

**RESPONSE TO THE FIFTH REPORT OF THE JOINT SELECT COMMITTEE ON
SOCIAL SERVICES AND PUBLIC ADMINISTRATION ON AN INQUIRY INTO THE
ADVERSE HEALTH EFFECTS OF FIREWORKS**

Recommendation A – Page 36:-

With regard to the abuse and misuse of scratch-bombs/firecrackers accounting for the majority of recorded firework-related injuries, we recommend that the TTPS collaborate with the Ministry of National Security to institute the following recommendations:-

Licence Holders

- i. Amend the Explosives Act and or enact regulations to impose sanctions for the importation of these incendiary devices. A holder of a licence under the relevant Section of the Explosives Act who is confirmed to have imported such items or similar items would be liable to have his license revoked and will be ineligible to receive a new license for ten (10) years.

Response:-

This is a long term initiative which will be beneficial to law enforcement. Consideration should be given to revise and update all the present laws that treat with fireworks.

Additionally, there may be instances where persons may bring in fireworks illegally into the country thus evading customs. In such a case, it is imperative to make it an offence for a person to be in unlawful possession of fireworks. The entire process has to be carefully considered before moving ahead to implement new laws.

Further, Sections 99 and 100 of the Summary Offences Act need to be amended to level the playing field and make enforcement of fireworks laws throughout the jurisdiction of Trinidad and Tobago and not only in certain cities and towns.

Recommendation A – Page 36:-

Users of illegal incendiary devices

- ii. Public sensitization campaigns must make it absolutely clear to members of the public that the use of scratch bombs and other related devices are illegal. Specific ads should be tailored to connect with the psyche of children.

Response:-

The Ministry is in agreement with this recommendation. At present, the Trinidad and Tobago Police Service (TTPS) utilizes various media platforms to sensitize members of the public about the illegal use of fireworks. Special emphasis is placed on these activities during seasons in which these devices are generally used, for example, Christmas, New Year's, Divali and Independence.

Recommendation A item (iii) – Page 36:-

- iii. The necessary legislative modifications should be enacted to create offences and impose appropriate penalties for persons who:-
- Are in possession of these devices;
 - Were proven to have discharged such a device; and
 - Traffic such devices or offers same for sale

Response:-

An outright ban for the **sale, importation and storage** of scratch bombs can be facilitated by Order made by the Minister pursuant to Section 37 of the Explosives Act. A definition of scratch bomb will have to be included in the Order to ensure that all items that fall in this category are covered in the ban. The TTPS and the Trinidad and Tobago Fire Service (TTFS) will have to assist in formulating this definition.

Recommendation A item (iv) – Page 36:-

- iv. To address the challenge of ascribing liability, the law should be modified to provide that where it can be proven that an illegal incendiary device was discharged within the compound of any house, dwelling house or business place that is properly secured by a parameter fence, wall or enclosure, the owner or person considered to be in control of such property shall be held liable.

Response:-

As it pertains to **use**, amendments will have to be made to Explosives Act or the Summary Offences Act to ban use of these items. Alternatively, consideration can be given to make further regulations pursuant to Sections 99 and 101 of the Summary Offences Act to prohibit the use of scratch bombs in areas specified by Order which expands the definition of towns in the Act.

In relation to ascribing liability to the owner or person in control of property, the existing challenges faced with implementation and prosecution would still remain. The Police would still require cooperation from members of the public to assist with prosecuting the offence and at present there is reluctance to provide this cooperation. This recommendation requires careful consideration before it can be adopted since issues of strict liability and its effects have to be explored.

Recommendation D - Page 37:-

That the Summary Offences Act be amended to include fireworks-related injury as a reportable offence.

Response:-

Consideration should be given by the National Fireworks and Explosives Safety Council ('the Council'), in an effort to explore any possible undesirable repercussions that can arise by making this a reportable offence.

Examples of such repercussions may include the following concerns:-

- Regarding minors - will the parents be discouraged from taking their child for medical treatment out of fear of being prosecuted?
- Regarding adults and the person injured - the issue of the offence operations as double punishment for the injured person?

