adviser submitted advice with respect to the report from the investigating officer, and informed that the disciplinary charges outlined in the attached statement should be preferred against the officers. 	
01.02.16	<ul style="list-style-type: none"> • Mr. Scoon was informed inter alia that after reviewing the sequence of events that transpired it was determined that the correct disciplinary protocols were adhered to by the Commissioner of Prisons and the Commission through the Director of Personnel Administration. 	
14.03.16	<ul style="list-style-type: none"> • Mr. Scoon submitted a further pre-action protocol letter wherein he requested the Commission to: <ul style="list-style-type: none"> (i) quash and immediately discontinue disciplinary proceedings that was instituted against Messrs. Lovell and Duntin; 	

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
	<ul style="list-style-type: none"> (ii) disregard the report which was received from the investigating officer as his report was tainted and biased; (iii) withdraw the proceedings to interdict Messrs. Lovell and Duntin. 	
06.04.16	Mr. Scoon was informed that upon further review of the matter it was concluded that the correct procedure was adhered to with the prescribed Regulations.	
07.06.16	<p>The Commission decided:</p> <ul style="list-style-type: none"> (i) the disciplinary charges should be preferred against Messrs. Lovell, Duntin and Pierre and requested the officers to state in writing whether they admitted or denied the disciplinary charges which were preferred against them within fourteen (14) days of their receipt of notification of its decision; and (ii) a Disciplinary Tribunal chaired by Mr. Selwyn Mohamed should be appointed to hear the evidence and find the facts in the matter. 	<p>17.06.16 Regulation 92</p> <p>Regulation 95</p>
16.08.16	<p>The Commission noted:</p> <ul style="list-style-type: none"> (i) Messrs. Lovell, Duntin and Pierre failed to admit or deny the disciplinary charges which were preferred against them; and (ii) on 15th June, 2016 and 29th June, 2016, Messrs. Lovell and Duntin filed High Court Actions against the Public Service Commission, Commissioner of Prisons and the Attorney General of Trinidad and Tobago for the reliefs and that the said reliefs sought by Messrs. Lovell and Duntin did not include the issue of interdiction from duty; <p>The Commission decided that Messrs. Lovell, Duntin and Pierre should be informed that it had:</p>	19.08.16

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
	<p>(a) noted that they acknowledged receipt of the Commission's decision on 20th July, 2016, 21st July, 2016 and 22nd July, 2016, respectively, and that to date (<i>that is, 16th August, 2016, the date of the Commission's meeting</i>), representations were not received as to whether they admitted or denied the disciplinary charges which were preferred against them. The Commission decided that the matter would be forwarded to the Disciplinary Tribunal to hear the evidence and find the facts with respect to the disciplinary charges which were preferred against them in accordance with the provisions of Regulation 93 of the Public Service Commission Regulations and they will be informed in writing of the date of hearing; and</p> <p>(b) decided that they be interdicted from duty on one-half (½) salary in accordance with the provisions of Regulation 89 of the Public Service Commission Regulations pending the outcome of the disciplinary charges which were preferred against them.</p>	Regulation 93
18.08.16	<ul style="list-style-type: none"> The High Court Actions which were filed by Messrs. Lovell and Duntin on 15th June, 2016 and 29th June, 2016, respectively, were determined wherein the Court ordered that the Notice of Applications filed by the officers be dismissed. 	
30.08.16	<ul style="list-style-type: none"> The Commission decided that Mr. Farid Scoon, Attorney-at-Law should be informed that it had considered the contents of his letter dated 3rd August, 2016, with respect to the disciplinary charges which were preferred against Messrs. Lovell and Duntin. The Commission had: <ul style="list-style-type: none"> (i) noted his concern with respect to the Commissioner of 	09.09.16