Recommendation F – Page 37:-

That consideration be given to increasing the fines under Sections 79(1) and 82 of the Summary Offences Act associated with the torture and maltreatment of animals.

Response:-

Consultation with the relevant stakeholders will be required in an effort to determine the increased figures.

Recommendation H – Page 37:-

That review of Section 51 of the Environmental Management Act be conducted to set a maximum decibel level for commercial fireworks with a view to reducing the potential for distress to vulnerable groups of society (i.e. elderly, differently-abled and animals). The Committee further recommended that the Minister of National Security maintain as a standard that the products imported by licence-holders discharge at a level not exceeding the prescribed maximum decibel level. In addition to other necessary conditions, the documents accompanying fireworks and other incendiary devices what exceed a specified weight, must clearly state the level of sound (in decibels) that can be produced under normal atmospheric conditions.

Response:-

While the Ministry supports the recommendation, it is suggested that there should be a maximum decibel level for all fireworks, not only “commercial fireworks”. It is further recommended that this should be enforced at all points of entry by Customs and seized where the decibel level exceeds the prescribed limit.

Notwithstanding the aforementioned, the Ministry has initiated consultations with the Environmental Management Authority (EMA) and the Trinidad and Tobago Bureau of Standards (TTBS) in an effort to determine the prescribed decibel level that should be permitted. The Ministry has also sought the advice of the EMA on the appropriate method of obtaining information on the UK’s standards as it pertains to fireworks to determine whether it should adopt similar standards.

Consequently, it is proposed that the TTFS will not only perform Fire/Life Safety coverage but will also inspect all fireworks to ensure compliance with the decibel requirements of the EMA.

Recommendation A – Page 44:-

That as a matter of priority, the TTPS seek to improve the enforcement of Section 100 of the Summary Offences Act Chapter 11:02. Police Officers must be adequately trained and resourced toward this end. Given the challenges in securing eye witness evidence, CCTV cameras should be strategically utilized to gather evidence to be used in court proceedings.

Response:-

The Ministry is in agreement with this recommendation. However, while the national CCTV system can assist in the support of enforcing Section 100 of the Summary Offences Act Chapter 11:02, it should be noted that coverage is limited to the East/West corridor and a few areas in the Central and Southern jurisdictions. The current CCTV system allows for the following:

- Evidence Gathering (support to Trinidad and Tobago Police Service);
- Traffic Control (footage is shared with Ministry of Works and Transport to minimise traffic congestion); and
- Crowd Control (monitor events, such as parades, concerts, protests and large crowd events).

Furthermore the accessibility to training will be dependent on the availability of funding and other resources.

Recommendation B – Page 44:-

That amendments be made to the existing law to:

- i. Prescribe designated times, dates and locations for the discharging of fireworks;
- ii. Restrict the quantity of incendiary devices (intended for amusement) that can be purchased by a person who is not a holder of a wholesale or retail licence;
- iii. Establish 18 years as the minimum age for the purchase of fireworks. In addition, the word “apparently” as it relates to the stipulated age should be removed from wherever it appears in the Act. In this regard, the burden should be placed on the licence holder to establish and prove age;
- iv. Establish that it would be an offence to discharge fireworks or any other form of incendiary device proximate to an airport or air strip; and
- v. That fireworks should not be discharged within a certain radius (to be recommended by the Veterinary Association) of any farms/livestock, buildings housing livestock or equids (horses and ponies) in fields.

Response:-

Consultation with technical personnel is required in order to effect these recommendations. For example, quantity limitations would be based on the nature of the item that is being sold.

Recommendation C – Pages 44 and 45:-

That the TTPS act on its contemplation to engage the assistance of the Regional Corporations to identify public spaces (such as recreation grounds and parks) where residents may gather to discharge fireworks under proper supervision. The TTFS should be included in the implementation of this initiative as supervision may be performed by a safety officer from the TTFS.

Response:-

The Ministry is in agreement with this recommendation. The TTPS will continue to collaborate with the Regional Corporations, in an effort to assist with the allocation of designated areas in the community where fireworks can be safely ‘let off’ with proper supervision.