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
	<p>Prisons appointing Mr. Dennis Pulchan, Senior Superintendent of Prisons, Acting as Assistant Commissioner of Prisons as an investigating officer in accordance with the provisions of Regulation 90 of the Public Service Commission Regulations;</p> <p>(ii) reviewed the matter and wished to inform that the Commissioner of Prisons as the Head of Department became <u>aware</u> of the allegations of misconduct which were made against Messrs. Lovell and Duntin and reported the matter for the Commission's information and simultaneously warned the officers of their alleged breaches and appointed an investigating officer in accordance with the provisions of Regulation 90 (1) of the Public Service Commission Regulations; and</p> <p>(i) noted that the Commissioner of Prisons was not involved in <u>making</u> any allegations of misconduct against Messrs. Lovell and Duntin and was not a party to the investigation nor was cited as a potential witness in the disciplinary matter against the officers. The role of the Commissioner of Prisons was merely as an intermediary who became aware of alleged acts of misconduct and reported the matter to the Commission as prescribed in accordance with the relevant Regulations. The Commission therefore reiterated that the proper procedure was followed by it and the Commissioner of Prisons and was of the opinion that Messrs. Lovell and Duntin had not been prejudiced in any manner with respect to the appointment of Mr. Pulchan as investigating officer in the matter.</p>	
01.09.16	Messrs. Lovell and Duntin acknowledged receipt of their letters and as a result, that is, the date their interdiction took effect.	

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued																		
06.12.16	<ul style="list-style-type: none"> • The Commission noted that by letter dated 6th October, 2016, the Members of the Disciplinary Tribunal chaired by Mr. Mohamed were informed of their appointment to hear the matter. • On 13th October, 2016, Mr. Allister James, Member of the Disciplinary Tribunal indicated orally that he is acquainted with the Defendants and could not participate in hearing the disciplinary matter. • The Commission then decided that: <ol style="list-style-type: none"> (1) Mr. Pierre be interdicted from duty on one-half (½) salary in accordance with the provisions of Regulation 89 of the Public Service Commission Regulations, Chapter 1:01 of the Laws of the Republic of Trinidad and Tobago pending the outcome of the disciplinary charge which was preferred against him; (2) the appointment of the following members of the Standing Panel of Members of the Disciplinary Tribunal, who were appointed as a Tribunal to hear the evidence and find the facts in the matter against Messrs. Lovell, Duntin and Pierre be cancelled: <table style="margin-left: 40px; border: none;"> <tr> <td>Mr. Selwyn Mohamed</td> <td style="padding-left: 20px;">–</td> <td>Chairman</td> </tr> <tr> <td>Mr. Allister James</td> <td style="padding-left: 20px;">–</td> <td>Member</td> </tr> <tr> <td>Mr. Hatim Gardner</td> <td style="padding-left: 20px;">–</td> <td>Member</td> </tr> </table> (3) the following members of the Standing Panel of Members of the Disciplinary Tribunal be appointed as a Tribunal to hear the evidence and find the facts with respect to the disciplinary charges outlined in the attached statement, which were preferred against Messrs. Lovell, Duntin and Pierre: <table style="margin-left: 40px; border: none;"> <tr> <td>Mr. Indra Ramoutar-Liverpool</td> <td style="padding-left: 20px;">–</td> <td>Chairman</td> </tr> <tr> <td>Mr. Mark Hansraj</td> <td style="padding-left: 20px;">–</td> <td>Member</td> </tr> <tr> <td>Mr. Keston Mc Letchie</td> <td style="padding-left: 20px;">–</td> <td>Member</td> </tr> </table> 	Mr. Selwyn Mohamed	–	Chairman	Mr. Allister James	–	Member	Mr. Hatim Gardner	–	Member	Mr. Indra Ramoutar-Liverpool	–	Chairman	Mr. Mark Hansraj	–	Member	Mr. Keston Mc Letchie	–	Member	20.01.17
Mr. Selwyn Mohamed	–	Chairman																		
Mr. Allister James	–	Member																		
Mr. Hatim Gardner	–	Member																		
Mr. Indra Ramoutar-Liverpool	–	Chairman																		
Mr. Mark Hansraj	–	Member																		
Mr. Keston Mc Letchie	–	Member																		

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
15.02.17	<ul style="list-style-type: none"> The Attorneys representing the officers charged informed of two (2) issues which may impact them in the successful prosecution of the matter. 	
16.02.17	<ul style="list-style-type: none"> The letter from the Defence was referred to the Legal Adviser, Service Commissions Department for advice. Mr. Carraspe, Prosecutor requested an adjournment since he was still awaiting the decision of the Public Service Commission on the request that two (2) further charges be preferred against Mr. Lovell. 	
16.02.17	Tribunal commenced.	
17.02.17	Legal Adviser submitted her advice on the matter.	
27.03.17	<ul style="list-style-type: none"> Mr. Carraspe, Prosecutor requested an adjournment since he was still awaiting the decision of the Public Service Commission on the request that two (2) further charges be preferred against Mr. Lovell. 	
25.04.17	<p>The Commission decided;</p> <p>(i) Mr. Farid Scoon, Attorney-at-Law be informed that the Commission had considered the issues raised in his letter dated 27th March, 2017 and decided that he be informed that:</p> <p>(a) Regulation 98 (1) allows the Tribunal to accept written submissions from Attorney-at-Law before the matter has commenced and make a report to the Commission;</p> <p>(b) Regulation 96 (2) seems to allow the Tribunal to continue to hear the matter in the absence of the third member and the Chairman of the Disciplinary Tribunal would be so informed;</p>	<p>19.05.17 & 22.05.17</p> <p>Regulation 98(1)</p>

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
	<p>(ii) Mrs. Indra Ramoutar-Liverpool be informed of (i);</p> <p>(iii) Mr. Wilbert Lovell, Prisons Supervisor be informed that:</p> <p>(a) the Commission noted that he will attain the age of fifty-five (55) years on 29th January, 2018, from which date his compulsory retirement from the Prison Service will take effect;</p> <p>(b) he should be allowed to proceed on all leave which he is entitled to with effect from 5th may, 2017 and would be required to attend all the Disciplinary Tribunal hearing, until it's completion;</p> <p>(c) the order of interdiction which was imposed on him with effect from 19th August, 2016, would not be lifted at this time due to the nature of the disciplinary charges against him which are still pending;</p> <p>(d) the one-half (½) salary which was withheld from him during the period of interdiction would not be restored.</p>	
24.05.17	<ul style="list-style-type: none"> Mr. Carlos Carraspe, Assistant Commissioner of Prisons (Ag) requested two (2) additional charges be added to the disciplinary charges preferred against Mr. Lovell. 	
25.5.17	<ul style="list-style-type: none"> Mr. Carraspe, Prosecutor requested an adjournment since he was still awaiting the decision of the Public Service Commission on the request that two (2) further charges be preferred against Mr. Lovell. 	
13.06.17	<p>The Members of the Disciplinary Tribunal appointed to hear the matter submitted the Defence's submissions for the determination of the Commission.</p>	

Date	Events	Public Service Commission Regulations/ Date Commission's Decision Issued
27.06.17	Mr. Carraspe informed that for the period 13 th July, 2017 to 25 th July, 2017 he will be out of the country due to training.	
20.07.17	Mr. Ricky Pandohee, Attorney-at-Law requested that a decision be issued with respect to the submission submitted on behalf of their Clients no later than 1 st September, 2017, failing which legal proceedings will be initiated.	
03.08.17	The Legal Adviser, Service Commissions Department was requested by the Deputy Director of Personnel Administration to review the letter submitted by Mr. Carraspe. The Legal Adviser indicated that the matter was addressed and she stands by her advice.	
15.08.17	The Commission considered the submissions of the Prosecutor and Defence decided that the submissions be forwarded to the Legal Adviser on 17.08.17.	17.08.17.