Furthermore, the areas where fireworks are discharged are of vital importance to the TTFS due to the fact that fireworks can produce embers which can be a source of ignition. The Fire Service uses as a guide “*NFPA 1123 Code for Fireworks Display*” to determine areas suitable for the discharging of fireworks. This code is very comprehensive in providing guidance for areas which are appropriate. It requires a site plan which one of the major requirements are to provide safe distances from the display to spectators and the wider public.

Recommendation D – Page 45:-

That amendments be made to the Noise Pollution Control Rules to include provisions regarding sounds emanating from Fireworks.

Response:-

The Ministry has initiated consultations with the EMA in an effort to determine the prescribed decibel level that should be permitted. Thereafter, the appropriate amendments to the Noise Pollution Control Rules can be put forward.

Recommendation E – Page 45:-

That a robust public education drive be initiated to educate the public on the provisions of the Explosives Act, Chapter 16:02.

Response:-

The Ministry is in agreement with this recommendation. At present, the organization utilizes various media platforms to sensitize members of the public about the illegal use of fireworks and related laws. Special emphasis is placed on these activities during

seasons in which these devices are generally used, for example Christmas, New Year's, Divali and Independence. The TTPS uses multiple communications forums to educate the public on fireworks laws.

The public education initiative should be driven by the Government where invitations are extended to other Ministries such as the Ministry of Education to participate. The latter partnership will facilitate sensitization via the school system.

Recommendation F – Page 45:-

During peak periods of firework usage there should be a greater Community Police presence and visibility in areas where there are frequent occurrences of fireworks-related disturbances. This will serve as a deterrent to persons engaging in the improper use of fireworks.

Response:-

The Ministry is in agreement with this recommendation. This activity has already been implemented. Regular police presence will continue throughout peak periods of fireworks usage.

Recommendation G - Page 45:-

That the fines associated with the unauthorized use of fireworks as prescribed under Section 99 and 100 of the Summary Offences Act Chapter 11:02 be increased.

Response:-

The Ministry is in agreement with this recommendation. Additionally, while increases can be facilitated, enforcement will be required in order to discourage breaches of the law.

Recommendation H – Page 45:-

That the relevant agencies who are directly or indirectly involved in this matter should develop and implement strategies to encourage citizens to report the nuisance discharge of fireworks within communities. The Committee recommends utilizing confidential hotlines and forming relationships with community watch groups in this regard.

Response:-

The Ministry is in support of this recommendation. The TTPS's 999 and 555 are hotlines for reporting crimes generally. Citizens can make reports on the illegal discharge of fireworks via these hotlines.

Further, the TTPS also engages regularly with communities via Community meetings which are held at least once per month in each police geographical division. Officers also partner with communities via their Neighbourhood Watch Groups.

Recommendation J – Page 45:-

That there be greater collaboration between the TTPS, TTFS, Customs and Excise Division, EMA, Ministry of Health, MALF, Regional Corporations, Ministry of National Security and the ODPM to develop policy and an implementation roadmap in order to effectively regulate the use of fireworks.

Response:-

The Ministry is in support of this recommendation and the TTPS will continue to collaborate with the relevant Ministries and agencies. It is also envisaged that this collaboration will provide the necessary foundation for dealing with both natural and anthropogenic hazards and disasters.

Interagency collaboration is therefore vital to the full realization of the proposed fireworks management initiatives. The ability of any single agency to effectively implement any policy is limited without coordination and assistance from other key stakeholders (All of Government approach). Therefore, the Committee's anticipated success with the nation's management of the importation, use and disposal of fireworks will be dependent on effective cooperation and coordination of shared resources and common activities with and between all stakeholders supported by necessary amendments to the legal framework.

Recommendation K – Page 46:-

The establishment of a National Fireworks and Explosives Safety Council comprising a representative cross section of stakeholders. The mandate of this Council should include *inter alia*:

- i. Advising the Minister of National Security on matters pertaining to the regulation of explosives including fireworks and related devices;
- ii. Monitoring the number of incidents of illegal discharge of fireworks and prescribing appropriate strategies for alleviating or preventing the proliferation of illegal discharges;
- iii. Periodically reviewing the laws, regulations and policies pertaining to the regulation of explosives.

Response:-

The Ministry established an interim Committee in April 2018 to treat with fireworks related matters. This Committee comprises of representatives from various Divisions of the Ministry of National Security, the EMA, TTBS and the Customs and Excise Division. Since its establishment, the Committee met on three (3) occasions and decided that the Committee's actions be broken into short, medium and long-term goals. The short term goal will seek to address the creation of an Order; medium term goal is to re-design policy which delinks fireworks from the Explosive Act and the long term goal is the enactment of legislation to govern the use of fireworks in Trinidad and

Tobago. The Committee also reviewed the EMA's report on Fireworks with an aim to adopting the Authority's prescribed decibel level that should be permitted for fireworks in Trinidad and Tobago.

Notwithstanding the progress made by the Ministry's Committee, the Ministry is in support of the Committee's recommendations and expresses the view that the Council's mandate should also include:-

- advising the Ministry of Planning and Development, the Ministry of Rural Development and Local Government and the Tobago House of Assembly on the quantity distance for use in land use planning to ensure specific safety distances are established, maintained and monitored from explosives storages to neighboring areas.
- educating the public on the safe and responsible use of consumer fireworks so as to mitigate injuries and damage to property.
- advising on the types of fireworks that may be sold to consumers and those to be used by professionals.
- advising on measures to limit the use or sale of certain categories of fireworks to the general public for public security or safety reasons.

Recommendation L – Page 46:-

That the MNS in its response in this report indicate the number of court orders that were issued during the period 2013 – April 2018 for the disposal of fireworks and or other types of devices which were seized by the TTPS or TTFS.

Response:-

While the Ministry is in support of the recommendation, sourcing this information has proved challenging and steps have been taken to access same.

Recommendation A - Page 53:-

That as the competent environmental authority, the EMA be consulted by the Minister of National Security in addition to the TTPS and TTFS, when consideration is given to the issuance of a new fireworks importation licence to an applicant.

Response:-

The Ministry is in agreement with this recommendation. Additionally, the TTFS will continue to inspect and assess the storage areas for fireworks, as well as, establish preventative measures against any damage or destruction that can be caused by fireworks use, whether accidental or not. The Responsible Sections of the TTFS are the Divisional Fire Preventions (Implementation) and the Fire Prevention Administration (Policy).

Recommendation B – Page 53:-

That the input of the Fire Service in processing all applications pertaining to the granting of licences under the Explosives Act should be mandatory.

Response:-

The Ministry's current application process for granting of licences under the Explosives Act includes the input of the TTFS. Further, the Ministry is also considering measures to strengthen the Fire Service's authority as the organisation responsible for precautionary measures in areas used for the storage of fireworks.

Recommendation C – Page 53:-

That amendments be made to the existing law to reflect the provisions of Section 7 of the Fireworks Regulations 2004 (United Kingdom) which prescribes a designated time and date for the disbursement of fireworks.

Response:-

This is being considered by the Ministry but will also have to be deliberated upon by the Council.

Recommendation D – Page 53:-

That amendments be made to the existing law to mirror the legislative provisions of countries such as the United Kingdom, India, Australia and New Zealand with regard to the storage of fireworks.

Response:-

Consideration will be given to legislation existing in other Commonwealth Countries which may not be limited to those identified in the recommendation.

Recommendation E – Page 53:-

That the Explosives Act Chapter 16:02 should be modified to accommodate the current diverse range of fireworks and other related explosives.

Response:-

Technical input will have to be sourced to assist in developing this recommendation for implementation.

Recommendation F- Page 53:-

That regulations be drafted in relation to Explosives Act Chapter 16:02 for the purpose of effective law enforcement.

Response:-

The Ministry is in support of this recommendation.

Recommendation G – Page 53:-

That the TTPS executes its mandate as stated in Section 40 of the Explosives Act Chapter 16:02. Furthermore, the TTPS must utilize the necessary equipment to measure the weight of explosives on sale or in the possession of a person who is the holder of retail licence.

Response:-

The Ministry is in support of this recommendation and the TTPS will continue to enforce existing fireworks laws, with special attention being placed on Section 40 of the Explosives Act Chapter 16:02.